

CROSSWATER CONDOMINIUMS

Unit Sales Agreement

DATED: _____, 20__

BETWEEN: RDKN PROPERTIES, LLC
3060 S. Brandywine Dr.
West Linn, OR 97068

SELLER

AND: _____
whose address is _____

Telephone No. _____

PURCHASER

providing for the acquisition by Purchaser of Residential Unit ___ of Crosswater Condominiums, a condominium located or to be located in the City of Portland, Multnomah County, Oregon, and more particularly described in **Exhibit A**, including the general and limited common elements pertaining to such unit, and the upgrade options, if any, shown on **Exhibit B**, for a total purchase price of \$_____. Estimated amount of initial monthly assessment of the association of unit owners for this unit is \$_____. Estimated assessments due at closing: \$_____ Working Capital Assessment, \$_____ as the next month's monthly assessment for this unit, plus a pro rata portion of the current month's assessment. [] Closing shall occur within 15 days following written notice from Seller to Purchaser that the unit will be substantially complete and ready for occupancy. The unit is expected to be ready for occupancy by _____. [] The unit is now substantially complete and ready for occupancy; closing shall occur by _____, 20___. Additional terms, if any:

_____.

TERMS OF PAYMENT AS FOLLOWS:

(To be payable to and deposited with Escrow Agent)

Earnest money receipted for herewith.....\$_____

Additional earnest money due _____.....\$_____

Balance due [] within 15 days after notice from Seller
[] on or before _____, 20__.....\$_____

TOTAL PURCHASE PRICE\$_____

This sale is subject to the following terms and conditions:

1. **AGREEMENT TO SELL AND BUY.** Seller will sell to Purchaser and Purchaser will buy from Seller the unit and the property designated on page one of this Agreement, along with such unit's allocation of the common elements and the right to use those limited common elements which pertain to such unit.

2. **PURCHASE PRICE.** The purchase price for such unit and property shall be the sum set forth on page one above.

3. **PAYMENT OF PURCHASE PRICE.** The total purchase price in the amount set forth above shall be paid as follows:

3.1 **Earnest Money.** Purchaser has paid or within the time provided above shall pay the total earnest money specified above. In the event Seller should fail to execute this Agreement within 10 days following its execution by Purchaser, any earnest money paid by Purchaser, including any interest earned thereon, shall be returned. Upon execution of this Agreement by Seller the entire amount of earnest money then or later received from Purchaser shall be paid into an escrow account with Fidelity National Title Insurance Company. Purchaser instructs such escrow agent to hold and use such sums and all other sums deposited under this Agreement pursuant to the escrow agreement between Fidelity National Title Insurance Company and Seller (the "Escrow Agreement").

3.2 **Credit Approval.** Immediately after Purchaser's execution of this Agreement, Purchaser shall apply for a loan approval by an institutional lender, or if Purchaser plans to pay in cash without obtaining financing, shall furnish Seller with any credit information requested by Seller, to the end that Purchaser shall have satisfied Seller within 15 days after the date of this Agreement of Purchaser's ability to pay. In the event Purchaser is unable to obtain a loan or satisfy Seller of Purchaser's ability to pay within such period after diligent efforts to do so, this Agreement shall terminate and Purchaser's earnest money, including any interest earned thereon, shall be refunded, unless the time for obtaining credit approval is extended by the parties.

3.3 **Balance of Purchase Price.** The entire unpaid balance of the total purchase price as set forth above shall be paid (a) within the above specified number of days after written notice by Seller to Purchaser that the unit will be substantially complete and ready for occupancy by such date, and Seller is prepared and willing to close, or (b) by the date specified on page one, whichever is checked on page one above. Purchaser shall cause the balance of the purchase price to be deposited with the escrow agent on or before such due date.

3.4 **Investment of Amount Deposited in Escrow.** If it should appear to Seller that more than 30 days may elapse between the date of this Agreement and the date of closing, Seller shall instruct the escrow agent to deposit Purchaser's escrowed funds in an insured savings account at _____ Bank, or such other bank, mutual bank, or savings and loan association designated in specific instructions executed by both parties. Seller will

direct the investment of amounts deposited into escrow so as to produce for Purchaser the best return which appears to Seller to be consistent with safety of principal and the availability of the funds for the uses intended.

4. **COMPLETION.**

4.1 **Agreement to Develop.** Seller will develop the condominium in general conformity with the State of Oregon disclosure statement delivered to Purchaser, subject to such modifications as may be authorized by Section 6 below.

4.2 **Substantial Completion.** Seller will use Seller's best efforts to substantially complete construction of the above unit together with such portion of the common elements as materially affect the enjoyment of the unit by the date indicated on page one of this Agreement, but does not warrant that construction will be substantially complete by such date. Seller does warrant, however, such completion by no later than six (6) months from the date of this Agreement, unless prevented from so doing by strike, fire, floods, acts of third parties, acts of the government, or other causes beyond its control not occasioned by Seller's own fault or negligence. For purposes of this Agreement, "substantially complete" means that the unit is ready for occupancy, even though one or more minor items of work remain to be corrected, provided Seller agrees in writing to complete or correct such minor items within a reasonable time thereafter.

4.3 **Delays.** The estimated completion date set forth above and the firm date set forth in the Notice to Purchaser that the unit is substantially complete shall be extended for delays arising from any act of Purchaser, labor disputes, accidents, fire or other casualty, weather conditions, and unavailability of materials, subcontractors, or circumstances beyond Seller's control. If delays caused by Purchaser increase Seller's expenses, including but not limited to additional construction financing expense or increased subcontractor or material expense, Seller will be entitled-to additional payment, which will be paid by Purchaser at closing. Seller shall not be liable for damages or otherwise for any failure to timely complete construction due to conditions or circumstances beyond Seller's control.

5. **CLOSING PROCEDURE.**

5.1 **Closing.** The sale shall be closed by whichever of the dates described in Section 3.3 is marked on page one at the offices of Fidelity National Title Insurance Company at 5400 Meadows Rd. Suite 100, Lake Oswego, OR 97035, or as soon thereafter as the declaration submitting the condominium to condominium ownership has been recorded.

5.2 **Deed.** At closing, upon payment of the purchase price, Seller shall convey to Purchaser the unit described above, along with the common elements pertaining to such unit, by special warranty deed free and clear of any liens and encumbrances, except the condominium documents, the provisions of the Oregon Condominium Act, any easements of record, conditions and restrictions of record, governmental ordinances, administrative decisions of record, revocable permits of record, any taxes which are a lien but not yet due, and any liens or

encumbrances placed upon the unit by Purchaser. The existing trust deed on the project provides for release of individual units as they are sold upon payment of a portion of the sales price to the lender. Closing of this sale is conditioned upon release of this unit from such trust deed.

5.3 **Possession; Closing Costs.** Seller shall deliver to Purchaser possession of the unit on or before date of closing. Taxes, maintenance assessments, and rentals, if any, shall be prorated as of (a) date of closing, (b) date of possession, except when such possession is pursuant to a rental agreement, or (c) the date within which closing must occur as provided in Section 5.1, whichever is first. Seller shall be responsible for the payment of the premium for the owner's title insurance policy, accrued replacement reserves for this unit, the recording fees for any partial releases, any broker's commission and Seller's portion of the escrow fee. Purchaser shall be responsible for the recording fee for the deed, any sales or transfer tax, initial contribution to the working capital of the association of unit owners equal to two months of association assessments, the next month's assessment for this unit, a pro rata share of the current month's assessment, Purchaser's portion of the escrow fee, and all fees, costs, and expenses in connection with Purchaser's loan, if any, including the premium for any mortgagee's title insurance policy.

5.4 **Title Insurance.** Within a reasonable time after recording of the deed to Purchaser, Seller shall furnish Purchaser with an owner's policy of title insurance in the amount of the total purchase price, insuring marketable title in Purchaser, except for the usual printed exceptions in such policies and those items mentioned in Section 5.2 above.

6. **RIGHTS RESERVED BY SELLER.** Seller reserves the following rights:

6.1 The right to substitute materials of equal quality. In addition, Seller reserves the right to make such changes or modifications in the detail of the plans and specifications of the unit and project as in the opinion of the project architects or project directors are appropriate or necessary to effect improvements in the project or dwelling facility; provided, however, that Purchaser's consent shall be required for any material, adverse change to the property being purchased under this Agreement. If Purchaser does not consent to such change, Seller may terminate this Agreement and the obligations of the parties hereunder, in which event Purchaser's earnest money, together with any interest earned on such funds, shall be refunded to Purchaser.

6.2 The right to revise or amend the declaration, bylaws, and escrow agreement exhibited to Purchaser to the extent reasonable changes may be required by governmental authorities, lenders or title insurance companies. Any other changes to such documents that materially and adversely affect Purchaser shall require Purchaser's consent. If Purchaser does not consent to such change, Seller may terminate this Agreement and the obligations of the parties hereunder, in which event Purchaser's earnest money, together with any interest earned on such funds, shall be refunded to Purchaser.

6.3 The right to adopt, on behalf of Purchaser and all other unit buyers, the initial bylaws and administrative rules and regulations of the association of unit owners.

6.4 The right to appoint an interim board of directors of the association, which directors shall serve until their successors have been elected as provided in the bylaws.

6.5 The right to appoint a manager or managing agent or to enter into a management agreement on behalf of the association of unit owners for a term not exceeding that specified in the bylaws.

7. **REAL ESTATE WARRANTY.** Seller warrants to Purchaser for a period of one year from date of possession that the unit and related limited common elements sold under this Agreement will be free of defects in materials or workmanship. In addition, Seller warrants that the general common elements shall be free of defects in materials or workmanship for a period of one year from the date of the first conveyance of a unit in the condominium to a buyer. In the event of any defects covered by such warranty, Seller shall have the right to elect whether to repair or replace the defective item. Purchaser is solely responsible for any consequential damages arising out of such defects. THIS WARRANTY IS GIVEN BY SELLER AND ACCEPTED BY PURCHASER IN LIEU OF ANY IMPLIED WARRANTIES AND THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE ARE EXCLUDED. This warranty applies only to those items which are integral component parts of the structure, and is not applicable to “consumer products” as defined in the Magnuson-Moss Warranty Act. The latter items may be covered by manufacturer’s warranties, which are available for inspection at Seller’s office. The Association shall be a beneficiary of this warranty with respect to the general common elements. A written claim reasonably specifying a breach of this warranty on the unit and the related limited common elements must be delivered to Seller before the expiration of such warranty. A written claim reasonably specifying a breach of the warranty on the general common elements must be delivered to Seller within two years of expiration of such warranty, but the claim must be for a defect existing prior to the expiration of the warranty. Seller shall have sixty (60) days following receipt of the claim within which to repair or replace the defective item, or if such repair or replacement cannot reasonably be completed within sixty (60) days, then to have commenced such repair or replacement and pursue the same with reasonable diligence. An action to enforce the warranty shall not be commenced later than four years after expiration of the warranty.

8. **LIMITATION ON OTHER CLAIMS.** Any other claims which Purchaser may have, including, but not limited to, claims for negligence, misrepresentation, breach of contract, construction defects, or any other nonwarranty theory, must be brought within one year from the date of the Turnover Meeting as described in Section 3.3 of the Bylaws. Any such claims not brought within this time period will be deemed fully waived by Purchaser, regardless of when Purchaser actually discovered the alleged basis for the claim. For purposes of this Section 8, a claim is “brought” when (a) for matters within the Small Claims Court jurisdiction, a complaint was filed in the appropriate Small Claims Court and served promptly on Seller or (b) for matters not within the Small Claims Court jurisdiction, the Seller has actual receipt of an arbitration demand by Purchaser. This Section 8 shall not be deemed to expand a Purchaser’s right to assert any nonwarranty claims, which right Seller denies. As with warranty claims, any other claims by

Purchaser cannot include consequential damages, which damages are Purchaser's sole responsibility.

9. **DEFAULT.**

9.1 **By Seller.** In the event that Seller shall fail to carry out the obligations which it has assumed under this Agreement within the time provided, Purchaser, in addition to any other rights Purchaser may have under applicable law, shall have the right to terminate this Agreement. Upon termination Purchaser shall be entitled to recover the entire amount paid to the escrow agent, together with any interest earned on such funds. In no event shall Purchaser be entitled to consequential damages beyond actual damages for the breach.

9.2 **By Purchaser.** Time of Purchaser's performance is of the essence of this Agreement. In the event that Purchaser shall fail to make any deposit or payment required under this Agreement within the time set forth in this Agreement, Seller may declare Purchaser to be in default and the entire amount deposited by Purchaser, including any interest earned on such sums, may, at Seller's option, be forfeited to Seller and retained by Seller as liquidated damages on account of failure of Purchaser to comply with the terms of this Agreement. The parties acknowledge the difficulty of determining the actual damages caused by a default and the reasonableness of such deposits as an estimate of such damages. Once work has commenced on any upgrade options selected by Purchaser, the portion of the deposit equal to the cost of such upgrades will not be refunded. Such remedy shall be in addition to any other remedies of Seller, including Seller's right to specifically enforce Purchaser's performance. In the event Purchaser fails to deposit the balance of the purchase price with the escrow agent within the time set for closing under Section 5.1 above, Seller may, in lieu of terminating this Agreement, require Purchaser to pay to Seller at closing (a) 10 percent per annum of total purchase price, plus tax and assessment prorates, from such date to the date of actual closing. Seller's election not to terminate shall not preclude Seller from thereafter electing to terminate this Agreement and declare a forfeiture or seek other recourse against Purchaser, provided Purchaser still has not fully performed.

10. **DISPUTE RESOLUTION.**

10.1 **Dispute Resolution.** Seller and Purchaser, including the licensees of each, if any, agree that all claims, controversies, and disputes, including those for rescission (collectively, "**Claims**"), relating directly or indirectly to this Agreement or the transactions contemplated by this Agreement, shall be resolved in accordance with the procedures set forth in this Section, which shall expressly survive closing; provided, however, the following matters shall not constitute Claims: (a) any proceeding to collect, interpret, or enforce any mortgage, trust deed, land sale contract or recorded construction lien; (b) a forcible entry and detainer action; (c) any matter subject to other dispute resolution procedures set forth in the condominium documents, and (d) any dispute solely between REALTORS® which is subject to the Professional Standards Arbitration provisions of the National Association of REALTORS®. The filing of a notice of pending action ("**lis pendens**") or the application to any court for the issuance of any provisional process or similar remedy described in the Oregon or Federal Rules

of Civil Procedures shall not constitute a waiver of the right or duty to utilize the procedures specified in this Section.

10.2 **Small Claims.** Notwithstanding the following provisions, Seller, Purchaser and the licensees, if any, mutually agree that all Claims within the jurisdiction of the Small Claims Court shall be brought and decided there, in lieu of arbitration or litigation in any other court of law.

10.3 **Mediation.** The Seller, Purchaser and/or licensees may (but are not obligated to) engage in mediation to resolve any Claims, and the fees of any mediator and the costs of mediation shall be divided and paid equally by the parties. Each party shall pay its own attorneys' fees and costs in connection with any mediation.

10.4 **Attorney Fees.** Should any suit, action, or arbitration be commenced in connection with any dispute related to or arising out of this Agreement or the transactions contemplated hereunder, to obtain a judicial construction of any provision of this Agreement, to rescind this Agreement or to enforce or collect any judgment or decree of any court or any award obtained during arbitration, the prevailing party shall be entitled to recover its costs and disbursements, together with such investigation, expert witness and attorneys' fees incurred in connection with such dispute, as the court or arbitrator may adjudge reasonable, at trial, in the arbitration, upon any motion for reconsideration, upon petition for review, and on any appeal of such suit, action, or arbitration proceeding. The determination of who is the prevailing party and the amount of reasonable attorneys' fees to be paid to the prevailing-party shall be decided by the arbitrator (with respect to attorneys' fees incurred prior to and during an arbitration proceeding) and by the court or courts, including any appellate or review court, in which such matter is tried, heard, or decided, including a court that hears a request to compel or enjoin arbitration or that hears exceptions made to an arbitration award submitted to it for confirmation as a judgment (with respect to attorneys' fees incurred in such proceedings).

11. **GENERAL PROVISIONS.**

11.1 **Notice.** Notices to either party under this Agreement shall be in writing and shall be effective when actually delivered or when deposited in the United States mail, postage prepaid, addressed to the addresses stated hi this Agreement or otherwise as either party may designate by written notice to the other.

11.2 **Assignment.** Without Seller's prior written consent, Purchaser shall not assign this Agreement prior to delivery of the deed to Purchaser, except by devise or inheritance. Subject to such limitation, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

11.3 **Waiver.** Waiver of performance of any provision of this Agreement shall not be a waiver of nor prejudice the party's right otherwise to require performance of the same provision or any other provision.

11.4 **Insulation.** The various types, thicknesses and R-values of the insulation used in this project are included in the specifications attached as **Exhibit C**. R-values are based upon information furnished by the manufacturer, installer or supplier. Seller reserves the right to substitute materials of equal or better type, thickness, and R-value and will notify Purchaser of any change.

11.5 **Representations.** Purchaser acknowledges that this Agreement supersedes any prior written or oral representations, warranties, or statement of either Seller, any employee of Seller or any agent in connection with any aspect of the unit or project, and that Purchaser is not relying on any such representation by either Seller, any employee of Seller or any agent, except as set forth in this Agreement or in the Disclosure Statement delivered simultaneously herewith. Neither Seller nor agent make any representations as to the school district. Purchaser should verify school district information with the school district as school boundaries can change. Purchaser represents that there are no contingencies unless shown in this Agreement. For example, if Purchaser is relying on gift funds, Seller is entitled to rely in Purchaser's representation that gift funds are already in place and that performance of this Agreement is not "subject to" Purchaser arranging gift funds.

STATUTORY WARNING. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

11.6 **Potential Construction Liens.** Effective September 17, 2003, ORS 87.007, the Homebuyer Protection Act ("HPA"), requires a seller of new residential property and the seller of an existing residence with \$50,000 or more in improvements made within ninety (90) days immediately prior to the sale to notify the purchaser of the method the seller has selected to comply with HPA.

NOTICE: Crosswater Condominiums is a new construction condominium, which currently consists of six (6) units. All contractors and material suppliers and others who have a right to construction liens under ORS 87.010 are being paid in the ordinary course of business. However, each has a right to file liens if the Seller fails to pay any of them.

If you are obtaining a mortgage loan to finance purchase of the Property and having Fidelity National Title Insurance Company (the "Title Company") issue a full extended coverage mortgagee's title insurance policy to your lender, the Title Company will issue an owner's title policy to you insuring you to the extent of the amount of your purchase money loan that the Title Company will protect you pursuant to the terms and conditions of the Policy against construction liens. If (1) you are paying cash, (2) your lender does not require construction lien coverage in their policy, or (3) desire coverage in excess of your loan amount, the Title Company cannot issue this coverage without additional cost. Accordingly, those purchasers will be asked to sign a Waiver of Protections From Subcontractors' Liens at closing. The Notice of Compliance with HPA is included in the Disclosure Statement on page 2. The purpose of the HPA is intended to provide purchasers of residences additional notice and/or protection against potential liens. It does not affect or reduce the obligation of the Seller to convey title unencumbered by construction liens. The Seller is contractually obligated to convey title to the Residential Unit to you free of any such liens.

Principal of Seller is a Licensed Real Estate Broker. Patrick Krause is a licensed real estate broker in the State of Oregon, and the owner of a membership interest in RDKN Properties, LLC.

Purchaser has executed this Agreement this ___ day of _____, 20___. Purchaser certifies that Purchaser has received and read the State of Oregon disclosure statement, condominium declaration, the bylaws and the escrow agreement and accepts and agrees to be bound by the provisions contained in such documents.

Purchaser:

Seller has executed this Agreement this ___ day of _____, 20__.

Seller:

RDKN PROPERTIES, LLC,
an Oregon limited liability company

By _____
Printed Name: _____
Its: _____

AGENCY ACKNOWLEDGMENT

Seller and Purchaser acknowledge and consent to the following agency relationship in this transaction:

1. _____ (selling licensee) of
_____ (selling firm) is the agent of (check one):

- The Purchaser exclusively (“buyer agency”).
- The Seller exclusively (“subagency”).
- Both the Seller and Purchaser (“in-company transaction”).

2. _____ (listing licensee) of
_____ (listing firm) is the agent of (check one):

- The Seller exclusively.
- Both the Seller and Purchaser (“in-company transaction”).

Purchaser shall sign this acknowledgment at the time of signing this Agreement before submission to Seller. Seller shall sign this acknowledgment at the time this Agreement is first submitted to Seller, even if this Agreement will be rejected or a counteroffer will be made. Seller’s signature to this Final Agency Acknowledgment shall not constitute acceptance of the Agreement or any terms therein.

Purchaser Signature: _____ Date: _____, 20__
Print: _____

Purchaser Signature: _____ Date: _____, 20__
Print: _____

Seller: RDKN PROPERTIES, LLC
an Oregon limited liability company

Date: _____, 20__

By _____
[_____]
Its: _____

CO-OP SALES

This is a co-op transaction between _____ (Listing Broker) and _____ (Selling Broker). Selling Broker to receive a commission in the amount of _____ % of purchase price, to be deducted from the commission otherwise payable to Listing Broker.

Selling Broker's address: _____

Phone Number: _____
Fax Number: _____

Listing Broker's Initials: _____
Selling Broker's Initials: _____

RECEIPT FOR EARNEST MONEY

_____, 20__

The undersigned hereby acknowledges receipt of earnest money in the amount of \$_____ in form of _____ and agrees that such earnest money shall be deposited by it with Fidelity National Title Insurance Company as provided in the Escrow Agreement.

By _____
Sales Agent

**CROSSWATER CONDOMINIUMS
SQUARE FOOTAGE DISCLAIMER**

Square footages are approximate and based upon “architectural” measurements taken from architectural plans. Final square footages may differ, and the square footages as shown on the condominium declaration and plat will be based upon condominium measurement standards, which are not the same as “architectural” measurements.

BUYER: _____

Date: _____, 20__

BUYER: _____

Date: _____, 20__

EXHIBIT A

Legal Description

The premises are in Multnomah County and are described as follows:

Lot 7, BLOCK 4, FLORAL PARK, in the City of Portland, County of Multnomah and State of Oregon.

EXHIBIT B

Upgrade Options

EXHIBIT C

Insulation Specifications

Fiberglass insulation was used throughout the Condominium. R Factors of the insulation used are as follows, subject to upgrades and final certificates as described in Section 8 of the Unit Sales Agreement:

Outer Walls:	R21
Interior Walls:	R19
Attic Areas:	R38