



## AGREEMENT FOR PURCHASE AND SALE OF HOME

UNIT # \_\_\_\_\_

Ludlow Row on 10<sup>th</sup>

**1. Parties:** This Agreement for Purchase and Sale ("Agreement"), entered into this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between Cottingham Development, LLC a Tennessee limited liability company, its successor or assigns ("Seller"), and: \_\_\_\_\_ ("Purchaser") for the property known as Ludlow Row on 10<sup>th</sup>, Unit Number \_\_\_\_\_.

Buyer's Physical Address: \_\_\_\_\_  
Buyers Phone Number (s): \_\_\_\_\_  
Buyers Email (s): \_\_\_\_\_

Buyer Agent (If applicable) \_\_\_\_\_ Phone \_\_\_\_\_  
Buyers Agent Email \_\_\_\_\_

For purposes of this Agreement, capitalized terms, unless otherwise defined herein, shall have the meaning ascribed to such terms by the Master Deed (as defined below) for the Ludlow Row on 10<sup>th</sup> Nashville ("Project").

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING SELLER'S REPRESENTATIONS. ALL OF SELLER'S REPRESENTATIONS ARE INCLUDED SOLELY IN THIS AGREEMENT AND RELATED/ANCILLARY DOCUMENTS.

WITNESSETH:

Seller agrees to sell and Purchaser agrees to purchase the real estate hereinafter described in consideration of the following mutual covenants and conditions:

### 2. Property to be Conveyed:

Street Address known as \_\_\_\_\_ (the "Home") as described in the Master Deed of Ludlow Row on 10<sup>th</sup> as amended ("Master Deed"). The Home is part of Ludlow Row on 10<sup>th</sup> ("Project"), and it will be constructed substantially in accordance with the floor plan that is attached to this Agreement as Exhibit "A" ("Floor Plan") and Exhibit "B" ("Finish Schedule"). The Project is subject to the covenants and restrictions set forth in the Master Deed as well as the Bylaws and the Charter of Ludlow Row on 10<sup>th</sup> Association, Inc. ("Association") (such documents hereinafter being referred to collectively as the "Project Documents"). All of the foregoing documents have been furnished to Purchaser on or before the date of Purchaser's execution of this Agreement, the receipt of which is hereby acknowledged by Purchaser. Prior to the Closing Date, as described in Section 5 hereof, Seller shall cause the Home to be constructed in accordance with the Floor Plan, and Finish Schedule subject to such modifications as permitted to be made by Seller under this Agreement or as may be agreed upon by Seller and Purchaser in executed change orders. Prior to the Closing Date, Seller shall obtain the issuance of a Certificate of Use and Occupancy for the Home.

**3. Purchase Price:** The purchase price of the Home ("Purchase Price") shall be an amount equal to the sum of the following:

- (a) Home constructed Base Package (\$ \_\_\_\_\_)
- (b) Upgrades (from Exhibit B: Finish Schedule) (\$ \_\_\_\_\_)

The total Purchase price on the Effective Date for items 2(a)-(b) is \$ \_\_\_\_\_ and Purchaser has paid 2.5% of the base price, which is equal to \$ \_\_\_\_\_, to Chapman and Rosenthal Title Inc. ("Escrow Agent") upon the execution of this Agreement as Earnest Money (hereinafter referred to as "Earnest Money"), the receipt of which is hereby acknowledged. The Earnest Money shall be held in escrow by Escrow Agent in a non-interest bearing account. Escrow Agent shall be entitled to rely upon the written directions of Seller and Purchaser in respect to the payment of the Earnest Money pursuant to this Agreement. The Earnest Money shall be credited toward the Purchase Price at Closing and the balance of the Purchase Price shall be payable to Seller in cash on the Closing Date. The Purchase Price is based on the designed size of Home and shall not be affected by minor variations that may occur during construction.

An amount representing the aggregate cost of change orders and special types and/or quantities of floor coverings, wall-coverings, other interior finishing, lighting fixtures, and other items selected by Purchaser after the Effective Date, in excess of the allowances for the types and quantities of such items as set forth in the Finish Schedule shall be assessed with a written detail of same provided to Purchaser prior to excess allowances/change orders being ordered or performed ("Upgrade(s)"). Purchaser shall pay Seller directly for the cost of all such Upgrades selected by Purchaser ("Builder Deposit") within three (3) days of Purchaser's receipt of written Upgrade detail. Funds designated as Builder Deposit are used for the construction and upgrades of the Home and are non-refundable deposits. The Builder Deposit will be credited toward the total Purchase Price at Closing, which shall include the Upgrades. Purchaser has currently paid \$ \_\_\_\_\_ to Cottingham Development, LLC as initial Builder Deposit. All remaining upgrades that have not been paid for yet will be due and payable as stated herein. Upon completion of framing, Purchaser shall pay an additional Builder Deposit equal to 2.5% of the base price, which is equal to \$ \_\_\_\_\_. Purchaser has five (5) days from notice to pay the deposit or Purchaser shall be in default.

**4. Financing:** Purchaser's Financing Contingency: This Purchase Agreement Check One:

\_\_\_\_\_ is NOT contingent upon Purchaser's ability to qualify for financing.

\_\_\_\_\_ is contingent upon Purchaser's ability to obtain financing. Purchaser's obligation to purchase the Home is subject to Purchaser's ability to obtain a commitment for conventional financing ("Loan") from a locally recognized mortgage lender within 10 business days after the Effective Date of this Agreement ("Financing Contingency Deadline"). "Ability to obtain," as used herein, means that Purchaser is qualified to receive the Loan based upon the criteria within the sole discretion of Purchaser's lender. If Purchaser has the ability to obtain the Loan, Purchaser warrants that, at closing, Purchaser will have sufficient cash to complete the purchase of the Home. Purchaser further warrants that, unless otherwise specified herein, Purchaser does not need to sell or lease other real property in order to complete the purchase of the Home. To withdraw from this Agreement and obtain a return of the Earnest Money from Escrow Agent, Purchaser shall be required to provide Seller written notice of its inability to obtain a satisfactory financing commitment as stated above on or before the Financing Contingency Deadline (**10 business days from the Effective Date of this Agreement**). SHOULD PURCHASER NOT PROVIDE EVIDENCE OF APPROVAL OR DISAPPROVAL OF THE LOAN WITHIN SAID FINANCING CONTINGENCY DEADLINE, BY WRITTEN NOTICE TO SELLER AS PROVIDED IN THIS PARAGRAPH, THIS CONTINGENCY SHALL NOT APPLY AND THIS AGREEMENT SHALL BE ENFORCEABLE AGAINST PURCHASER IN ALL RESPECTS. SHOULD PURCHASER NOT BE ABLE TO OBTAIN FINANCING BY THE CLOSING DATE, THE INITIAL DEPOSIT as well as any and all secondary deposits or Builder Deposits SHALL BE DISBURSED BY ESCROW AGENT TO SELLER AND SELLER MAY PURSUE ANY AND ALL REMEDIES AVAILABLE PURSUANT TO THIS AGREEMENT OR AT LAW OR EQUITY IN A COURT OF COMPETENT JURISDICTION.

In addition, at any time the Seller may require the Purchaser to show written evidence that Purchaser is actively pursuing financing. In the event that the Purchaser cannot show proper written evidence of financing within 5 days of request, the Seller may consider the Purchaser to be in default.

For the benefit and convenience of Purchaser, Seller acknowledges that it has a banking relationship with the following lenders:

1. **Franklin American**
2. **Renasant Bank**

Brian McGuiness  
Licensed Mortgage Loan Originator  
Direct: 615-491-4844  
Office: 615-778-1031  
6100 Tower Circle, Suite 600  
Franklin, TN 37067  
bmcguinness@franklinamerican.com

Heath Albritton  
Renasant Mortgage Lending  
Senior Mortgage Advisor  
NMLS# 196453  
Cell: (615) 347-0578  
Email: heath.albritton@renasant.com  
www.heathalbritton.com

Buyer shall make full loan application with at least one of the Preferred Lenders listed above within 3 days of binding contract. Buyer is in no way obligated to use a Preferred Lender and is free to choose their lender of choice. The Buyer must use a Preferred Lender, however, to receive any closing cost incentives being offered.

**5. Closing Date:** The Closing shall take place in the office of the attorney designated by Seller. The Closing date shall be specified in a written notice given by Seller to Purchaser (such date being referred to herein as "Closing Date"). Such written notice shall be given not less than fifteen (15) days prior to the date specified in the notice as the Closing Date. The Closing Date shall be established upon the substantial completion of the Home as determined by the Seller, in its sole discretion. The Closing Date may not be extended except by an agreement signed by the Seller establishing a new Closing Date. Permanent possession of the Home shall be delivered to Purchaser on the Closing Date. Seller shall make a reasonable effort to cause the Home to be substantially complete by \_\_\_\_\_, but such estimated Delivery Date ("Estimated Delivery Date") shall be subject to change by Seller if the completion of the Home is delayed for any reason whatsoever without any requirement of specific notice by Seller to Purchaser. Seller is obligated to complete and deliver the Home by the Final Completion Date specified in Section 14 hereof. Seller will not under any circumstances be obligated to pay for incidental costs of delay in delivering the Home, including but not limited to rate lock extension fees for Purchaser's financing or rent.

**6. Taxes and Assessments:** Purchaser shall pay all taxes and assessments by the Association due with respect to the Home after the Closing Date, provided that taxes and assessments for the year in which the Closing Date occurs shall be prorated between Purchaser and Seller. The Seller shall be responsible for all taxes and assessments during the period ending at midnight on the day before the Closing Date. If the amount of such taxes is not then known, the apportionment of taxes shall be based upon Seller's good faith estimate of the amount of such taxes to be levied upon the Home, subject to future adjustment by parties when the exact amount of such taxes becomes known. At closing, Purchaser shall make a deposit equal to two (2) months' assessment on the Home ("Assessment Deposit"), which shall first be applied to current assessments and the balance of which shall be used to establish working capital reserves for the Association. Each Home will be subject to a monthly Association assessment to cover all association operating costs including but not limited to common area maintenance, association insurance, association utility maintenance, grounds cleaning and maintenance, trash service, repairs and capital improvements as necessary from time to time. The assessment is a personal liability of Purchaser secured by a lien on the Home. Purchaser acknowledges that the assessment will be based upon actual operating costs of the association once occupied and that preliminary estimates are subject to adjustment once final costs are determined.

**7. Changes to Development Plans and Documents:** The Homes, Common Elements, and the Limited Common Elements (as defined in the Master Deed) of the Project will be constructed in substantial conformity with the plans and specifications for the Project (the "Plans"), maintained at Seller's office, and the Project Documents. However, Seller reserves the right to make changes in the Plans and the Project Documents, as the case may be, under the following circumstances:

(a) In the course of construction of the Home certain changes, deviations or omissions may be required by governmental authorities having jurisdiction over the Project or certain design or structural changes may be suggested or required by Seller's contractor(s), architects or engineers. Job conditions at the Project or existing building conditions may require certain changes, deviations or omissions, or Seller, in its sole discretion may decide that certain changes, deviations, additions or omissions are necessary and in the best interest of the Project.

(b) Materials used in the construction and completion may vary somewhat from any samples provided, and such variations are inherent in manufacturing. Seller reserves the right to substitute materials, equipment and fixtures of similar quality and/or design should Seller be unable to obtain those in the specifications due to lack of availability, model changes or other circumstances.

(c) Seller reserves the right to modify the Project Documents prior to Closing for any reason related to subparagraphs (a)-(c) above or to exercise rights of amendment retained by the Developers as permitted therein.

Purchaser agrees that Seller shall have the right to make any of the foregoing changes, and none of such changes shall be grounds for any refusal of Purchaser to accept the Home; provided, however, if Seller reasonably determines that any such amendment or change materially and adversely affects the Home or Purchaser's rights under this Agreement, Seller shall give Purchaser notice of the modification, and Purchaser shall have the right within Five (5) days after the date of such notice to terminate this Agreement and receive a refund of the Earnest Money following which neither party shall have any further obligation under this Agreement. Purchaser's failure to notify Seller of such election to terminate within such five (5) day period shall constitute Purchaser's acceptance of the revised conditions. Purchaser's sole recourse for any changes to plans made by seller as outlined above or otherwise shall be to terminate this contract and receive full refund of the Earnest Money.

**8. Risk of Loss:** Seller shall bear all risk of loss to the Home from the Effective Date as hereinafter defined until transfer of title to the Purchaser. In the event the Home should be materially damaged by fire, other casualty or condemnation prior to such transfer, Purchaser may elect one of the following:

- (a) To terminate all of Purchaser's obligations under this Agreement upon notice to Seller; or
- (b) To take title to the Home in accordance with this Agreement together with an assignment of any insurance or condemnation proceeds due to Seller in connection with such damage to the Home.

**9. Allocation of Closing Costs:** Closing costs in regard to the transactions contemplated by this Agreement shall be paid by Purchaser as follows:

- (a) Purchaser shall pay all attorney's fees and costs of an attorney designated by Seller in connection with the preparation of documentation to effectuate the transfer of title to the Home and the Closing of the sale.
- (b) Purchaser shall pay all costs in connection with the recordation of the Warranty Deed from Seller to Purchaser.
- (c) Purchaser shall pay the premium for any owner's or mortgagee's policy of title insurance desired by Purchaser.
- (d) Purchaser shall pay the Assessment Deposit to the Association and set-up fee to the Associations managing agent, of 2 months worth of HOA.
- (e) Purchaser shall pay all costs in connection with any financing obtained by Purchaser for the purpose of enabling Purchaser to acquire title to the Home.

**10. Limited Warranty:** Seller to pay for the purchase of a limited warranty to be funded at closing. Limited Warranty will be a One (1) year builder warranty by Superior Development. Limited Warranty attached to this agreement as Exhibit "C" ("Warranty Guidelines").

**11. Conveyance of Title:** If all sums payable by Purchaser to Seller hereunder have been fully paid as provided herein, Seller shall convey, marketable and insurable title to the Home to Purchaser on the Closing Date pursuant to a Warranty Deed, a proposed form of which has been furnished to and examined by Purchaser on or before the date of Purchaser's execution of this Agreement. Seller shall provide Purchaser with a commitment for the issuance of an owner's policy of title insurance in the amount of the total Purchase Price issued by a reputable title insurance company duly licensed and qualified to do business in the State of Tennessee on ALTA Form showing title to be as herein provided, and such title insurance commitment shall be deemed conclusive evidence of the status of title for all purposes under this agreement.

**12. Default:** In the event that Seller or Purchaser shall fail to perform any of the covenants and conditions of this Agreement or pay any sum when due hereunder and such default shall continue for a period of thirty (30) days after written notice thereof has been given by the non-defaulting party to the defaulting party, Seller or Purchaser, shall have the following remedies.

(a) In the case of such default on the part of Purchaser, Seller may, at its option: (i) declare immediately due and payable the entire unpaid balance of the Purchase Price and demand full payment thereof, and enforce conveyance of the Home according to the terms hereof, (ii) consider this Agreement as breached, mail a written notice of cancellation of this Agreement to the Purchaser, and retain the Earnest Money and any and all Builder Deposits as fixed, ascertainable, and liquidated damages on account of Purchaser's breach; or (iii) declare Purchaser to be in default and pursue an action against Purchaser for recovery of its damages, the amount of which may be established by a resale of the Home by Seller on commercially reasonable terms or by appraisal, as elected by Seller in its sole discretion. In the event Seller elects to exercise its remedy under (i) or (iii) hereof, Seller shall retain the Earnest Money as security for payment of such amounts as may finally be determined to be payable to Seller. Failure of Seller to exercise any of the foregoing options in any particular instance shall not constitute a waiver of its right to do so in the event of any continuing or subsequent default. A verbal notice of default or anticipatory breach by the Purchaser or the Purchaser's agent shall entitle Seller to pursue any of its available remedies without requirement of further notice to Purchaser.

(b) In the case of such default on the part of Seller, Purchaser may (i) terminate this Agreement and demand the return of Earnest Money within ten (10) days after Purchaser's notice or (ii) treat this Agreement as continuing in full force and effect and obtain specific performance of Seller's obligation to deliver a deed to the Home, subject to the matters described herein (including changes to the Plans and Project Documents described in Section 7 hereof) and such state of title as may be disclosed in the commitment for the issuance of an owner's policy of title insurance to be furnished to Purchaser, provided any such action for specific performance must be initiated within six (6) months from the date of such default on the part of Seller.

(c) In the case of any dispute between Purchaser and Seller that results in litigation, the prevailing party in such proceeding shall be entitled to recover its reasonable attorney's fees and costs from the non-prevailing party.

**13. Assignment:** This Agreement shall not be assignable by Purchaser whether voluntary or by operation of law without the prior written consent of Seller, which may be denied by Seller, in Seller's sole discretion; provided, however in the event such transfer should occur by reason of death of Purchaser, then Seller shall refund the Earnest Money to Purchaser's executor or administrator and terminate Purchaser's obligations under this Agreement if Seller declines to give such consent. Subject to the foregoing limitation, the provisions of this Agreement shall be binding on and inure to the benefit of the parties hereto, as well as their respective heirs, executors, administrators, successors and assigns.

Purchaser further agrees that, prior to closing of the transactions contemplated by this Agreement, Purchaser will not directly or indirectly, sell or transfer this Agreement for cash or any other consideration whatsoever, or enter into any contract, agreement or commitment to sell or transfer this Agreement for cash or other consideration, or Purchaser's interest in the Home to any party, or market the Home for sale or lease, including without limitation, listing the Home or this Agreement with any broker, agent or sales representative of any kind. Purchaser's violation of the provisions of this Paragraph 13 shall constitute immediate (that is, with no required notice and time to cure) default by Purchaser under this Agreement.

Title will not be issued to any person or entity not named as PURCHASER on page 1 and no other persons or entities which are not named as a PURCHASER on page 1 may be added to the Deed without obtaining consent to assign from Seller in accordance with this paragraph.

**14. Real Estate Commission:** Commission to be paid by Seller in connection with this transaction has been negotiated between Seller and the Listing Broker specified below. Commissions shall be earned at such time as all parties execute this Agreement, all closing conditions have been satisfied and closing has occurred. Commissions are payable upon the Closing Date or any subsequent closing between Purchaser and Seller under this Agreement. The closing attorney or agency is authorized to debit the Seller's account and pay commission(s) as follows:

To Listing Broker: *Covered under separate agreement.*

To Selling Broker: \_\_\_\_\_ as Agent for the Purchaser (if applicable, otherwise write None)

Purchaser represents and warrants to Seller that no real estate broker or agent other than Listing Broker and/or Seller's Broker (hereinafter collectively referred to as the "Brokers") has been involved or instrumental in the procurement of this Agreement and that excepting the commissions due the Brokers, no real estate commission or compensation shall be payable by either Seller or Purchaser with respect to the procurement and execution of this Agreement or the sale of the Home contemplated hereby to any other broker as a result of Purchaser dealing with such broker. Purchaser shall indemnify and save Seller wholly harmless against any loss, cost or other expense, including reasonable attorney's fees that may be incurred by Seller by reason of any breach of the foregoing warranty, which shall survive closing.

**15. Time of Essence:** Except as otherwise hereinafter expressly provided, is expressly understood and agreed that time shall be deemed as the essence of this Agreement. Failure of Seller to exercise any right hereunder upon default of the Purchaser shall not constitute a waiver of any of Seller's rights hereunder and shall not prevent Seller from exercising any of said rights upon any subsequent default. Seller's projection of an Estimated Delivery Date is done as an accommodation to Purchaser, but such Estimated Delivery Date not be considered as one for which for time is of the essence. Notwithstanding the foregoing or anything in the Agreement to the contrary, Seller is, however, unconditionally obligated to complete the Home within two (2) years of the date of execution of this Agreement by Purchaser (the "Final Completion date"), except that such date may be extended by acts recognized as constituting justification for legal impossibility under the laws of the State of Tennessee or an act of God; provided, however, Seller shall not be liable for any consequential damages arising out of or resulting from Seller's breach of such obligation.

**16. Notices:** All notices required or permitted hereunder shall be deemed to have been duly given when personally delivered or deposited in the United States Mail, postage prepaid and addressed to the Seller, Cottingham Development, LLC at 905 20<sup>th</sup> Avenue South Suite N1016 Nashville, TN, Attention Michael Young and to the Purchaser at: \_\_\_\_\_ or to such other address as may have been previously furnished in writing.

Severability/Savings: This invalidity or unenforceability of a particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted. The following sentence will supersede and take precedence over anything else in this Agreement which is in conflict with it: It is the intention of the parties that this sale qualify for the exemption provided by the Interstate Land Sales Full Disclosure Act pursuant to 15 U.S.C. Section 1702(a)(2), and nothing herein contained shall be construed or so operate as to any obligations of Seller or rights of Purchaser, in a manner which would render said exemption inapplicable. Nothing herein contained shall be construed or so operate in a manner inconsistent with 24 CFR 1710.5 and 61 F.R. 13601-13611, Supplemental Information to Part 1710; Guidelines for Exemptions Available Under the Interstate Land Sales Full Disclosure Act, Part IV(b), Paragraph 6. If any provisions limit or qualify Seller's substantial completion obligation as stated in this Agreement, or Purchaser's remedies in the event that such obligation is breached, and such limitations or qualifications are not permitted if this sale is to be exempt from the Interstate Land Sales Full Disclosure Act pursuant to 15 U.S.C. Section 1702(a)(2), or this Agreement is to otherwise be fully enforceable, then all those provisions are hereby stricken and made null and void as if never a part of this Agreement.

**17. Exhibits and Addenda:** This Agreement includes the following Exhibits and Addenda attached hereto and incorporated herein by this reference:

- Exhibit "A" – Floor Plan
- Exhibit "B" – Warranty Guidelines
- Exhibit "C" – Site Plan
- Exhibit "D" – Agreement to close with Chapman & Rosenthal Title, Inc.
- Exhibit "E" – Preferred and Pre-approved Lenders list
- Exhibit "F" – Form Of Affidavit Of Acceptance

**18. Entire Agreement:** This Agreement and the Exhibits and Addenda attached hereto is the entire agreement between the parties and may be amended only by an instrument in writing signed by the party against whom enforcement of any change is sought. Seller is not liable or bound in any manner by express or implied warranties, promises, statements, representations, or information pertaining to the Home or other interest to be conveyed, made or furnished by any real estate broker or salesman, or any agent, employee, servant or other such person representing or purporting to represent or act on behalf of Seller, unless such warranties, guaranties, promises, statements, or representations, or information are expressly set forth herein or in the Offering Brochure as to which Purchaser has acknowledged receipt on or before the execution of this Agreement. Furthermore, Seller's representations concerning the Home are expressly limited and qualified by the disclosures and disclaimers included in the Offering Brochure.

**19. Governing Law:** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Tennessee.

**20. DISCLOSURES:** Purchaser acknowledges the following:

- (a) Oral representations cannot be relied upon as correctly stating the representations of Seller. For correct representations, references should be made to this Agreement and the Offering Brochure.
- (b) The Project is located in an urban area and adjacent to thoroughfares, and active rail lines, and may be affected by traffic, noise, and other area developments that may increase or decrease the value of the Home.
- (c) The views from the Home may change over time due to among other things additional development and the removal or addition of landscaping.
- (d) No representations are made regarding the zoning of the Project for Purchaser's intended use or as to the zoning of adjacent property, which may change over time. Purchaser should rely on independent legal advice regarding any zoning matters. Additionally, no representations are made regarding the schools that currently or may in the future serve the Project neighborhood.

(e) No representations are made that the Home is or will be soundproof or that sound may not be transmitted from one Home to another.

(f) The Plans and the dimensions and square footage calculations shown thereon are only approximations and do not reflect actual as-built conditions and the Plans provided to Purchaser. Purchaser acknowledges and understands that Seller reserves the right to revise the Plans as Seller deems appropriate in Seller's sole discretion, provided such revisions do not materially adversely affect the value of the Home.

(g) Seller may be constructing portions of the property and engage in other construction activities related to the construction of common elements and the development of additional property. Such construction activities may from time to time produce certain conditions at the property, including, without limitation: (i) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (ii) smoke; (iii) odors; (iv) dust, dirt, or flying ash; Notwithstanding the foregoing, Purchaser agrees that such conditions at the Project resulting from construction activities shall not be deemed a nuisance or discomfort to Purchaser and shall not cause Seller and its agents to be deemed in violation of any provision of this Agreement or the Master Deed.

(h) Notwithstanding the foregoing, Purchaser agrees that such conditions at the Project resulting from construction activities shall not be deemed a nuisance or discomfort to Purchaser and shall not cause Seller and its agents to be deemed in violation of any provision of this Agreement in the Master Deed.

(i) Seller has reserved the right in the Master Deed, as Developer, to add Homes to the development in subsequent phases and add adjacent projects on neighboring land; such Homes will have rights to all project amenities.

(j) Mold and/or mildew can grow in any portion of the Home that is exposed to elevated levels of moisture. The Association and each Home owner should; (i) regularly inspect the parts of the Home that they respectively maintain, and which are visible and accessible without having to first conduct invasive testing, for the existence of mold, mildew, and/or water intrusion and/or damage, (ii) upon discovery, immediately repair in good and workman like condition the source of any water intrusion in the parts of the Project that they respectively maintain, (iii) remediate or replace any building material located in the parts of the Home that they respectively maintain that has absorbed water or moisture as a result of water intrusion; and promptly and regularly remediate all mold and/or mildew discovered in the parts of the Home that they respectively maintain in accordance with current industry-accepted methods. In addition, the Association should notify the Home Owners, and each Home owner should notify the Association of the discovery of mold, mildew, and/or water intrusion and/or damage in the parts of the Home that they respectively maintain. Seller assumes no responsibility for the recommended conduct of the Association and the Purchaser as noted above.

(k) Exposed concrete surfaces in portions of the Home are subject to cracking and settlement. Such cracking and settling is excluded from the Builder Warranty.

(l) Where applicable Allocated Parking Spaces for each Home are assigned.

(m) Concrete and hardwood surfaces within a Project in the Home may transmit noise, and such noise shall not constitute a use of a Home that interferes with or causes disruption to the use and quiet enjoyment of another Home by its respective owner and/or occupant.

(n) Notwithstanding anything to the contrary stated herein or represented by Broker or Seller, leasing of a Home shall be permitted only in accordance with the Master Deed.

(o) A service provider, which may or may not be an affiliate of Seller, may enter into an exclusive marketing contract with the Association to provide satellite television, high-speed internet services and other services to the project.



(p) The improvements to the Project shall be constructed pursuant to plans and specifications prepared by licensed professionals and permits issued by the Metropolitan Government of Nashville and Davidson County, Tennessee. During the course of the construction of any building, including the building, variations from the original plans and specifications, some of which add scope, some of which reduce scope, and some of which alter scope, are inevitable and can, do, or did occur as a matter of intention and/or as a matter of necessity. While the improvements shall be constructed according to standard building practices and building codes existing at the time of the submission of the plans and specifications for the building for permit, some code requirements may change during the interim period, which were not incorporated in the design of the building.

(q) Purchaser and Seller acknowledge that Place Development Company is a fee based project manager and that Parks is a commission based real estate brokerage, but the project is owned and operated by Cottingham Development, LLC. Purchaser and Seller do hereby agree to indemnify and hold harmless Place Development Company and Parks from any liability associated with the project.

(r) Since in every neighborhood, there are conditions which different people may find objectionable, Purchaser acknowledges that there may be objectionable conditions outside of the Project; Buyer has become acquainted with neighborhood conditions.

(s) Prior to contracting of all 26 units, Purchaser is prohibited from listing or advertising the Home for sale or lease in any real estate listing service and/or publication, on any online electronic medium, in any newspaper, and on radio, television or any other medium for advertising.

(t) Purchaser/Buyer acknowledges and agrees that the Seller has responsibility for the quality and completion of the buildings, any renovations thereto, any new construction, and any other improvements to the real property (together, the "Buildings and Construction"), and any residential units in the Buildings (a "Unit") including any Unit being purchased pursuant to this Agreement. Purchaser/Buyer acknowledges and agrees that Parks Brokers ("Parks"), related entities or Broker of Record for the property has no responsibility for the quality and completion of the Building and Construction, or any Unit. Purchaser/Buyer acknowledges and agrees that Parks is the listing "sales" Broker for this project and is not a partner or joint venture with the Seller or project builder. Purchaser/Buyer hereby waives and releases any and all claims it may have against Parks and release Parks from any liability with respect to the quality or completion of the Buildings and Construction, and any unit, including but not limited to faulty construction, failure to complete construction in a commercially reasonable time or manner, defects and hazards in the Building and Construction, and any Unit, or on the real property, poor workmanship, inferior systems and fixtures, any failure of Seller or the project contractor and subcontractors to satisfy any of their obligations to Purchaser/buyer, or any other act or omission of Seller or the project contractor and subcontractors, but excepting from such waiver and releases any intentional misrepresentation by "Parks" regarding such circumstance, or failure to disclose such circumstances of which it has actual knowledge. All Parks affiliates, including but not limited to managing brokers, affiliate brokers, agents, employees, officers and representatives are included within the meaning of any reference to Parks in this provision.

**21. Purchaser's Representation Regarding Use and Occupancy of Home:** Purchaser hereby represents and warrants to Seller that Purchaser is purchasing the Home for the following purpose (check the appropriate box):

- ☐ Residential occupancy by Purchaser, Purchaser's family member or Purchaser's employee;
- ☐ Lease to third party; or
- ☐ Second Home or Non-Primary Residence
- ☐ Other \_\_\_\_\_

**22. Final Walk-through:** Purchaser shall have an opportunity to do a final walk through with a representative of the builder to confirm that the project is constructed in accordance with plans and specifications and to generate a final punch list of any items to be completed. Seller's liability to complete any items in Home shall be limited to punch list items generated and agreed to prior to closing of the Home and terms of the signed Builder Warranty between Seller and Purchaser. Should a dispute arise between Seller and Purchaser as to the legitimacy of a punch list item, the opinion of the project architect shall govern.

**23. Seller's Use of the Project:** As long as Seller owns or leases a Home in the Project, Seller and its agents shall have the right to keep an office and a model home in the Project. Seller, or its successors or assigns, may erect advertising signs and do whatever else is necessary and helpful for sales, but seller's use of the Project property must be reasonable and cannot materially interfere with Purchaser's use and enjoyment of Purchaser's Home.

**24. Property Disclosure Statement:** Since the Unit constitutes new construction and Seller has not resided in the Unit for (3) years prior to Closing, Seller is not required to provide Purchaser with a residential property disclosure statement in accordance with Section 66-5-201, et seq., Tenn. Code Ann.

Impact Fees or Adequate Facilities Taxes Disclosure. Pursuant to T.C.A. 66-5-211, in transfers involving the first sale of a dwelling, the owner of residential property shall furnish to the purchaser a statement disclosing the amount of any impact fees or adequate facilities taxes paid to any city or county on any parcel of land subject to transfer by sale, exchange, installment land sales contract, or lease with an option to buy.

For the purpose of this section, unless the context otherwise requires:

- (a) "Adequate facilities tax" means any privilege tax that is a development tax, by whatever name, imposed by a county or city, pursuant to any act of general or local application, on engaging in the act of development.
- (b) "Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or the addition to any building or structure or any part hereof, which provides, adds to, or increases the floor area of a residential or non residential use; and
- (c) "Impact Fee" means a monetary charge imposed by a county or municipal government pursuant to any act of general or local application, to regulate new development on real property. The amount of impact fees are related to the costs resulting from the new development and the revenues for this fee are earmarked for investment in the area of the new development.

Seller has paid \$\_\_\_ in adequate facilities tax and/or impact fees on the Real Property. No fees are due.

**25. SPECIAL STIPULATIONS:**

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IN WITNESS WHEREOF, Seller and Purchaser have executed this Agreement on the dates indicated, the latest of which shall be deemed to be the Effective Date hereof.

**PURCHASER(S)**

1. \_\_\_\_\_

NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

2. \_\_\_\_\_

NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

**SELLER**

Cottingham Development, LLC

\_\_\_\_\_

BY: PRESIDENT

DATE: \_\_\_\_\_

Effective Date of this contract is \_\_\_\_\_ entered by \_\_\_\_\_.



## EXHIBIT "B"

### Warranty Guidelines Limited Warranty

The undersigned Builder does hereby extend this Limited Warranty as to property located at Ludlow Row on 10th, Unit\_\_\_\_, and the undersigned Purchaser(s) do hereby agree to the terms hereof as evidenced by their signatures below. This warranty is subject to the terms, limitations, and disclaimers of Section 9 of the Agreement for Sale of Home to which it is an Exhibit.

**1. Warranty:** With the exception of materials, supplies, fixtures, and equipment which are covered by manufacturers' and other warranties to be transferred to Purchaser, Builder warrants against defects as to materials and workmanship in constructing the residence for a period of one year from the date of Closing and agrees to make all reasonable repairs in connection therewith.

Builder further agrees to and hereby does assign to Purchaser(s) all of Builder's interest and rights pertaining to all manufacturers' or other warranties with respect to materials, supplies, fixtures, and equipment used in constructing the residence.

**2. Punch List Items:** All punch list items generated and agreed to by builder prior to closing shall be completed by builder. Thereafter, except for emergency repairs, Builder's responsibility to make repairs shall be limited to the following time frames:

- A.** 60 days after closing, Purchasers may notify Builder of items needing repair under this Limited Warranty. Builder shall respond to Purchaser's notice within 5 days of receipt, and shall schedule the repair of allowable items within the next 7 days, subject to the availability of subcontractors operating under warranty.
- B.** After the 11th month from closing, Purchasers' may notify Builder of any final claims made under this Limited Warranty. Notice and response periods shall be identical to the first and second notice.

### 3. Condition repair and excluded Items:

This Limited Warranty does not cover the following items:

- a. Damages or repairs arising from Purchasers' negligence or improper use or maintenance of the residence.
- b. Acts of God or natural disaster.
- c. Soil erosion.
- d. Cracks in concrete resulting from normal settlement.
- e. Results of normal shrinkage and expansion of materials that are cosmetic in nature. Any cosmetic item that the Builder has not agreed to repair or touch up prior to the date of closing is not covered by this warranty. Cosmetic items include drywall, ceilings, walls, painting & floor covering.
- f. Reasonable wear and tear caused by Purchasers.
- g. Damage caused by the Association, other Home Owners, or their respective agents and contractors.
- h. Mold or mildew damage or remediation costs unless directly caused by a construction defect for which Builder is responsible.

By way of clarification, the following paragraphs are intended to elaborate on the exclusions noted above.

- **Rough Carpentry:** Floor squeaks cannot be totally avoided due to the expansion and contraction of a wood framing system. Builder shall nail any loose floorboards and use reasonable efforts to eliminate large areas of floor squeaks prior to closing.
- **Finished Carpentry:** Separating of joints in moldings or joints between molding and adjacent surfaces should not result in joints exceeding ¼ inch in width. If they do, Builder will repair such defective joints by caulking or as otherwise deemed necessary by Builder. Builder will re-caulk joints one time only and preferably after a season of heating.
- **Roof Leaks:** While roofing materials are warranted for 20 years or more, Builder warrants the roof only during the first year against leaking, and then only if such leaks have not been caused by Purchasers' installation of antennas or any other application on the roof.
- **Gypsum Wallboard:** normal settling, shrinkage, and small vibrations may cause the joints or areas around nails or screws to shrink. Sometimes as wood dries, the nails may be squeezed out of the wood and result in nail "pops." While Builder has no control over these conditions, nevertheless, after the 11 month from closing, Builder will repair any nail pops that exceed 1/8 inch in depth. Any touch-up painting that may be required will NOT be warranted as to match due to the lapse of time, normal fading of paint color, and other conditions.
- **Hardwood Flooring:** One time during the year, it is normal for hardwood floors to expand and contract during the seasons, and gaps may appear which are normal. Separations of 1/16 inch are within acceptable tolerances for new hardwood floors. Gaps larger than those will be repaired by Builder as deemed expedient, including filling of gaps. Given the nature of the hardwood floors, all repairs to flooring will be at sole discretion of Builder.
- **Painting:** Builder is responsible for repairing areas where paint is peeling within the one-year warranty period. However, fading is likely to occur, and Builder cannot guarantee an exact match of original color. Builder cannot prevent rust from bleeding through on metal lintels above doors, windows, and other openings.
- **Electrical:** Any defective outlets, switches and fixtures will be repaired by the Builder. Builder shall not be responsible for any overloading of the electrical system by the Homeowner.
- **Heating and Cooling:** Heating and cooling systems shall be capable of maintain temperature according to local energy codes. Any ductwork that becomes unattached, except by fault of the Homeowner, shall be re-attached by the Builder.
- **Plumbing System:** Leaks or malfunction of plumbing fixtures shall be repaired by the Builder. Expansion and contraction will cause noise in pipes; a "hammering" noise is a defect and Builder will correct. The Homeowner is responsible for preventing pipes from freezing; the Builder will NOT be responsible. Clogged drains are generally a maintenance item; Builder's actions will only be required if the clog is caused by a defect in materials or workmanship.
- **Appliances:** Appliances are warranted by the manufacturer for a specified period of time that may exceed the one year Limited Warranty. For any repairs, Purchasers will need to contact the manufacturer's warranty service department.

This warranty is not assignable and is for the protection of the original Purchaser(s) only. Executed this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the undersigned Purchaser(s) and Builder:

**PURCHASER(S)**

\_\_\_\_\_  
\_\_\_\_\_

**SELLER**

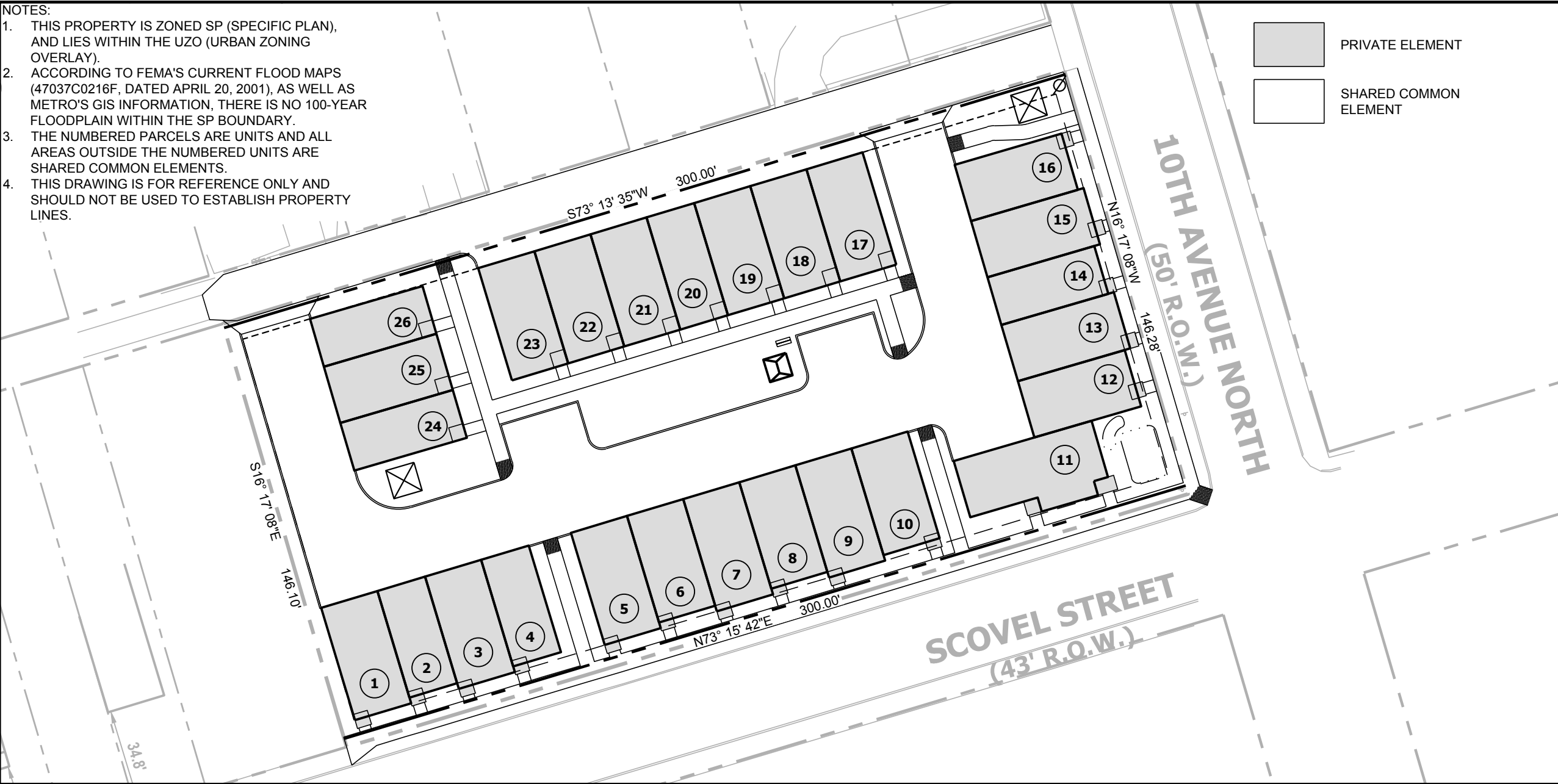
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EXHIBIT “C”

- NOTES:
- 1. THIS PROPERTY IS ZONED SP (SPECIFIC PLAN), AND LIES WITHIN THE UZO (URBAN ZONING OVERLAY).
  - 2. ACCORDING TO FEMA'S CURRENT FLOOD MAPS (47037C0216F, DATED APRIL 20, 2001), AS WELL AS METRO'S GIS INFORMATION, THERE IS NO 100-YEAR FLOODPLAIN WITHIN THE SP BOUNDARY.
  - 3. THE NUMBERED PARCELS ARE UNITS AND ALL AREAS OUTSIDE THE NUMBERED UNITS ARE SHARED COMMON ELEMENTS.
  - 4. THIS DRAWING IS FOR REFERENCE ONLY AND SHOULD NOT BE USED TO ESTABLISH PROPERTY LINES.

PRIVATE ELEMENT

SHARED COMMON ELEMENT



COMMON / PRIVATE ELEMENT EXHIBIT

EXHIBIT “D”

AGREEMENT TO CLOSE WITH CHAPMAN & ROSENTHAL TITLE, INC.

The undersigned(s), as a Purchaser(s) pursuant to a valid and binding purchase and sale agreement for a unit(s) at Ludlow Row. We, herein states and represents that Jay Alexander, attorney at law, 1620 Westgate Circle, Suite 150, Brentwood, Tennessee 37027 615.921.9250 [jalexander@crtitleinc.com](mailto:jalexander@crtitleinc.com) will act as the title and escrow agent for the Ludlow Row closings and will perform all escrow functions and issue all title insurance policies relating to same.

Purchaser further acknowledges that he/she/it has been informed of the opportunity to engage counsel, at his/her/its cost, to review the title commitment and the purchase and sale agreement and any other documents pertinent to the transaction.

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PURCHASER’S SIGNATURE

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PURCHASER’S SIGNATURE



EXHIBIT "F"

FORM OF AFFIDAVIT OF ACCEPTANCE

STATE OF TENNESSEE  
DAVIDSON COUNTY

AFFIDAVIT OF ACCEPTANCE

I hereby acknowledge that I have inspected the dwelling and any private elements associated with the dwelling, and any common areas, and that, without any reservations, except as set out on the attached sheet, I accept the dwelling in its entirety, including, but not limited to the condition of the:

- (a) wall finish, paint and decoration,
- (b) finished floors,
- (c) bath tile and fixtures,
- (d) kitchen tile, sink and cabinets,
- (3) woodwork trim and paneling,
- (f) doors and windows,
- (g) lighting fixtures,
- (i) terrace or patio, and
- (j) the size of all rooms.

I hereby acknowledge receipt of a Limited Warranty executed by the Seller and understand the responsibilities of the Seller thereunder and understand this affidavit in no way alters or amends that document. Items identified by Purchaser and agreed to by Seller in the attached list or preoccupancy inspection are NOT waived when the Affidavit of Acceptance is executed at Closing. However, I understand that these items must be agreed upon prior to consummation of the sale by Seller and me. By Closing the purchase of the dwelling, I acknowledge that Seller has performed its contract with me, that the dwelling, private elements and any common areas have been completed according to the plans and specifications agreed upon, and that the improvements have been completed according to any decoration plan that may have been part of the contract.

PURCHASER:

\_\_\_\_\_  
Witness to Purchaser's Signature

\_\_\_\_\_  
PURCHASER

\_\_\_\_\_  
Witness to Purchaser's Signature

\_\_\_\_\_  
PURCHASER

SELLER:

COTTINGHAM DEVELOPMENT, LLC

\_\_\_\_\_  
Title:\_\_\_\_\_