

**WESTGREEN TOWNHOMES A CONDOMINIUM**

*THIS AGREEMENT IS INTENDED TO BE A LEGALLY BINDING CONTRACT. YOU SHOULD READ IT CAREFULLY AND UNDERSTAND IT BEFORE YOU SIGN IT. THIS AGREEMENT INCLUDES DISPUTE RESOLUTION PROCEDURES WHICH REQUIRES BINDING ARBITRATION OF CERTAIN DISPUTES. SEE §14*

**PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS  
("the Agreement")**

**1. IDENTITY OF PARTIES AND PROPERTY:**

SELLER: AM DEVELOPMENT PROPERTIES LLC.

ADDRESS: P.O. BOX 9801, PHOENIX, AZ 85068

TELEPHONE: 623-878-3230 FAX: 623-979-7922

BUYER(S): Karen E Young

ADDRESS: 7532 W Brown Street  
Peoria, AZ 85345

TELEPHONE: Home: (623) 486-2248 Cell:  
Fax: Work:

EMAIL: puttyyoung@yahoo.com

PROPERTY: UNIT **138**, WESTGREEN TOWNHOMES A CONDOMINIUM ("the Unit"), according to the plat recorded in Book 929, page 9, records of Maricopa County, Arizona, together with the residence ("the Residence") to be constructed thereon (the Unit and Residence being referred to in this Agreements as the "Properties" in accordance with the plans for Model Sedona on file with the Seller (the plans).

ESCROW/TITLE: FIDELITY NATIONAL TITLE  
ADDRESS: 21803 N. SCOTTSDALE RD. #105, SCOTTSDALE, AZ 85255  
OFFICE: 480-657-0477 FAX: 480-657-0844

**2. SALE AND ESCROW:**

Seller hereby agrees to sell the property to Buyer and Buyer hereby agrees to purchase the Property for the Purchase Price (as hereinafter defined) and upon the terms and conditions set forth in this Agreement. To facilitate the sale and purchase of the Property, Seller and Buyer agree to establish an escrow ("Escrow") with the Escrow Agent. This Agreement constitutes joint Escrow Instructions to the Escrow Agent, but if Escrow Agent should require the execution of its standard form printed Escrow Instructions, Buyer and Seller shall execute such Escrow Instructions containing such modifications as are mutually acceptable to Buyer, Seller and Escrow Agent within five (5) days after being requested to do so by Escrow Agent. However, any such Escrow Instructions executed by Seller and Buyer shall be construed as applying only to Escrow Agent's engagement, and if there are any conflicts or inconsistencies between the terms of this Agreement and the Escrow Instructions, the Agreement shall control. Buyer acknowledges and agrees that the deposit of the Earnest Money into Escrow shall not be deemed an acceptance of Buyer's offer to purchase the Property. If Seller does not accept Buyer's offer pursuant to the provisions of Paragraph 13, Escrow Agent shall immediately return the Earnest Money to the Buyer.

**3. TERMS OF SALE:**

a. **PURCHASE PRICE:** The purchase price Buyer agrees to pay for the Property (the "Purchase Price") is as follows:

Base Price:	<u>\$159,900.00</u>
Option Addendum:	<u>\$0.00</u>
Total Purchase Price:	<u>\$159,900.00</u>

(The Purchase Price may be adjusted pursuant to any Addenda executed by Buyer and Seller including, but not limited to, upgrades and changes after the Design Center visit or correspondence.)

The Purchase Price shall be payable as follows:

Initial Earnest Money paid to Escrow Agent By  
Check (subject to collection): \$0.00

Additional Earnest Money to be paid by Buyer by \$500.00

check payable to Escrow Agent Within days  
after/upon acceptance of this Agreement by Seller  
in the following Amount (subject to collection):

Balance due at Closing: \_\_\_\_\_ \$159,400.00

**b. EARNEST MONEY :** As used in this Agreement, "Earnest Money" means the Initial Earnest Money and the Additional Earnest Money paid by Buyer pursuant to this Paragraph and Additional Earnest Money paid by Buyer pursuant to Paragraph 8(b) or Paragraph 8(c). Escrow Agent shall hold the Initial Earnest Money in escrow. Escrow Agent shall release any Additional Earnest Money deposited to Seller on the next business day after Escrow Agent's collection of Buyer's check for such payment. If Buyer's check for the Initial or any Additional Earnest Money is rejected by Buyer's depository institution, Escrow Agent shall immediately notify Seller. Buyer shall be in default hereunder and Seller may exercise all rights and remedies, including the right to terminate this Agreement immediately and without notice to Buyer. The balance of the Purchase Price due at Closing shall be paid to Seller in immediately available funds.

BUYER IS ADVISED THAT ADDITIONAL EARNEST MONEY DEPOSITS, DOWN PAYMENTS AND OTHER ADVANCED MONEY WILL NOT BE PLACED IN A NEUTRAL ESCROW. THIS MONEY WILL BE PAID TO SELLER AND MAY BE USED BY SELLER. THIS MEANS BUYER ASSUMES A RISK OF LOSING THE MONEY IF THE SELLER IS UNABLE OR UNWILLING TO PERFORM UNDER THE TERMS OF THIS AGREEMENT. NO INTEREST SHALL BE DUE TO BUYER IN THE EVENT THE EARNEST MONEY IS RETURNED TO BUYER OR IN ANY EVENT.

Buyer Initials \_\_\_\_\_/\_\_\_\_\_

**4. FINANCING CONTINGENCY:**

Buyer does  does not  (check one) intend to obtain a loan to pay part of the Purchase Price. If Buyer does not intend to obtain a loan, the provisions of this Paragraph 4 shall not apply, and Buyer's obligations to purchase the Property in accordance with this Agreement shall not be contingent on Buyer obtaining a loan to pay any part of the Purchase Price.

**a. LOAN CONTINGENCY PERIOD:** Buyer shall have ten (10) days from the Effective Date (as defined in Paragraph 13) (the "Loan

**Buyer Initials \_\_\_\_\_/\_\_\_\_\_**

Contingency Period) to deliver to Seller a Conditional Loan Approval on the form approved by the Arizona Association of Realtors (or otherwise satisfactory to Seller) and signed by a bank or other lending institution ("Lender"). The Lender must be a bona fide lending entity making loans for the acquisition of new homes in its regular course of business with a demonstrated capacity to timely perform its lending services. Buyer shall promptly provide Lender with all documents reasonably requested by Lender in order for Lender to issue a Conditional Loan Approval. Buyer agrees to furnish all information and documents required by the Lender truthfully, diligently and in good faith in order to obtain prompt preliminary approval of Buyer's loan application, and to execute such documents and instruments and perform such acts as are reasonably necessary to obtain the Conditional Loan Approval and acts as are reasonably necessary to obtain the Conditional Loan Approval and timely funding of the loan. Buyer's failure to do so, regardless of intent, shall be a material default by Buyer under this Agreement, and in such event, Seller shall be entitled to exercise any one or all of the remedies provided for herein. Buyer acknowledges and understands that the obligation to apply for and diligently pursue the loan is for the protection of Seller, who has removed the Property from the market in specific reliance upon Buyer's obligations hereunder and that Seller would be materially and substantially injured if Buyer breaches such obligations. If Buyer, after making all good faith and diligent efforts, is unable to obtain such Conditional Loan Approval within the Loan Contingency Period, Buyer may cancel this Agreement by providing Seller and Escrow Agent with a written cancellation notice prior to the expiration of the Loan Contingency Period. If Buyer does not provide such notice to Seller and Escrow Agency prior to the expiration of the Loan Contingency Period, this financing contingency shall be deemed waived by Buyer. After satisfying or waiving this financing contingency, Buyer shall thereafter be fully responsible to timely provide all funds for Closing, the Earnest Money shall be deemed non-refundable except as otherwise provided in the Agreement, and Buyer shall be obligated to fully and timely complete the purchase of the Property in accordance with all terms and provisions of the Agreement, even if Buyer's Lender fails to perform under its Conditional Loan Approval for any reason. Notwithstanding the foregoing, if Buyer does not deliver a timely Conditional Loan Approval to Seller or terminate this Agreement prior to the end of the Loan Contingency Period, then Buyer shall provide Seller with evidence satisfactory to Seller, in Seller's unfettered discretion, that Buyer will have sufficient funds to complete the purchase of the Property. If Buyer fails to timely provide such evidence, Seller may terminate this Agreement by written notice to Buyer and Escrow Agent and retain the Earnest Money as liquidated damages as provided in Paragraph 6.

- b. **DISPOSITION OF EARNEST MONEY:** In the event of a termination of this Agreement by Buyer pursuant to Paragraph 4(a), Escrow Agent shall refund to Buyer the Earnest Money, except for \$250 thereof which shall be paid to Seller to compensate Seller for administering the Agreement, cancelling the Escrow and taking the Property off the market for the period of time this Agreement was in effect.
  
- c. **SELLER NOT RESPONSIBLE FOR LOAN:** Buyer acknowledges and agrees that the financing arrangement and relationship shall be between Buyer and its Lender and in no event shall Seller have any responsibility, obligation or liability for any matters or disputes which arise in connection with such financing arrangement. Further, in no event shall the Closing be delayed because of the failure of Lender to fund the loan or because of disputes between Buyer and its Lender. Buyer agrees to pay origination fees, discount points, appraisal fees, other mortgage costs and expenses, appropriate fees, credit report fees, lender's title insurance policy premiums, prepaid items and impounds required by the Lender and all other costs of financing. Upon request by Seller, Buyer shall furnish to Seller copies of or information concerning the applications for financing made by Buyer and the status thereof. Buyer also authorizes the Lender to disclose such information to Seller. The interest rate and fees for any loan applied for by Buyer are matters solely between Buyer and Lender and shall not in any way affect the rights and obligations of Seller and Buyer under this Agreement. Buyer acknowledges that Seller has not agreed to provide any loan to Buyer nor has Seller guaranteed the availability of a loan or any particular loan terms. Seller shall not be responsible for any representations, actions or omissions made by any Lender.
  
- d. **FHA FINANCING:** If Buyer is obtaining a Federal Housing Administration ("FHA") loan, Buyer and Seller shall execute Seller's FHA Addendum. In the event of a conflict of the terms or provisions between the FHA Addendum and this Agreement, the terms and conditions of the FHA Addendum shall prevail.
  
- 5. **OWNERS ASSOCIATION:** Buyer acknowledges that the WESTGREEN TOWNHOMES A CONDOMINIUM ASSOCIATION ("the Association") will be established pursuant to the Declaration of Covenants, Conditions and Restrictions for Westgreen Townhomes a Condominium. Buyer acknowledges that following the Closing, by acceptance of the Deed to the Property, Buyer shall be a member of the Association. Buyer hereby acknowledges receipt of a copy of the Declaration and the Articles of Incorporation and Bylaws of the Association and agrees upon the Closing to abide by the terms and

provisions thereof. Buyer acknowledges that the Property will be subject to assessment by the Association in accordance with the Declaration. Buyer further acknowledges that Buyer has read and understands and was given an opportunity to ask questions regarding the Declaration and the Articles of Incorporation and Bylaws of the Association.

Buyer Initials \_\_\_\_\_/\_\_\_\_\_

- 6. DEFAULT BY THE BUYER:** Buyer shall be in default hereunder if prior to Closing, Buyer (i) fails to fully and timely comply with any term or provision of this Agreement or any other document executed between the parties; (ii) informs Seller in writing or orally that Buyer does not intend to or will not fully perform any provision of this Agreement; (iii) files for any relief under any state or federal bankruptcy or insolvency law, or the filing of same against Buyer is not removed or quashed within 30 days of the date originally filed; (iv) is subject to a levy of any writ of attachment, execution or other legal process whereby the interest of Buyer in this Agreement is levied on, the levy not having been removed or quashed within 15 days after the date thereof; or (v) executes an assignment by Buyer for the benefit of creditors, or Buyer admits in writing his inability to pay debts as they come due. Notwithstanding the provisions of Paragraph 14 hereof, in the event of a Buyer default, Seller may, as its sole and exclusive remedy, following written notice to Buyer by Seller of such breach and Buyer's failure to cure such breach within the following seven (7) days from the receipt of such default notice in which to remedy the default (except that no such prior notice shall be required if Buyer's breach is a failure to close on or before the Closing Date), cancel this Agreement by giving written notice of such cancellation to Buyer and Escrow Agent in which event Escrow Agent shall release the Earnest Money to Seller (to the extent not previously released) and the Earnest Money shall be retained by Seller as liquidated damages. Buyer and Seller agree that the actual damages that would be incurred by Seller as a result of a breach of this Agreement by Buyer are extremely difficult and impractical to ascertain and that the Earnest Money is a reasonable estimate as of the date of this Agreement of the damages which would be suffered as a result of a default by Buyer. Upon cancellation of this Agreement, Buyer shall have no further right, title or interest in or to the Property.

- 7. DEFAULT BY THE SELLER:** If prior to Closing, Seller fails to substantially comply with the terms and conditions of this Agreement and

if Buyer shall have complied with all of its obligations hereunder, Buyer may deliver to Escrow Agent and Seller a written notice detailing the default of Seller. Seller shall have twenty (20) days from the receipt of such notice from Buyer within which to remedy the default, except that if the required performance cannot be reasonably completed by Seller within such twenty (20) days, then Seller shall have a reasonable time, but not more than sixty (60) days, within which to remedy the default. If Seller has not remedied the default within the time provided for in the preceding sentence, notwithstanding the provisions of Paragraph 14 hereof, Buyer may, as its sole and exclusive remedies, either (a) cancel this Agreement and receive a refund of the Earnest Money and all other amounts paid to Seller under this Agreement, or (b) provided Buyer has tendered complete performance under this Agreement, enforce specific performance of this Agreement in an action in equity or law. Buyer understands that the Residence will be constructed by USW/CAT Construction Inc. ("the Contractor"), which holds contractors license ROCI01339 issued by the Arizona Registrar of Contractors.

**8. CONSTRUCTION AND COMPLETION:**

- a. **Plans:** The Residence shall be constructed substantially in accordance with the Plans subject to: (i) any modification by any Decorative Items, Extras or Change Orders approved in writing by Seller; (ii) substitution of materials, fixtures and appliances of equal or better quality; (iii) changes required by any state, federal, county or local government authority; (iv) changes suggested by the Contractor so long as such changes do not substantially change the square footage of the Residence.
  
- b. **Decorative Items, Extras and Changes:** Within ten (10) days after the Effective Date ("the Decorative Item Selection Period"), Buyer shall notify Seller in writing of Buyer's selections of floor coverings, and any other variable decorative components or materials ("Decorative Items") from among those offered at no extra charge by Seller at the time of Seller's acceptance of this Agreement. If Buyer selects Decorative Items that are upgrades ("the Extras"), Seller and Buyer shall simultaneously with the selection of such Decorative Items execute an Addendum reflecting the additional charges and corresponding additional Earnest Money to be deposited with Escrow Agent thirty (30) days after the Effective Date. If Buyer fails to notify Seller of Buyer's selection of the Decorative Items prior to the expiration of the Decorative Item Selection Period, then Seller shall have the right,

but not the obligation, to select the Decorative Items in which even Buyer shall be bound by Seller's selections.

- c. **Change Orders:** ANY REQUESTS FOR CHANGES FROM THE PLANS OR APPROVED BY BUYER AND SELLER AT THE TIME OF BUYER'S DESIGN CENTER VISIT OR DECORATIVE ITEMS WHICH BUYER SELECTED WITHIN THE DECORATIVE ITEM SELECTION PERIOD ("CHANGE ORDERS") SHALL BE SUBMITTED IN WRITING TO SELLER FOR APPROVAL AND PRICING BY SELLER. SELLER SHALL HAVE NO OBLIGATION TO ACCEPT ANY REQUESTED CHANGE. IF SELLER AGREES TO ANY CHANGES, SELLER MAY PREPARE A WRITTEN CHANGE ORDER FORM, WHICH SHALL 'INCLUDE THE PRICE OF THE CHANGES (INCLUDING AT \$300 CHANGE ORDER CHARGE"), WHICH CHANGE ORDER SHALL BE DELIVERED TO BUYER. BUYER SHALL HAVE FIVE (5) BUSINESS DAYS WITHIN WHICH TO ACCEPT THE CHANGE ORDER BY SIGNING AND RETURNING TO SELLER THE CHANGE ORDER, TOGETHER WITH A CHECK PAYABLE TO ESCROW AGENT FOR THE PRICE OF THE CHANGES SET FORTH IN THE CHANGE ORDER. ANY AMOUNTS PAID BY BUYER PURSUANT TO A CHANGE ORDER SHALL BE CONSIDERED ADDITIONAL EARNEST MONEY. NO REQUEST FOR A CHANGE SHALL BE BINDING ON SELLER UNLESS IN WRITING ON SELLER'S CHANGE ORDER FORM, SIGNED BY BUYER AND SELLER, AND PAID FOR IN ACCORDANCE WITH THE TERMS OF THE CHANGE ORDER. SOME CHANGES MAY DELAY COMPLETION OF CONSTRUCTION AND SELLER SHALL HAVE NO LIABILITY IN CONNECTION THEREWITH.

Buyer Initials \_\_\_\_\_/\_\_\_\_\_

- d. **Models:** Buyer is aware that any model home or promotional materials of Seller which Buyer may have viewed prior to execution of this Agreement may have extra design features, including but not limited to decorations, floor coverings, decorator light fixtures, wall coverings, window treatments (such as drapes, etc.), mirrors, furniture, furnishings or appliances which will not be included in the Residence unless shown on the Plans, Decorative Items selected by Buyer during the Decorative Item Selection Period or evidenced by a written Change Order as provided for in this Agreement.
- e. **Completion:** Seller shall exert reasonable efforts to substantially complete construction of the Residence within nine (9) months from the Effective Date subject to such delays as may be caused by or contributed to as a result of Extras and Change Orders requested by Buyer, failure of Buyer to make selections as provided in Paragraph 8(b), casualties, acts of God, labor difficulties, boycotts, material or fuel

Buyer Initials \_\_\_\_\_/\_\_\_\_\_

shortages, delays in obtaining the approval of the Plans or in obtaining building permits, unavailability of or delays in receiving materials or labor shortages, any actions or moratoriums by federal, state or local authorities having jurisdiction over the Property affecting Seller's ability to perform, interruptions in the supply of utilities, war, acts of terrorism, civil disorder, fire, inclement weather or other conditions beyond the control of Seller ("the Uncontrollable Events"). The time by which the Residence shall be complete may be extended by written agreement of the parties and shall be automatically extended by reason of any delays resulting from Uncontrollable Events for a reasonable amount of time after the cessation of the Uncontrollable Event. The Residence shall be deemed substantially complete when the initial Certificate of Occupancy for the Residence has been issued by the City of Peoria. No representation is made by Seller as to a specific completion date or schedule of construction. Seller shall not be responsible for inconvenience, loss or expense to Buyer resulting from any delays in completion of construction.

- f. **Punch List Items:** It is expressly agreed that, at the time of completion, the Residence may be subject to certain "punch list items" for work which needs to be completed or corrected, but does not materially interfere with Buyer's use of the Residence. Prior to the Closing, Seller (or Seller's representative) and Buyer (or Buyer's representative) shall conduct a walk-thru of the Residence and mutually agree upon "punch list" items which Seller shall remedy within a reasonable period of time following the Closing. The notice given by the Seller to the Buyer pursuant to Paragraph 9 that a Certificate of Occupancy for the Residence has been issued by the City of Peoria shall contain the date and time for the walk-thru of the Residence, which date must be at least five (5) days after the date of the notice. If Buyer cannot attend the inspection of the Residence, then Buyer shall appoint a person to represent Buyer at the walk-thru. The failure of Buyer (or Buyer's representative) to attend the walk-thru as scheduled by Seller shall not delay the Closing. The existence of any punch list items or other nonstructural construction imperfections shall not entitle Buyer to cancel this Agreement, withhold funds at Closing or otherwise delay the Closing. After Closing, Seller shall have no further or continuing responsibility for periodic inspection, replacement, maintenance or repair of the Property except for punch list items identified before the Closing in writing. Following the Closing, Buyer shall provide Seller, Contractor, suppliers and subcontractors access to the Residence upon reasonable notice and at reasonable times to complete the punch list items.

- g. Future Construction and Views:** Buyer understands and agrees that construction activity in Westgreen Townhomes may continue after the Closing and occupancy of the Residence by the Buyer. Such construction activity may cause inconvenience for Buyer, including, but not limited to, noise, dust and transportation of labor, material and equipment. Buyer agrees to make no claim against the Seller, Contractor or any subcontractors and hereby releases and discharges Seller and Contractor and their agents, servants, subcontractors and employees for, from and against, and expressly waives on behalf of himself, his assignees, administrators and heirs, any lessees or inhabitants of the Residence, any and all claims, losses, suits, damages, demands, liabilities, costs or expenses, including reasonable attorney's fees, costs of investigation, litigation, settlement, judgment and court costs, against Seller, Contractor and their agents, servants, subcontractors and employees arising as a result of such construction activity. Additionally, if Buyer or a member of Buyer's family or any guest, visitor or invitee of Buyer, enters an area under construction, such entry will be at his own risk, and if such person suffers personal injury or property damage, Buyer hereby indemnifies Seller for, from, and against any claim against Seller, its contractors and agents, for such personal injury or property damage. Buyer acknowledges that Seller has not made any representation or warranty that there is any view for the Lot or that any existing view from the Lot will not be obstructed in the future. Buyer further acknowledges that there are no protected views from the Lot that currently exist.
- h. Insulation:** Exterior walls in the Residence will be insulated so as to provide a minimum R22 Value based on the manufacturer's rating. The R-values are based on the representation of the manufacturer and/or installer of the insulation and Seller does not warrant or represent that these R-values are correct. Seller has the right to make substitutions as to the type, thickness and R-value of insulation installed in the Residence without obtaining the consent of Buyer, as long as there are no substantial changes in the R-value of the insulation installed in a substantial portion of the Residence. Buyer acknowledges that the R-value of the insulation to be installed in the Residence may vary and be below the minimum R-value ratings in certain areas of the Residence due to design or construction constraints such as, but not limited to, the location of studs, corners, windows, doors, points where roof trusses are attached to walls, or otherwise. Interior walls and exterior walls within six inches (6' of adjacent walls shall not be insulated.

9. **CLOSING:** The completion of the purchase of the Property by Buyer and the closing of the Escrow ("the Closing") shall occur on 12/31/2008 at the office of the Escrow Agent; or on the seventh day after Seller sends Buyer a notification that a Certificate of Occupancy for the Residence has been issued by the City of Peoria. Seller shall notify Escrow Agent of the date which Closing is to occur. At least two business days before the Closing, the Buyer shall deposit with the Escrow Agent:
- a. The balance of the Purchase Price;
  - b. All Closing and additional costs or expenses payable by Buyer;
  - c. The working capital fund payment and all other fees payable by Buyer pursuant to the Declaration and the prorated portion of the monthly assessments due and payable to the Association pursuant to the Declaration which sums shall be paid by Escrow Agent to the Association at Closing; and
  - d. All documents and instruments necessary to effectuate the purchase of the Property by Buyer.

Buyer acknowledges and agrees that Buyer shall be solely responsible for arranging for electrical, telephone and other utility service to be turned on to the Residence. Seller shall pay for the standard owner's policy of title insurance to be issued to Buyer in the amount of the Purchase Price pursuant to Paragraph 10. Buyer shall pay the escrow fees and all other charges charged by Escrow Agent and all recording fees and other fees payable in connection with the Closing. All real property taxes and assessments affecting the Property shall be prorated as of the Closing based on the most recent tax rate; provided, however that if the Closing is delayed because of a default by Buyer, all real property taxes and assessments affecting the Property shall be prorated as of the date for the Closing prescribed in this Paragraph regardless of the actual date of Closing. Except in the case of a delay in the Closing caused by default of Seller, Seller shall not have any responsibility for any costs, expenses, liabilities, losses or damages incurred by Buyer as a result of any delay in the Closing, including, but not limited to, increased financing costs. The date on which the Closing occurs is referred to herein as the "Closing Date". Upon the Closing, Escrow Agent shall cause to be recorded all necessary document, disburse all funds and issue to Lender (if applicable), at Buyer's costs, a Lender's title insurance policy insuring Lender's interest in the Property in the amount of the loan. If the Closing does not occur on the date prescribed by this Paragraph because of a default by Buyer and Seller does not terminate this Agreement because of such default, but rather waives the date for Buyer's performance at Buyer's request to a later date, then Buyer shall

pay Seller at the Closing interest on the unpaid balance of the Purchase Price at the rate of 12% per annum from and including the day prescribed for as the Closing by this Paragraph to and including the day the Closing occurs. This provision is in addition to Seller's other remedies under Paragraph 6.

**10. CONVEYANCE AND TITLE INSURANCE:** Title to the Property shall be conveyed to the Buyer at Closing by Special Warranty Deed ("the Deed"), subject to all matters of record. At the Closing, Escrow Agent shall issue to Buyer a standard owner's policy of title insurance insuring title to the Property in the amount of the Purchase Price, subject to: (a) taxes not due and payable at the Closing; (b) the Declaration and all amendments thereto; (c) matters shown on the recorded plat of Westgreen Townhomes; and (d) any other matters of record affecting the Property (including Buyer's financing encumbrance, if any and the notices contained in the Deed) and any matters which would be apparent by a physical inspection of the Property. If Buyer elects to obtain any title endorsements or an extended coverage title insurance policy, any additional premiums, requirements and/or costs for any such endorsements and/or and extended coverage title insurance policy shall be paid by Buyer. The issuance of any title endorsements or extended coverage requested by Buyer shall not be a condition precedent to the Closing.

**11. LIMITED ONE YEAR WARRANTY:** Seller is hereby providing Buyer with the Home Buyer's Warranty 2-10 warranty issued by Home Buyer's Warranty Corporations ("the Limited Warranty") contained in the most recent edition as of the Effective Date of the HBW 2-10 Asset Protection Booklet ("the Booklet", which is incorporated herein by this reference and made a part hereof. Buyer acknowledges that it has received a copy of and has reviewed the Booklet with an advisor of Buyer's choice, if Buyer so desires, and that Buyer is familiar with the Limited Warranty.

**BUYER HEREBY ACKNOWLEDGES AND AGREES THAT THE LIMITED WARRANTY IS THE ONLY WARRANTY APPLICABLE TO THE PURCHASE OF THE PROPERTY BY BUYER. ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, HABITABILITY, WORKMANSHIP OR MATERIALS, CONSTRUCTION OR DESIGN OF THE RESIDENCE OR OTHERWISE ARE HEREBY DISCLAIMED BY SELLER AND WAIVED BY BUYER (EXCEPT IF AND TO THE EXTENT SUCH WAIVER IS PROHIBITED BY**

ARIZONA LAW) AND THE SAME ARE EXCLUDED FROM THIS AGREEMENT. ANY IMPLIED WARRANTY WHICH MAY EXIST DESPITE THE ABOVE DISCLAIMER IS HEREBY LIMITED TO THE APPLICABLE DURATION OF THE EXPRESS LIMITED WARRANTY.

Buyer Initials \_\_\_\_/\_\_\_\_

BUYER UNDERSTANDS AND AGREES THAT SELLER'S LIABILITY, WHETHER IN CONTRACT OR OTHERWISE, IS LIMITED TO THE REMEDY AS PROVIDED IN THE 2-10 LIMITED WARRANTY. UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES BASED ON A CLAIMED DECREASE IN THE VALUE OF THE PROPERTY OR BUYER'S INABILITY TO SELL THE PROPERTY OR ANY ACTIONS TAKEN BY ANY THIRD PARTY (E.G., INSURANCE COMPANIES, APPRAISERS OR OTHERWISE). NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THE TRANSACTIONS UNDER THIS AGREEMENT MAY BE BROUGHT BY BUYER AFTER THE EXPIRATION OF THE WARRANTY PERIOD SET FORTH IN THE BOOKLET.

SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, ABOUT THE EXISTING OR FUTURE SOIL OR ENVIRONMENTAL CONDITIONS ON OR ADJACENT TO THE PROPERTY, INCLUDING POSSIBLE PRESENT OR FUTURE POLLUTION OF THE AIR, WATER OR SOIL FROM ANY SOURCES, INCLUDING, BUT NOT LIMITED TO MOLD, RADON GAS OR UNDERGROUND MIGRATION OR SEEPAGE OF HAZARDOUS SUBSTANCES OR OTHER POLLUTANTS. SELLER EXPRESSLY DISCLAIMS ANY LIABILITY FOR ANY TYPE OF DAMAGE, WHETHER DIRECT, INDIRECT OR CONSEQUENTIAL, WHICH THE PROPERTY OR ITS INHABITANTS MAY SUFFER BECAUSE OF ANY EXISTING OR FUTURE ENVIRONMENTAL OR OTHER CONDITIONS (SUCH AS, BUT NOT LIMITED TO, POWER LINES, SOIL OR WATER CONDITIONS OR RADON) WHICH MAY AFFECT SUCH INHABITANTS OR THE PROPERTY.

BUYER IS ADVISED THAT BUYER MAY HAVE ADDITIONAL RIGHTS, REMEDIES AND WARRANTIES BEYOND THOSE CONTAINED IN THIS AGREEMENT AS ARE PROVIDED BY LAW.

- 12. TERMITE TREATMENT:** Seller or Contractor shall contract with a licensed pest control company to apply a termite treatment to the Lot prior to construction of the Residence. Current governmental regulations limit the types and concentration of chemicals and the methods of application that can

be used in attempting to prevent or eradicate termites and consequently, termites may appear following completion of the Residence. Seller or Contractor shall request a certificate from the pest control company ("the Termite Certificate") providing, in substance, that the pest control company has applied the termite treatment in accordance with the current technology and using chemicals in such concentration, rate, method and location as is required and approved by the applicable state and federal agencies and should termites be discovered at the Property within a five (5) year period from the date of original treatment, the pest control company shall re-treat the Property on as many occasions as are necessary to control such termites. Seller recommends that Buyer annually consult with a pest control company as to the need for termite re-treatments. **BUYER AND THEIR SUCCESSORS AND ASSIGNS AGREE TO LOOK SOLELY TO THE PEST CONTROL COMPANY FOR COSTS AND EXPENSES ASSOCIATED WITH INVESTIGATING AND REMEDYING ANY TERMITE INFESTATION AND WAIVE ANY ALL CLAIMS OF LIABILITY AGAINST SELLER AND CONTRACTOR FOR LOSSES, COSTS, DEMAND, SUITS, DAMAGES AND EXPENSES IN CONNECTION WITH THE EXISTENCE OF TERMITES AT THE PROPERTY.**

Buyer Initials \_\_\_\_\_/\_\_\_\_\_

**13. ACCEPTANCE BY SELLER:** Execution of this Agreement by Buyer constitutes an offer to purchase. Seller shall be bound only when this Agreement is accepted by the authorized member of the Seller. The acceptance by any salesman, broker, agent or employee of Seller, other than an authorized member of Seller is not binding upon Seller. The date that this Agreement is executed by an authorized member of Seller shall be the date this Agreement becomes effective and shall be referred to herein as the "Effective Date". Buyer's Initial Earnest Money is accepted subject to prior sale, and this Agreement may be canceled by Seller, and the Initial Earnest Money returned to Buyer, in the event of a prior sale of the Property and neither party shall have any further duty, obligation, or responsibility to the other under this Agreement.

**14. DISPUTE NOTIFICATION AND RESOLUTION PROCEDURES; WAIVERS:**

**a. Arbitration of Disputes Arising After the Closing:** It is hereby agreed that all claims, disputes and controversies between Buyer and Seller and/or Contractor arising after the Closing and from or related to the Property, or to any defect in or to the Property, or the sale

of the Property by Seller, including but not limited to, any claim for breach of contract, negligent or intentional misrepresentation, shall be submitted to binding arbitration by an pursuant to the arbitration provision contained in the most recent edition as of the Effective Date of the Booklet ("the HW Arbitration Provisions' as of the Effective Date.

- b. **Arbitration of All Other Claims:** For the purpose of this Paragraph, the term "non-HW Arbitration Claim" means any claim or cause of action not subject to clause (a) above, and which relates to or arises out of: (i) the Declaration or other governing documents of the Association, this Agreement or any other agreements between the Seller or other Bound Party (as defined in this Section) and Buyer; (ii) the sale of the Property; (iii) the condition of the Property including, but not limited to, construction defects, surveys, soils conditions, grading, specifications, installation or improvements; or (iv) any alleged fraud, misrepresentation or breach of implied or express warranties as to the condition of the Residence or the Lot. After the Closing, any Non-HW Arbitration Claim by, between or among (x) the Seller or any director, officer, shareholder, manager, partner, member, employee or agent of the Seller, the Contractor or any subcontractor, design professional, engineer or supplier who provided labor, services or materials to the property and who is bound or agrees to be bound to the following dispute notification and resolution procedures or the Association if it is bound or agrees to be bound to the following dispute notification and resolution procedures and (y) the Buyer (each a "Bound Party", relation to or arising out of a Non-HW Arbitration Claim shall be resolved in accordance with the dispute resolution procedures set forth in this Paragraph 14 ("the Non-HW Arbitration Provisions").
  
- c. **Conflicts:** In the event of a dispute as to whether a claim or cause of action is subject to or covered by the HW Arbitration Provisions or the Non-HW Arbitration Provisions, such dispute shall be resolved in accordance with the HW Arbitration Provisions.
  
- d. **Agreement Litigation to Resolve Certain Disputes Without Litigation:** The Buyer and Seller agree that it is in the best interests of the parties to encourage the amicable resolution of Non-HW Arbitration Claims and to resolve Non-HW Arbitration Claims without the emotional and financial costs of litigation. Therefore, the Buyer and Seller agree that all Non-HW Arbitration Claims shall be resolved exclusively in accordance with the dispute resolution procedures set forth in this Paragraph 14.
  
- e. **Notice of Alleged Defect:** If Buyer becomes aware of any alleged defect or deficiency in the planning, design, engineering, grading,

construction or development of the common areas, the Property or any other structures or improvements located thereon, including, without limitation, any failure to comply with applicable building codes or federal, state or local laws, ordinances or regulations or any failure to comply with any express or implied warranty or standard of workmanship (an "Alleged Defect which could be the basis for a Non-HW Arbitration Claim against any Bound Party") , Buyer shall give written notice of the (Notice of Alleged Defect) promptly to each Bound Party, who could be responsible for the Alleged Defect. The Notice of Alleged Defect shall state plainly and concisely: (a) the nature and location of the Alleged Defect; (b) the date on which the Buyer first became aware of the Alleged Defect; and (c) whether the Alleged Defect has caused any damage to any persons or property. Following the receipt by the Bound Party of a Notice of Alleged Defect, the Bound Party and any of its employees, agents, contractors, subcontractors, and consultants shall have the right, upon reasonable notice to the Buyer to enter onto or into, as applicable, the common area, Lot and Residence for the purposes of inspecting the Alleged Defect and if deemed necessary by the Bound Party, to correct, repair and/or replace the Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, the Bound Party shall be entitled to take any actions it deems reasonable and necessary under the circumstances. Nothing set forth in the Paragraph 14 shall be construed to impose any obligation on any Bound Party to inspect, test, repair or replace any item or Alleged Defect for which the Bound Party is not otherwise obligated under applicable law or any warranty provided by the Bound Party or any other Bound Party. The right of a Bound Party and its employees, agents, contractors and consultants to enter, inspect, test, repair and/or replace under this Paragraph shall be irrevocable and may not be waived or otherwise terminated, except by written document, in recordable form, executed and recorded by the Bound Party. In no event shall any statute of limitation be removed during the period in which a Bound Party conducts any inspection, testing, repair or replacement of the Alleged Defect. If the Alleged Defect is not repaired or replaced to the satisfaction of the Buyer within sixty (60) days after the Notice of Alleged Defect is given to the Bound Party, then the Buyer may proceed with the preparation of the delivery of a Notice of Non-HW Arbitration Claim as provided below.

- f. **Notice of Non-HW Arbitration Claim:** Any Bound Party having a Non-HW Arbitration Claim (a Claimant's against any other Bound Party) a "Respondent" shall notify each Respondent in writing of the Non-HW Arbitration Claim (the "Non-HW Arbitration Claim Notice"), stating plainly and concisely: (i) the nature of Non-HW Arbitration Claim, including, date, time, location, persons or entities

- involved, and Respondent's role in the non-HW Arbitration Claim; (ii) the factual and legal basis of the Non-HW Arbitration Claim; and (iii) what Claimant wants Respondent to do or not do to resolve the Non-HW Arbitration Claim. The Claimant and the Respondent may sometimes be referred to in this Agreement individually as a "Party" or collectively as the "Parties".
- g. Mediation:** If the Parties do not resolve the Non-HW Arbitration Claim through negotiation within thirty (30) days after the date of the Non-HW Arbitration Claim Notice or within such longer period as may be mutually agreed upon by the Parties ("Termination of Negotiations") Claimant shall have thirty (30) additional days within which to submit the Non-HW Arbitration Claim to mediation under the auspices of the American Arbitration Association (AAA) or such other mediator or mediation service as may be mutually agreed to by the Parties. If Claimant does not submit the Non-HW Arbitration Claim to mediation within thirty (30) days after the Termination of Negotiations, Claimant shall be deemed to have waived the Non-HW Arbitration Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Non-HW Arbitration Claim. If the Parties do not settle the Non-HW Arbitration Claim within thirty (30) days after submission of the matter to the mediation process, or within such time after submission of the matter to the mediation process, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation Notice"). The Termination of Mediation Notice shall set forth when and where the Parties met, that the Parties are at an impasse, and the date that mediation was terminated.
- h. Binding Arbitration:** In the event a Non-HW Arbitration Claim is not resolved by mediation, the Claimant shall have ninety (90) days after the Termination of Mediation Notice to submit the Non-HW Arbitration Claim to binding arbitration in accordance with this Section. If the Claimant fails to timely submit the Non-HW Arbitration Claim to arbitration, then the Non-HW Arbitration Claim shall be deemed waived and abandoned and the Respondent shall be relieved of any and all liability to Claimant arising out of the Non-HW Arbitration Claim. A Claimant may submit a Non-HW Arbitration Claim in arbitration on its own behalf. No Claimant may submit a Non-HW Arbitration Claim in arbitration as a representative or member of a class, and no Non-HW Arbitration Claim may be arbitrated as a class action. All Bound Parties agree that all Non-HW Arbitration Claims that are not resolved by negotiation or mediation shall be resolved exclusively by arbitration

conducted in accordance with this Paragraph 14. All Bound Parties waive their right to have a Non-HW Arbitration Claim resolved by a court, including, without limitation, the right to file a legal action as the representative or member of a class or in any other representative capacity. The Claimant and Respondent shall cooperate in good faith to assure that all Bound Parties who may be liable to the Claimant or Respondent with respect to the Non-HW Arbitration Claim are made parties to the arbitration. If the Claimant submits the Non-HW Arbitration Claim to binding arbitration in accordance with this Section, the arbitration shall be conducted in accordance with the following:

- i. **Initiation of Arbitration:** The arbitration shall be initiated by either Party delivering to the other a Notice of Intention to Arbitrate as provided for in the AAA Commercial Arbitration Rules, as amended from time to time (the "AAA Rules").
- ii. **Governing Procedures:** The arbitration shall be conducted in accordance with the AAA Rules and A.R.S. § 12-1501, et seq. In the event of a conflict between the AAA Rules and this Paragraph 14, the provisions of this Paragraph 14 shall govern.
- iii. **Appointment of Arbitrator:** The Parties shall appoint a single Arbitrator by mutual agreement. If the Parties have not agreed within ten (10) days of the date of the Notice of Intention to Arbitrate on the selection of an arbitrator willing to serve, the AAA shall appoint a qualified Arbitrator so serve. Any arbitrator chose in accordance with this Subsection 3 is referred to in this Paragraph 14 as the "Arbitrator".
- iv. **Qualifications of Arbitrator:** The Arbitrator shall be neutral and impartial. The Arbitrator shall be fully active in such Arbitrator's occupation or profession, knowledgeable as to the subject matter involved in the dispute, and experienced in arbitration proceedings. The foregoing shall not preclude otherwise qualified retired lawyers or judges.
- v. **Disclosure:** Any candidate for the role of Arbitrator shall promptly disclose to the Parties all actual or perceived conflicts of interest involving the dispute to the Parties. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the Parties. If an Arbitrator resigns or becomes unwilling to continue to serve as an Arbitrator, a replacement shall be selected in accordance with the procedure set forth in Subsection 3 of this Subsection 14f.

- vi. Compensation:** The Arbitrator shall be fully compensated for all time spent in connection with the arbitration proceedings in accordance with the Arbitrator's usual hourly rate, unless otherwise agreed to by the Parties, for all time spent by the Arbitrator in connection with the arbitration proceeding. Pending the final award, the Arbitrator's compensation and expenses shall be advanced equally by the Parties.
- vii. Preliminary Hearing:** Within thirty (30) days after the Arbitrator has been appointed, a preliminary hearing among the Arbitrator and counsel for the Parties shall be held for the purpose of developing a plan for the management of the arbitration, which shall then be memorialized in an appropriate order. The matters which may be addressed include, in addition to those set forth in the AAA Rules, the following: (a) definition of issues; (b) scope, timing and types of discovery, if any; (c) schedule and place(s) of hearings; (d) setting of their timetables; (e) submission of motions and briefs; (f) whether and to what extent expert testimony will be required, whether the Arbitrator should engage one or more neutral experts, and whether, if this is done, engagement of experts by the Parties can be obviated or minimized; (g) whether and to what extent the direct testimony of witnesses will be received by affidavit or written witness statement; and (h) any other matters which may promote the efficient, expeditious, and cost-effective conduct of the proceeding.
- viii. Management of the Arbitration:** The Arbitrator shall actively manage the proceedings as the Arbitrator deems best so as to make the proceedings expeditious, economical and less burdensome than litigation.
- ix. Confidentiality:** All papers, documents, briefs, written communication, testimony and transcripts as well as any and all arbitration decisions shall be confidential and not disclosed to anyone other than the Arbitrator, the Parties or the Parties' attorneys and expert witnesses (where applicable to their testimony), except that upon prior written consent of all Parties, such information may be divulged to additional third parties. All third parties shall agree in writing to keep such information confidential.

**x.** **Hearings.** Hearings may be held at any place within the State of Arizona designated by the Arbitrator and, in the case of particular witnesses not subject to subpoena at the usual hearing site, at a place where such witnesses can be compelled to attend.

**xi.** **Final Award.** The Arbitrator shall promptly (within sixty (60) days of the conclusion of the proceedings or such longer period as the Parties mutually agree) determine the claims of the Parties and render a final award in writing. The Arbitrator may award the prevailing party in the proceeding all or a part of such Party's reasonable attorneys' fees and expert witness fees. Taking into account the final result of arbitrations, the conduct of the Parties and their counsel in the course of the arbitration, and other relevant factors. The Arbitrator shall not award any punitive damages. The Arbitrator shall not award indirect, consequential or special damages regardless of whether the possibility of such damage or loss was disclosed to, or reasonably foreseen by the Party against whom the claim is made; provided, however, that such damages may be deemed by the Arbitrator to be direct damages in an award reimbursing payments made by a Party therefore to a third party. The Arbitrator shall assess the costs of the proceedings (including, without limitation, the fees of the Arbitrator) against the non-prevailing Party.

**xii.** **Right to Enter, Inspect, Repair and/or Replace:** Following the receipt by the Respondent of a Non-HW Arbitration Claim Notice, the Respondent and its employees, agents, contractors, subcontractors and consultants shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the common area, any Lot, including any Residence constructed thereon, and/or any improvements for the purposes of inspecting and/or conducting testing to determine the validity of the Non-HW Arbitration Claim and, if deemed necessary by the Respondent, to correct, repair and/or replace the Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, the Respondent shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances. Nothing set forth in this Paragraph 14 shall be construed to impose any obligation on a Respondent to inspect, test, repair, or replace any item or Alleged Defect for which the Respondent is not otherwise obligated under applicable law or any warranty provided by

the Respondent in connection with the sale of the Lot and/or the improvements may not be waived or otherwise terminated except by writing, in recordable form, executed and recorded by Respondent. In no event shall any statutes of limitations be tolled during the period in which the Respondent conducts any inspection or testing of any Alleged Defects.

Nothing set forth in this Paragraph shall be construed to impose any obligation on the Respondent to inspect, test, repair, or replace any item or Alleged Defect for which the Respondent is not otherwise obligated under applicable law or any limited warranty provided by the Bound Party in connection with the sale of the Property.

- xiii. Use of Funds:** Any Judgment, award or settlement received by a Claimant in connection with a Non-HW Arbitration Claim involving an Alleged Defect shall first be used to correct and/or repair such Alleged Defect or to reimburse the Claimant for any costs actually incurred by such Claimant in correcting and/or repairing the Alleged Defect.
- xiv. Statute of Limitations:** All statutes of limitations applicable to Non-HW Arbitration Claims shall apply to the commencement of arbitration proceedings under Paragraph 14f. If the arbitration proceedings are not initiated within the time period provided by Arizona law for the filing of a legal action with respect to the Non-HW Arbitration Claim, the Non-HW Arbitration Claim shall forever be barred.
- xv. Federal Arbitration Act:** Because many of the materials and products incorporated into the Property are manufactured in other states, the development and conveyance of the Property evidences a transaction involving interstate commerce and the Federal Arbitration Act (9 U.S.C. §1, et seq.) now in effect or as it may be hereafter amended, will govern the interpretation and enforcement of the arbitration provisions of this Agreement.

**BY INITIALING IN THE SPACE BELOW, BUYER AND SELLER AGREE TO HAVE ANY CLAIM RESOLVED ACCORDING TO THE PROVISIONS OF THIS AGREEMENT AND WAIVE THE RIGHT TO PURSUE ANY CLAIM IN ANY MANNER OTHER THAN AS PROVIDED IN THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, BUYER AND SELLER ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL CLAIMS AS**

PROVIDED IN THIS AGREEMENT, THEY ARE GIVING UP THEIR RESPECTIVE RIGHTS TO HAVE SUCH CLAIMS TRIED BEFORE A JURY OR TO MAKE ANY CLAIM BASED THEREON TO THE ARIZONA DEPARTMENT OF REAL ESTATE. BUYER AND SELLER FURTHER WAIVE THEIR RESPECTIVE RIGHTS TO AN AWARD OF PUNITIVE DAMAGES RELATING TO A CLAIM. BY INITIALING BELOW, BUYER AND SELLER ACKNOWLEDGE THAT THEY ARE GIVING UP ANY RIGHTS THEY MAY POSSESS TO SUCH REMEDIES. SELLER AND BUYER ACKNOWLEDGE THAT THEIR AGREEMENT TO THE PROVISIONS OF THIS PARAGRAPH IS VOLUNTARY. BUYER FURTHER ACKNOWLEDGES AND REPRESENTS AND WARRANTS TO SELLER THAT BUYER HAS READ THE DISPUTE RESOLUTION PROCEDURES SET FORTH IN THIS PARAGRAPH 14 AND AGREES TO BE BOUND BY SUCH PROVISIONS.

IF BUYER FILES A CIVIL ACTION ASSERTING ANY CLAIM AGAINST A BOUND PARTY INSTEAD OF COMPLYING WITH THE DISPUTE RESOLUTION PROVISIONS OF THIS PARAGRAPH 14 (OR THE OTHER DISPUTE RESOLUTIONS PROVISIONS, AS APPLICABLE), THE PARTY AGGRIEVED BY THE FILING MAY APPLY TO THE MARICOPA COUNTY SUPERIOR COURT FOR AN ORDER DISMISSING THE CIVIL ACTION AND COMPELLING THE FILING PARTY TO SUBMIT THE CLAIM TO THE DISPUTE RESOLUTION PROVISIONS APPLICABLE THERETO. THE APPLYING PARTY SHALL BE ENTITLED TO IMMEDIATE ENTRY OF AN ORDER OF DISMISSAL AND A MANDATORY AWARD OF ATTORNEYS' FEES AND TAXABLE COSTS INCURRED IN COMPELLING COMPLIANCE WITH THE APPLICABLE DISPUTE RESOLUTION PROVISION.

IN THE EVENT THE ARBITRATION PROVISIONS OF THE PARAGRAPH 14 ARE HELD NOT TO APPLY OR ARE HELD INVALID OR UNENFORCEABLE FOR ANY REASON, ALL DISPUTES SHALL BE TRIED BEFORE A JUDGE IN A COURT OF COMPETENT JURISDICTION WITHOUT A JURY. THE BUYER HERBY WAIVES AND COVENANTS NOT TO ASSERT ITS CONSTITUTIONAL RIGHT TO TRIAL BY JURY OF ANY DISPUTES, INCLUDING, BUT NOT LIMITED TO, DISPUTES RELATING TO CONSTRUCTION DEFECT, MISREPRESENTATION OR SELLER'S FAILURE TO DISCLOSE MATERIAL FACTS. THIS MUTUAL WAIVER OF JURY TRIAL SHALL BE BINDING UPON THE RESPECTIVE SUCCESSORS AND ASSIGNS OF SUCH PARTIES AND UPON ALL PERSONS AND ENTITIES ASSERTING RIGHTS OR CLAIMS OR OTHERWISE ACTING ON BEHALF OF SELLER, BUYER OR THEIR RESPECTIVE SUCCESSORS AND ASSIGNS.

xvi. **Survival.** The provisions of this Section 14 shall survive the Closing.

**15. POSSESSION AND RICK OF LOSS:** Buyer acknowledges that Buyer has not been promised an exact time for occupancy or completion of the Residence and understands that Buyer is not the legal owner of the Property and that possession of the Property shall remain exclusively with Seller until Closing occurs. Buyer shall not enter the Property without Seller's prior approval, and if Buyer (with or without Seller's approval) enters the Property during the course of construction, or at any time before Closing, Buyer, and Buyer's family, contractors, guests and invitees and any and all persons accompanying Buyer or entering the Property as an agent, for the benefit of Buyer or on behalf of Buyer ("Buyer's Visitors") assume the risk of bodily injury while in or on the Property. Buyer agrees to indemnify, defend and hold Seller and Contractor harmless for, from and against any and all loss, damage or liability (including, without limitation, death, personal injuries or property damage) suffered or incurred by Buyer, or Buyer's Visitors while on the Property at any time before the Closing. Buyer shall not interfere or give instruction to Seller's employees, Contractor or subcontractors at the jobsite. Buyer understands that the jobsite may contain dangerous conditions, and jobsite employees, Contractor and subcontracts have no authority to change the Plans or the terms of this Agreement. Except as may be caused by Buyer's acts, omissions, or negligence (which shall be the sole and complete responsibility of the Buyer), Seller shall assume the risk of loss or damage to the Property by fire or other casualty until the Closing, at which time the risk of loss shall pass to the Buyer. Buyer agrees not to do or cause to be done any work or alteration of any nature whatsoever in or about the Property before the Closing. If Buyer violates this Section, is shall be a material default under this Agreement. If pre-approved by Seller, Buyer may enter the Property solely to inspect the same.

**16. CANCELLATION:** Due cancellation of this Agreement by Seller pursuant to any provision hereof shall be effective when Seller gives written notice of cancellation to Buyer and Escrow Agent. Cancellation of this Agreement by Buyer may only occur by compliance with Paragraph 7. Cancellation by Buyer pursuant to Paragraph 7 shall only be effective when Buyer gives notice of cancellation to Seller and Escrow Agent. In the event of any cancellation by either party as authorized by this Agreement, Buyer shall have no further rights, title or interest in and to the Property.

**17. BROKER:** Buyer acknowledges that Seller is using The Condo Pros, RE/MAX Excalibur Realty for marketing and sales of Westgreen

Townhomes a Condominium. Seller does not utilize sub-agents; therefore, if Buyer has been shown the Property by a real estate agent other than The Condo Pros, RE/MAX Excalibur Realty, such real estate agent is the agent of Buyer and solely represents Buyer, The Condo Pros, RE/MAX Excalibur shall act solely as the agent for the seller. Seller shall not pay any real estate broker or agent a real estate commission or any other compensation unless there is a written agreement signed by Seller and the real estate broker or agent detailing the amount of compensation to be paid, the conditions of payment and confirming that the real estate agent or broker is acting solely on behalf of Buyer and not as a sub-agent of Seller. Buyer represents and warrants to Seller that Buyer, except for any broker or agent identified in a written agreement signed by Seller as provided in the immediately preceding sentence, Buyer has not dealt with any real estate broker or salesperson other than The Condo Pros, RE/MAX Excalibur concerning the purchase of the Property in such a manner as would give rise to a claim for the payment of a fee or commission. Buyer agrees to indemnify, defend and hold harmless Seller and, The Condo Pros, RE/MAX Excalibur and their respective agents and employees for, from and against any claim or demand by any real estate broker or salesperson arising out of the acts, agreements, or omissions of Buyer.

Buyer Initials \_\_\_\_\_/\_\_\_\_\_

**18. RECORDATION:** Seller and Buyer acknowledge and agree that neither this Agreement nor any Memorandum of this Agreement shall be recorded with the Maricopa County Recorder; provided, however, that this prohibition shall not prevent any notice of the repurchase right, the Temporary Lease Prohibition or the repurchase option from being placed of record.

**19. NOTICES.** All notices to be given by either party to the other shall be in writing and effective on the earlier of: (a) the day of hand delivery thereof to the party to whom directed, (b) one (1) day following the date of deposit thereof with delivery charges prepaid with a national delivery service, (c) as of the date of receipt if sent by telecopier, or (d) two (2) days following the day of deposit in the United States mail, first class, registered or certified postage prepaid. All notices shall be addressed to the party to receive the notice at the address as set forth in Paragraph 1 of this Agreement or at such other address as may be indicated by a party by written notice to the other.

**20. ADDITIONAL ACKNOWLEDGMENTS BY BUYER.**

- a. **Market Conditions:** Buyer understands and acknowledges that: (i) Seller may, in its sole discretion, change its pricing, product, development plan and marketing methods for other Lots in Westgreen Townhomes a Condominium including, without limitation, selling other Lots under terms and conditions which are more or less favorable than those offered to Buyer; (ii) Seller has made no price protection or similar commitment to Buyer regarding the Property and shall not have any obligation or liability to Buyer in the event any such price changes directly or indirectly affect the value of the Property; and (iii) Seller may choose to market the other lots in Westgreen Townhomes a Condominium through an auction format, a lottery format, or in a variety of other ways; and (iv) Buyer's obligation under this Agreement shall not be affected by, and Buyer shall have no right to object to, any of the foregoing.
- b. **Lot Conditions:** Buyer understands and waives any and all claims related to the fact that: (i) the as-built location of utility lines, utility improvements (such as, but not limited to, junction boxes, transformers or pedestals) and sewer taps, may vary from locations shown on plot or site layout plans; (ii) there may be minor encroachments by fences on either side of actual lot lines; (iii) future construction on or grading or excavation of the Property by Buyer must comply with applicable drainage plans, and if not correctly engineered, could disrupt drainage and cause ponding or flooding; (iv) the character and uses of property surrounding and in the vicinity of Westgreen Townhomes a Condominium may change and Buyer is responsible to independently investigate the character, zoning and use of property surrounding and in the vicinity of the Property; (v) there may be deviations in the Residence from Seller's standard plans or model or spec homes located within Westgreen Townhomes a Condominium and from illustrations and designs shown in promotional materials; (vi) floor plans, maps, landscaping and elevation renderings included within information and promotional brochures may not have been drawn to scale and any square footage or dimensions shown in such materials are only approximations; (vii) some exterior and interior items shown in Seller's model and spec homes are upgrades over Seller's standard features and, unless included as part of the Plan, Decorative Items or on a Change Order approved by Seller, such upgraded items are not included in the Purchase Price; (viii) Seller reserves the right to make changes in the design of Westgreen Townhomes a Condominium and in the plans, specifications, materials, size and location of all subdivision improvements, including the residence to be built within Westgreen Townhomes a Condominium; (ix) Seller is not responsible for and does not warrant

against concrete that cracks if over watering near the concrete has created a condition of settlement; (x) Seller is not responsible for and does not warrant against cracks in ceramic tile installed over or near concrete floor expansion joints; and (xi) stuccoed homes are also susceptible to cracking due to expansion and contraction and is to be expected during the lifetime of the home. This is normal and does not reduce the function of the stucco in any way. Stuccoed homes are also susceptible to efflorescence. This is a natural process inherent to stucco and masonry walls in which salts gradually come to the surface when the stucco is exposed to moisture. With the passage of time this may appear as white crystalline deposits, especially along cracks. Since both of these occurrences are natural to stucco and masonry walls, Seller does not warranty these items. (Cracks larger than 1/16" however, are warranted against.) Seller disclaims and shall have no liability or responsibility in connection with the foregoing, and Buyer hereby releases Seller and Contractor from any and all responsibility, obligation or liability for the occurrence of any of the foregoing items.

Buyer Initials \_\_\_\_\_/\_\_\_\_\_

- c. **Binding Effect of Contract:** This Agreement is an important legal document. The execution of this Agreement by Buyer indicates that Buyer understands its rights and obligations under this Agreement and that Buyer has sought (or has been given the opportunity to seek) legal advice regarding this Agreement.

- 21. FUNGUS (INCLUDING MOLD) DISCLOSURE:** As used herein, "fungus" means any type or form of fungi, including mold or mildew, and any mycotoxins, spores, scents or byproducts released by fungi. Most purchasers are familiar with fungus or mold in at least some capacity, such as fungus or mold growth on food, fungus or mold growth in the bathroom (for example, in the shower, on the drywall) and in other areas of the home (for example, on the window sills). Seller has prepared this fungus (including mold) disclosure to provide you with some additional information about fungus (including mold) to ensure that you understand your responsibilities in the inhibition or prevention of fungus or mold growth in your home.

The information described herein has been obtained from third party sources, including government agencies and consultants.

Because of constant new developments on the subject of fungus (including mold), we make no representation regarding, and cannot guarantee the continuing accuracy or completeness of the information that we are providing to you and you should independently verify and seek additional information regarding any matter of concern to you relating to fungus (including mold), health risks associated with fungus (including mold), and fungus (including mold) prevention or clean up.

Mold is a type of fungus. It occurs naturally in the environment, and it is necessary for the natural decomposition of plant and other organic material. There are numerous types of fungus (including mold) found in our environment. Fungus (including mold) spreads by means of microscopic spores borne on the wind, and is found everywhere life can be supported. **RESIDENTIAL HOME CONSTRUCTION IS NOT, AND CANNOT BE, DESIGNED OR BUILT TO EXCLUDE FUNGUS (INCLUDING MOLD) FROM YOUR HOME.** Fungus (including mold) spores may enter your home through open doorways, windows, and heating ventilation and air conditioning systems. Spores in the air outside also attach themselves to people and animals, making clothes, shoes and pets convenient vehicles for carrying fungus (including mold) spores indoors.

Moisture in the home comes from many sources, such as spills, leaks, overflows, condensation, broken seals around doors and windows, and damp conditions in crawl spaces. Excessive landscape watering and high humidity are common sources of home moisture. Good housekeeping and home maintenance practices are essential in the effort to inhibit fungus (including mold) growth. By eliminating excessive moisture, a homeowner may slow or limit fungus (including mold) growth.

Since fungus (including mold) is found virtually everywhere in our environment, all of us are exposed to fungus (including mold). Although the vast majority of fungus (including mold) is not known to cause health problems, some fungus (including mold) has the potential to cause adverse health effects. Whether or not a person exposed to fungus (including mold) is at risk for adverse health conditions general depends upon the susceptibility of the person exposed (including age, environmental factors such as stress and health factors such as existing sensitivities to allergies, underlying lung disease and suppressed immune systems), the amount of exposure and type of fungus (including mold). Experts disagree about the level of fungus (including mold) exposure that may cause health problems, and about the exact nature and extent of the health problems that may be caused by fungus (including mold). Common health concerns associated with fungus

(including mold) included may fever-like allergic symptoms similar to those caused by plant pollen and animal dander (for example, fatigue, headaches, respiratory ailments, aggravation of asthma, nasal stuffiness or runny nose, cough, congestion, eye, nose, throat and skin irritation). Less frequent but more severe health concerns which may be linked to fungus (including mold) exposure include, but are not limited to, chronic fatigue, central nervous system problems, lung disease and immune suppression. Research on fungus (including mold) and its health effect is ongoing. Naturally, common sense dictates that you should consult your physician for any symptoms of concern to you.

Currently, there are no federal, state, or local standards that establish what are permissible limits for exposure to fungus (including mold). Since microscopic fungus (including mold) spores exist everywhere naturally in our environment, fungus (including mold) cannot be prevented or removed entirely. Since it is impossible for a home to be entirely free of fungus (including mold) spores, and since fungus (including mold) can grow on almost anything, the only way to inhibit fungus (including mold) growth is to eliminate excessive moisture in the home. All visible fungus (including mold) should be removed immediately. Homeowners **MUST** take positive steps to eliminate excessive moisture in the home, and thereby inhibit mold growth and any possible adverse effects that may be caused by fungus (including mold) growth. Homeowner's responsibilities for the inhibition of fungus (including mold) growth include, but are not limited to, the following:

*Don't Bring Fungus (including mold) Home:* Before bringing items into the home, check for signs of fungus (including mold). Potted plants (roots and soil), furnishings, or stored clothing and bedding material, as well as many other household goods, could already contain fungus (including mold) growth.

*Keep it Clean:* Regular and thorough vacuuming and cleaning will help reduce fungus (including mold) levels. Mild cleaning solutions are generally effective in eliminating or inhibiting fungus (including mold) growth. After cleaning carpets, make sure that the carpets are completely dry before replacing furniture. Don't close closet doors or otherwise enclose spaces until the carpets have completely dried out.

*Reduce Humidity:* Keep the humidity (water vapor in the air) in the home low. One of the worst things you can do is use a humidifier because they add uncontrolled amounts of moisture to the air. Vent clothes dryers to the outdoors. Ventilate kitchens and bathrooms by opening the windows, using exhaust fans, and by running the air conditioning to remove excess moisture in the air, and to facilitate evaporation of

water from wet surfaces. Moisture sources that increase indoor air humidity include, but are not limited to, steam from showers, baths, cooking, indoor plants, washing dishes, washing clothes, and hanging wet clothes on indoor drying lines. Periodically ventilate enclosed spaces such as closets.

Promptly Correct Leaks, Moisture and Water Damage: Since fungus (including mold) will generally only grow in areas that have been exposed to moisture for more than 24 hours, it is important for you to repair water leaks immediately or upon discovery. Thoroughly dry any wet surfaces or material. Do not let water pool or stand in your home. Promptly replace any materials that cannot be thoroughly dried, such as drywall or insulation. Landscape so that the original grade of the property is not disturbed and the ground slopes away from your home to prevent water from collecting under your home. Keep sprinklers and other sources of water from spraying on the walls of your home. Also promptly clean up sills, condensation and other sources of moisture.

Maintenance is a Must. It is very important that you regularly maintain your home. For example, regularly caulk the windows, faucets, drains, tubs and showers. Maintain roofs and clean gutters and scuppers and keep them all in good repair. Heating, ventilation and air conditioning systems should have their filters replaced on a regular basis as called for in their maintenance manuals. Maintain a positive grade around your home, so that the surface water and sprinkler water drains away from your home. If you have a sump pump, make sure it is operating properly.

Vigilance is Vital: You must perform routine visual inspections for fungus (including mold) growth and signs of leaks, moisture or water damage. Moldy or musty odors are also a reliable indicator of the presence of fungus (including mold). Inspect for signs of fungus (including mold), moisture, leaks and spills on a regular basis and eliminate the source of water immediately. Look for discoloration or wet spots on ceilings, walls, floors and windowsills. Inspect condensation pans (refrigerators and air conditioners) for fungus (including mold) growth. Do not let water stand in air conditioning or refrigerator drip pans. Look around and under sinks for standing water, water stains, or fungus (including mold). Take notice of musty odors and any visible signs of fungus (including mold).

If fungus (including mold) is found, it must be removed and the source of the water must be eliminated immediately. The measures taken to initiate the clean up process are dependent on the extent of the problem. In many cases, fungus (including mold) can be removed

by a thorough cleaning with a mild cleaning solution. If you have an extensive amount of fungus (including mold) or otherwise do not think that you can manage the clean up on your own, there are professional cleaning and property restoration services experienced in cleaning fungus (including mold), as many items can be completely cleaned of fungus (including mold). Care must be taken to ensure that safe clean up methods are employed. Any item that cannot be completely cleaned of fungus (including mold) should be discarded after checking with the cleaning professional to ensure that there is no other way to clean the item.

**BUYER HAS CAREFULLY READ AND UNDERSTANDS THE FUNGUS (INCLUDING MOLD) DISCLOSURE AND AGREES TO COMPLY WITH THE PROVISIONS OF SAME. BUYER UNDERSTANDS THAT THE SELLER CANNOT BUILD A HOME IN A FUNGUS (INCLUDING MOLD) FREE CONDITION, NOR CAN SELLER BE RESPONSIBLE FOR ANY FUNGUS (INCLUDING MOLD) RELATED ISSUES, INCLUDING HEALTH PROBLEMS, EXPERIENCED BY BUYER OR OTHERS PERSONS OCCUPYING THE HOME.**

Buyer Initials \_\_\_\_\_/\_\_\_\_\_

**22. OPTION TO REPURCHASE PROPERTY:** BUYER HEREBY GRANTS SELLER AN OPTION TO REPURCHASE THE PROPERTY IF, DESPITE BUYER'S AGREEMENT TO THE CONTRARY, BUYER SHALL INSTITUTE OR INITIATE A NON-WARRANTY CLAIM (AS DEFINED IN PARAGRAPH 14 HEREOF) AGAINST SELLER OR ITS SHAREHOLDERS, DIRECTORS, OFFICERS OR EMPLOYEES OTHER THAN AS PROVIDED FOR IN PARAGRAPH 14 HEREOF AT ANY TIME WITHIN NINE (9) YEARS SUBSEQUENT TO THE DATE OF TRANSFER OF FEE TITLE TO THE PROPERTY TO BUYER (THE "OPTION PERIOD") FOR AN AMOUNT EQUAL TO THE GREATER OF THE ORIGINAL PURCHASE PRICE INCLUDING EXTRAS PAID BY BUYER TO SELLER OR SUCH OTHER PRICE AS REQUIRED BY LAW (THE "REPURCHASE PRICE"). BUYER AND SELLER SHALL FOLLOW THE PROCEDURES SET FORTH BELOW. UPON SELLER REACQUIRING THE PROPERTY, BUYER SHALL HAVE NO FURTHER RIGHTS OR REMEDIES AGAINST SELLER OR ITS SHAREHOLDERS, DIRECTORS, OFFICERS OR EMPLOYEES. THE PROVISIONS OF THE PARAGRAPH 23 SHALL SURVIVE THE CLOSING AND DELIVERY OF THE DEED FOR THE PROEPRTY, AND SHALL NOT BE DEEMED TO BE MERGED THEREIN. THE RIGHTS AND OBLIGATIONS WHICH ARE SPECIFIED IN THIS PARAGRAPH ARE MORTGAGEABLE, PLEDGEABLE, ASSIGNABLE AND TRANSFERABLE. NOTICE OF THIS

**Buyer Initials \_\_\_\_\_/\_\_\_\_\_**

REPURCHASE OPTION SHALL BE INCORPORATED INTO THE DEED TO BUYER. THE PROVISIONS OF THIS PARAGRAPH 23 SHALL RUN WITH THE LAND AND ARE NOT INTENDED TO BE THE PERSONAL COVENANTS OF BUYER. THE PROVISIONS OF THIS PARAGRAPH 23 SHALL INSURE TO THE BENEFIT OF AND BIND BUYER AND SELLER AND THEIR HEIRS, EXECUTORS, REPRESENTATIVES, OR ADMINISTRATORS, SUCCESSORS AND ASSIGNS, AND ANY SUCCESSOR TO, OR ASSIGNEE OF, THE RIGHTS AND OBLIGATIONS CREATED HEREUNDER SHALL BE SUBJECT TO THE RIGHTS AND OBLIGATIONS OF BUYER AS IF NAMED AS A PARTY HEREIN; PROVIDED, HOWEVER, THAT ANY PURCHASE MONEY LENDER SHALL NOT BE SUBJECT TO THE OPTION TO REPURCHASE.

In order to exercise the repurchase option provided for in the paragraph above to reacquire the Property from Buyer, ("Optionor") and Seller ("Optionee") shall comply with the following procedures;

**a. Notice:** Optionee shall provide prompt written notice (the "Option Notice" to Optionor of its decision to exercise the option within ninety (90) days following legal service of process on Optionee of any legal action other than as provided for in Paragraph 14 hereof brought against Optionee by Optionor (or any successor owner of the Property).

**b. Documents and Offer of Price.** Within ten (10) days following the delivery of the Option Notice, Optionee shall deliver to Optionor the documents it requires Optionor to deliver at the closing of the repurchase (the "Repurchase Option Closing"). Such documents shall include and Optionor shall execute and deliver to Escrow Agent for filing, recordation or delivery to Optionee: (i) a special warranty deed transferring to Optionee or Optionee's designee marketable title to the Property free and clear of all liens and encumbrances, subject only those matters to which the Deed was subject to on the Closing Date to the time of the recordation of the Deed; (ii) a non-foreign affidavit duly executed and appropriately acknowledged; (iii) an affidavit of property value in compliance with Arizona law; and (iv) any additional instruments, duly executed and appropriately acknowledged by Optionor, as may be reasonable necessary for Optionor to comply with the terms of this Agreement.

**c. Closing.** The closing date shall be no later than sixty (60) days

following the delivery of the closing documents and shall be held at the office of the Escrow Agent.

- d. **Costs.** Taxes, utility charges, Association assessments and other customarily prorated items shall be adjusted ratably between Optionor and Optionee as of the time of the Repurchase Option Closing. Optionor shall pay the premium for a standard owner's policy of title insurance to be issued to Optionee, State and Count local transfer taxes, if any, one-half (1/2) of the escrow fee (Optionor hereby acknowledges that Optionor is aware that Optionee may be entitled to a discount from the filed rate for fees paid by it and that, accordingly, Optionee's "1/2" of the escrow fee may be less than Optionor's), and one-half (1/2) of the recording fees. Both Optionor and Optionee shall pay their own attorneys' fees and fees of the other consultants including with respect to the litigation.
- e. **Enforcement:** Optionee reserves the right to specifically enforce any of the provisions contained in this Agreement.

**23. MISCELLANEOUS:**

- a. **Disclosure of Additional Representation.** Seller wishes to avoid any misunderstanding concerning the purchase of the Property. It is the policy of the Seller not to enter into any oral agreement or to ask any buyer to rely on any oral representations concerning the Property, Westgreen Townhomes a Condominium, or the surrounding areas. The entire agreement between Buyer and Seller must be in writing. Therefore, Buyer shall write in below any representations, warranties or promises of any kind which are not set out in this Agreement, but which have been made by Seller or its purported brokers, agents, or employees, and upon which Buyer is relying in making this purchase. If Buyer does not indicate any additional representations, warranties or promises, Buyer shall be deemed to have answered "NONE".

**ADDITIONAL REPRESENTATIONS, WARRANTIES OR PROMISES:**

---



---



---



---

---

---

---

---

---

---

---

---

---

---

To induce Seller to accept this Agreement, Buyer acknowledges that: (i) there are no understandings, representations or promises of any kind that have been made to induce Buyer to execute this Agreement, except as set forth in this Agreement; and (ii) this Agreement sets forth in full the entire agreement between the parties, and that Buyer has not relied on any oral agreement, statement, representation or other promise that is not set forth in this Agreement. No salesman, broker, or agent or employee of Seller has the authority to make any oral representation or agreement not contained in this Agreement, and no person on behalf of Seller is authorized to make any future oral agreement upon which Buyer may rely to cancel, change or modify any portion of this Agreement. This Agreement supersedes any and all prior understandings and agreements between Seller and Buyer.

- b. **Amendment** This Agreement may be amended or modified only by a written instrument signed by Buyer and Seller.
- c. **Attorneys' Fees.** In the event either Seller or Buyer commences any litigation, arbitration or regulatory proceeding arising out of this Agreement, the non-prevailing party shall pay the prevailing party all court costs, arbitration fees, expert witness fees and reasonable attorneys' fees incurred by the prevailing party in connection with such litigation or proceedings (including any appeal) with such attorneys' fees being determined by the court (without a jury), arbitrator or regulatory agency.
- d. **Assignment.** This Agreement shall inure to the benefit of and bind Seller and Buyer and their heirs, executors, representatives,

- administrators, successors and assigns; provided, however, that Buyer may not sell, assign, or otherwise transfer its rights under this Agreement or any other rights or claims of Buyer against Seller without the prior written consent of Seller, which may be withheld in its sole and absolute discretion. Any assignment by Buyer without the consent of Seller shall be null and void.
- e. **Waiver.** Any failure or delay of Seller to enforce any provision hereof shall not be construed as modifying in any way the terms hereof or as waiving Seller's rights to enforce the provisions hereof. No waiver of Seller's rights hereunder shall preclude Seller's subsequent exercise of its rights hereunder.
  - f. **Governing Law.** This Agreement and the rights of the parties hereunder shall be governed by the laws of the State of Arizona.
  - g. **Construction.** Whenever the context of this Agreement so requires, personal pronouns shall include all genders and singular number shall include the plural.
  - h. **Headings.** The headings of the paragraphs of this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or the intent of this Agreement or any provisions hereof. Unless otherwise specified, all references in this Agreement to Paragraphs refer to the Paragraphs of this Agreement.
  - i. **Time of the Essence.** Time is of the essence of this Agreement and every term and provision hereof.
  - j. **Severability:** In the event any term, condition or provision of this Agreement is declared illegal, invalid, or otherwise unenforceable for any reason, the remaining terms, conditions and provisions shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby, and such unenforceable provision shall be deemed modified to provide the benefits thereof to the maximum extent that is enforceable under Arizona law.
  - k. **Joint and Several Liability.** If this Agreement is signed by more than one buyer, each Buyer shall be jointly and severally liable for all obligations of Buyer under this Agreement.
  - i. **Counterparts:** This Agreement and any Addendum hereto may be executed in any number of counterparts, all of which shall together constitute one and the same instrument.

- m. **Survival:** The provisions of Paragraphs 11 and 14 and all provisions of this Agreement not to be performed prior to the Closing shall survive the Closing and shall not be merged into the Deed by which Seller conveys the Property to Buyer.
- n. **Broker Disclosure:** Seller hereby discloses to Buyer that one or more of the principals of Seller are licensed real estate salespersons.
- o. **Business Day:** If the time for performance of any obligation under this Agreement expires on a Saturday, Sunday or legal holiday observed by Escrow Agent, then the time for such performance shall be extended to the next succeeding day that is not a Saturday, Sunday, or legal holiday observed by Escrow Agent.
- p. **Notice to Buyer of Swimming Pool Barrier Regulations.** Buyer acknowledges that the State of Arizona has swimming pool barrier regulations which are outlined in the Arizona Department of Health Services Private Pool Safety Notice. If the Property contains a swimming pool, Buyer acknowledges the receipt of the Arizona Department of Health Services approved Private Pool Safety Notice as required by A.R.S. § 36-1681(E). Buyer further acknowledges that the county or municipality in which the Property is located may have different swimming pool barrier regulations than the state.

Buyer Initials \_\_\_\_/\_\_\_\_

- q. **Buver's Additional Rights.** Under Arizona Revised Statutes §32-1155, a buyer of a dwelling has the right to file a written complaint against the homebuilder with the Arizona registrar of contractors within two (2) years of the commission of an act in violation of Arizona Revised Statutes § 32-1154-A.

Buyer Initials \_\_\_\_/\_\_\_\_

**THE BUYER IS ENTITILE TO, AND HEREBY ACKNOWLEDGES THAT HE HAS BEEN GIVEN A COPY OF THE PUBLIC REPORT OF THE ARIZONA DEPARTMENT OF REAL ESTATE PRIOR TO THE SIGNING OF THIS AGREEMENT.**

Buyer: \_\_\_\_\_ Date: \_\_\_\_\_

Buyer: \_\_\_\_\_ Date: \_\_\_\_\_

Buyer Initials \_\_\_\_/\_\_\_\_

ACCEPTED BY SELLER:

DATED \_\_\_\_\_

AM DEVELOPMENT PROPERTIES LLC

BY: \_\_\_\_\_

ALAN PERRY, MANAGER