

MEMORANDUM OF
CONTRACT



**COOK COUNTY
RECORDER
EUGENE "GENE" MOORE
BRIDGEVIEW OFFICE**

KNOW BY ALL MEN
THESE PRESENTS:

That on or about January 17, 2001, Corrib Construction/Development Company, SELLERS, and Distintive Homes, Ltd., PURCHASER entered into a contract for the sale of the following described parcel of land:

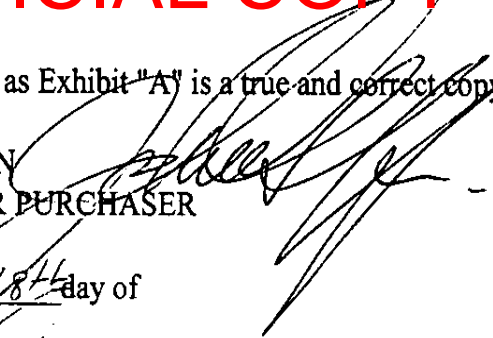
ALL OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 32 TOWNSHIP 36 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN EXCEPTING THEREFROM: THE SOUTH 600.00 FEET AND ALSO EXCEPTING THAT PART DESCRIBED AS FOLLOWS:
BEGINNING AT THE WEST QUARTER CORNER OF SECTION 32; THENCE NORTH 88 DEGREES 35 MINUTES 15 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION, A DISTANCE OF 1330.68 FEET; THENCE SOUTH 01 DEGREES 34 MINUTES 31 SECONDS EAST ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 855.75 FEET; THENCE NORTH 53 DEGREES 16 MINUTES 51 SECONDS WEST 821.02 FEET; THENCE SOUTH 41 DEGREES 10 MINUTES 41 SECONDS WEST 12.24 FEET; THENCE SOUTH 01 DEGREES 24 MINUTES 45 SECONDS EAST 223.00 FEET; THENCE SOUTH 88 DEGREES 29 MINUTES 12 SECONDS WEST 266.00 FEET; THENCE SOUTH 01 DEGREES 30 MINUTES 48 SECONDS EAST 238.00 FEET; THENCE SOUTH 88 DEGREES 29 MINUTES 12 SECONDS WEST 412.00 FEET TO A POINT ON THE WEST LINE OF SAID SECTION; THENCE NORTH 01 DEGREES 30 MINUTES 48 SECONDS WEST 820.00 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

P.I.N.: 27-32-300-001-0000

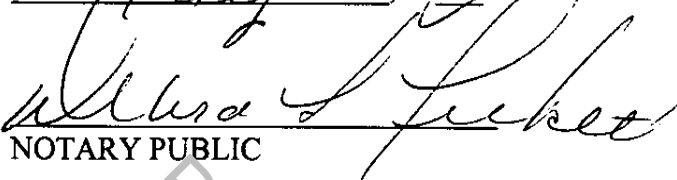
P/A: Fountain Hills- Proposed Residential subdivision South of 179th Street and East of Wolf Road, Orland Park, IL.

The copy of said contract attached hereto as Exhibit "A" is a true and correct copy of the original document.

JOHN C. GRIFFIN
ATTORNEY FOR PURCHASER

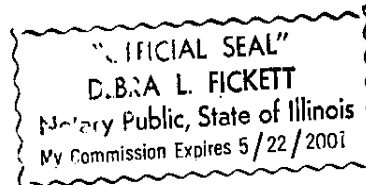


Subscribed and sworn to before me this 18th day of May, 2007


NOTARY PUBLIC

DOCUMENT PREPARED BY: John C. Griffin
10001 S. Roberts Road
Palos Hills, Illinois 60465

MAIL TO: John C. Griffin
10001 S. Roberts Road
Palos Hills, Illinois 60465



Property of Cook County Clerk's Office



REAL ESTATE CONTRACT
FORM APPROVED BY THE SOUTHWEST REAL ESTATE ASSOCIATION AND

FORM APPROVED BY THE SOUTH/SOUTHWEST ASSOCIATION OF REALTORS



EQUAL HOUSING OPPORTUNITY

SELLER: Cornib Construction/Development Co.

SINGLE FAMILY

ADDRESS: 53 Rusty Road Lemont IL 60439
(CITY) (STATE) (ZIP)

MULTI-FAMILY

BUYER: Distinctive Homes Ltd.

TOWNHOUSE

ADDRESS: 17910 Settlers Pond Way Orland Park IL 60467
(CITY) (STATE) (ZIP)

CONDOMINIUM

VACANT LOT
(Check One)

Buyer hereby agrees to purchase and Seller agrees to sell the following described real estate, on the terms and conditions herein set forth.

DESCRIPTION OF PROPERTY: LEGAL DESCRIPTION (Permission to attach hereto at any time hereafter)

STREET ADDRESS Southeast Corner of 179th Street & Wolf Road in Orland Park, IL
(include "Unit Number" if condominium or townhouse) (CITY) (STATE)

LOT SIZE: APPROXIMATELY Varies - See attached site plan x x FEET.

IMPROVED WITH 41.87 acres - See Attached Rider

together with all appurtenances attached to and forming a part of the premises, for which Seller shall deliver a Bill of Sale at time of delivery of deed: existing heating, plumbing, electrical lighting fixtures, storm windows, storm doors and screens, if any; drapery rods, curtain rods, if any; fencing, if any; attached air conditioners, if any; attached outside antenna, if any; water softener (except rental units), if any; all planted vegetation; ceiling fans, if any; automatic garage door system and all related remote hand-held units, if any; and specifically including the following items of personal property now on the premises:

PRICE AND TERMS:

PURCHASE PRICE 41.87 acres @ \$90,000/acre \$ 3,768,000

EARNEST MONEY DEPOSIT

in the form of (cash), (personal check), (cashier's check) or (judgment note due) \$

After the completion of a satisfactory due diligence period \$ 25,000

(Per the attached Rider)

BALANCE DUE AT CLOSING \$

FINANCING:

This Contract is contingent upon Buyer securing within days of acceptance hereof a written mortgage commitment on the real estate herein in the amount of \$ or such lesser sum as Buyer accepts, with interest not to exceed % per year, to be amortized over years, the combined origination and discount fees for such loan not to exceed %, plus loan processing fees, if any. Buyer shall make written application for such loan within ten (10) days from date of acceptance of Contract, shall cooperate with the lender in supplying all necessary information and documentation, and shall diligently attempt to obtain the mortgage described herein. In the event the Buyer is unable to secure such loan commitment, Buyer shall provide written notice of same to Seller or Seller's attorney. Seller may, at his option, within an equal number of additional days, procure for Buyer such a commitment or notify Buyer that Seller will accept a purchase-money mortgage upon the same terms. In the event neither Buyer nor Seller secure such loan commitment as herein provided within the time allowed, then this Contract shall become null and void and all earnest money shall be returned to Buyer. Buyer shall be allowed to have a mortgage or trust deed placed of record prior to closing, but any delays caused thereby shall not constitute a default by the Seller. Seller must allow reasonable inspection of the premises by Buyer's financing agent. Unless a contingency upon sale/closing provision is attached and made part of this Contract, Buyer represents that his ability to obtain financing is not subject to the sale, closing, or rental of any other real estate. Buyer will be deemed to be in default if he obtains a loan commitment conditioned upon the sale, closing, or rental of other real estate, and fails to close this transaction as agreed.

CLOSING:

The closing shall be on or before Per Attached Rider at the office of Buyer's lender, or Chicago Title in Joliet

POSSESSION: (Select one applicable option)

Seller shall deliver possession to the Buyer at closing. OR

Seller shall deliver possession to Buyer within days from date of closing. Seller agrees to pay Buyer for use and occupancy the sum of \$ per day for each day after closing that Seller retains possession. Seller shall be responsible for heat, utilities and home maintenance

UNOFFICIAL COPY
expenses during said period, and shall deliver possession of the real estate in the same condition as it is in on the date of closing. Should Seller fail to deliver possession to Buyer as agreed, Seller shall pay to Buyer beginning on the day after closing, the sum of \$_____ per day until possession is delivered to the Buyer and Buyer shall, in addition to all other remedies, have the immediate right to commence any legal action or proceeding calculated to evict and remove the Seller from the premises. Seller agrees to waive all notices required by the Forcible Entry and Detainer Act or any other statute, and consents to an immediate judgment for possession. Seller further agrees to reimburse Buyer for all reasonable attorneys' fees and court costs Buyer may incur in the enforcement of his rights pursuant to this provision.

Seller shall deposit the sum of \$ 25,000 in escrow with Chicago Title & Trust as Escrowee, at the time of closing, and any monies due the Buyer for Seller's use and occupancy hereunder shall be paid to Buyer from this deposit and the balance, if any, shall be refunded to Seller. Possession shall be deemed delivered to Buyer when Seller has vacated the premises and delivered the keys to the Buyer or the Escrowee. Escrow money shall be limited to delivery of possession, and funds held pursuant to this paragraph shall be used only to satisfy payment for use and occupancy.

TITLE EVIDENCE:

Seller, at his expense, shall furnish not less than five (5) days prior to the closing date, a title commitment for an owners title insurance policy issued by an Illinois licensed title insurance company in the amount of the purchase price covering the date hereof subject only to (a) the general exceptions contained in the title policy (except that, where the subject property qualifies as a single family residential unit, the policy shall provide extended coverage over the general exceptions); (b) the title exceptions set forth below, and (c) title exceptions pertaining to liens or encumbrances which have been assumed by the Buyer under the terms hereof or which the Seller has agreed to remove at closing from the proceeds hereunder. Any delay in delivery of the title commitment which is caused by the Buyer, his agent, or his lending agency shall extend the time for delivery thereof by the Seller by such period of delay. If the title commitment discloses exceptions not provided for herein, the Seller shall have until closing to remove said exceptions or to acquire title insurance covering said unpermitted exceptions. If Seller fails to remove said exceptions or obtain additional insurance within the time stated herein, Buyer may elect to terminate this Contract and all monies paid by the Buyer shall be refunded to him.

DEED (CONVEYANCE, LIENS, ENCUMBRANCES):

Seller shall convey or cause to be conveyed to Buyer title to the premises by a recordable general warranty deed with release of homestead rights, or trustee's deed if applicable, in joint tenancy, if more than one Buyer, or to Buyer's nominee, subject only to the following permitted exceptions, provided none of which shall materially restrict the reasonable use of the premises as a residence: (a) general real estate taxes not due and payable at the time of closing; (b) building lines and building laws and ordinances, use or occupancy restrictions, conditions and covenants of record; (c) zoning laws and ordinances which conform to the present usage of the premises; (d) public and utility easements which serve the premises; (e) public roads and highways, if any; (f) party wall rights and agreements, if any; and (g) limitations and conditions imposed by the Illinois Condominium Property Act and condominium declaration, if applicable.

PRORATIONS:

The following items, if applicable, shall be prorated as of the date of closing: (a) insurance premiums; (b) general real estate taxes, including special service areas, if any; (c) rents and security deposits; (d) interest on mortgage indebtedness assumed; (e) water taxes; (f) homeowners and/or condominium/townhome association dues and assessments; (g) prepaid service contracts. Prorations of general taxes shall be on the basis of 105% of the last ascertainable bill. If said bill is based on a partial assessment or on an unimproved basis for improved property, a written agreement (with escrow) for final proration when the complete assessment information is available from the County Assessor, shall be signed at closing by the parties hereto.

SURVEY:

Seller at his expense, except for condominiums, shall furnish to Buyer a current spotted survey (dated not more than 6 months prior to the closing date) under certification by an Illinois licensed land surveyor showing the location of all improvements, easements and building lines. The location of all improvements on the subject property shall be within the lot lines and not encroach upon any easements or building lines, and said survey shall show no encroachments from adjoining properties. In the event said survey discloses encroachments, these encroachments shall be insured by the title company for Buyer and Buyer's lender at Seller's expense.

COMMISSION:

~~Real estate broker's commission shall be paid in accordance with the terms of the listing agreements and Buyer representation agreements of the respective parties, unless otherwise agreed in writing by the respective parties and their brokers. Seller's broker and Buyer's broker are identical on page four (4) of this Contract.~~

ATTORNEY MODIFICATION:

The terms of this Contract, except the purchase price, closing date, and possession date, are subject to good faith modification (which may include additional terms) by the attorneys for the parties within three (3) business days from the Contract Date (excluding Saturday, Sunday, and legal holidays). Notice of modification shall be in writing, served upon the other party or his agent, and shall state the specific terms to be modified and the proposed revisions. IN THE ABSENCE OF WRITTEN NOTICE WITHIN THE TIME SPECIFIED HEREIN, THIS PROVISION SHALL BE DEEMED WAIVED BY ALL PARTIES HERETO AND THIS CONTRACT SHALL CONTINUE IN FULL FORCE AND EFFECT. THE PARTIES ACKNOWLEDGE THAT MODIFICATION PURSUANT TO THIS PROVISION SHALL CONSTITUTE A COUNTEROFFER.

CLEAN CONDITION:

~~Seller shall leave the premises in broom clean condition, all personal property not to be conveyed to Buyer and all refuse shall be removed from the premises at Seller's expense by the possession date.~~

PROPERTY INSPECTION CONTINGENCY: (Select one applicable option)
2) Buyer declines to have a professional property inspection performed, and this Contract shall not be contingent upon such an inspection.

OR
UNOFFICIAL COPY

3) Buyer shall have the right, for a period of five (5) business days following the date of acceptance of this Contract, to have the subject property and its improvements inspected by a certified home inspection service of Buyer's choice, and at Buyer's cost. The home inspection shall cover ONLY the major components of the Premises: central heating system(s), central cooling system(s), interior plumbing system, electrical system, all mechanical systems, and structural components, consisting of roof, walls, windows, ceilings, floors and foundation. A MAJOR COMPONENT SHALL BE DEEMED TO BE IN OPERATING CONDITION IF IT PERFORMS THE FUNCTION FOR WHICH IT IS INTENDED, REGARDLESS OF AGE, AND DOES NOT CONSTITUTE A THREAT TO HEALTH OR SAFETY. Buyer shall indemnify Seller and hold Seller harmless from and against any loss or damage caused by the acts of negligence of Buyer or any person performing such inspection. BUYER AGREES MINOR REPAIRS AND ROUTINE MAINTENANCE ITEMS ARE NOT A PART OF THIS CONTINGENCY. The parties agree that repairs which do not exceed, in the aggregate, \$500.00 to remedy shall be considered minor deficiencies for the purpose of this paragraph and Buyer agrees to assume those repairs with no allowance from Seller. Buyer, within the five (5) business days after acceptance of Contract, shall have the right and option to serve written notice upon Seller, Seller's listing agent, or attorney of the above deficiencies disclosed by the inspection report when the cumulative cost of repair exceeds the limitation set forth herein, and Buyer shall have the right to request repair of all such deficiencies. In the event Buyer makes a request for certain repairs, Buyer shall immediately deliver a copy of the inspection report to Seller. Seller shall, within five (5) business days thereafter, notify Buyer that (i) Seller will repair such deficiencies; (ii) Seller will, at closing, credit the Buyer in an amount equal to the reasonable cost of the repair of such deficiencies; or (iii) Seller proposes to negotiate the cost or obligation of correcting certain defects; or (iv) Seller will neither repair nor provide a credit. In the event Seller selects option (iv), upon receipt of the Seller's notice, Buyer shall within two (2) business days thereafter notify Seller of Buyer's election to either proceed with the transaction, waiving all home inspection repair requests, or declare the Contract null and void, in which case all earnest money shall be promptly refunded to Buyer. The parties hereto agree that the following items are accepted by Buyer "As is", shall not be made a part of Buyer's request for repairs, and shall not be further negotiated:

IN THE ABSENCE OF WRITTEN NOTICE OF REQUEST FOR REPAIRS FROM BUYER WITHIN THE TIME SPECIFIED HEREIN, THIS HOME INSPECTION CONTINGENCY SHALL BE DEEMED WAIVED BY THE BUYER AND NO LONGER A PART OF THIS REAL ESTATE CONTRACT.

WELL AND SEPTIC TEST: (Select one applicable option)

The subject property is served by a community or municipal water and sewage treatment system (well and septic test provision inapplicable).

OR

The subject property is not served by a community or municipal water and/or sewage treatment system. Seller, at his expense, prior to closing, shall obtain and deliver to Buyer a water test performed by or accessible to the county in which the property is located, and a septic system test indicating that the system is in proper operating condition and in compliance with applicable state, county and local statutes. Such tests shall be performed not more than 60 days prior to the closing date. If either of said written test reports indicate that the water is not potable, that the septic system is not in proper operating condition, or that the systems are not in compliance with the relevant statutes, Seller shall have the option to make the necessary repairs and bring the system(s) into compliance prior to the closing date. In the event Seller elects not to make the necessary repairs, then this Contract, at the option of Buyer, shall become null and void, and all earnest money shall be refunded to Buyer.

FLOOD PLAIN:

Buyer shall have the option of declaring this contract null and void within five (5) days of receipt of any written notice or disclosure, including the Residential Real Property Disclosure Report, that the property is located in a special flood plain hazard zone, which requires the Buyer to obtain flood insurance. This option shall not exist in the event such written notice or disclosure was provided in statement number three (3) of a Residential Real Property Disclosure Report executed by both Seller and Buyer prior to the Contract Date.

PERFORMANCE/DEFAULT/RELEASE OF EARNEST MONEY:

The earnest money and this Contract shall be held by Chicago Title & Trust (Escrowee) for the benefit of the parties hereto, and applied to the purchase price at closing. In the event of a default by Seller or Buyer, the parties are free to pursue any legal remedies available at law or in equity. **THERE SHALL BE NO DISBURSEMENT OF EARNEST MONEY UNLESS ESCROWEE HAS BEEN PROVIDED WITH A WRITTEN AGREEMENT FROM SELLER AND BUYER.** Absent an agreement relative to the disbursement of earnest money within a reasonable period of time, Escrowee may deposit the funds with the Clerk of the Circuit Court by the filing of an action in the nature of an interpleader. Escrowee shall be reimbursed from the earnest money for court costs related to the filing of the interpleader action. Seller and Buyer hereby indemnify and hold Escrowee harmless from any and all claims and demands arising out of any release of earnest money pursuant to a written agreement of the parties or court order.

TERMITE INSPECTION:

~~Prior to closing, the Seller, at his expense, shall deliver to Buyer a written report from an inspection company certified to do termite inspections by the State Department of Public Health, dated not more than six (6) months prior to the closing date, stating that there is no visible evidence that the premises are infested by active termites, or other wood boring insects. Unless otherwise agreed between the parties, if the report discloses evidence of active infestation or structural damage, the Buyer shall have the option, within five (5) business days of his receipt of the report to proceed with the purchase or declare the Contract null and void. This provision shall not be applicable to condominiums or to newly constructed property having been occupied for less than one year following completion of construction.~~

GENERAL CONDITIONS AND STIPULATIONS:

a) Both Seller and Buyer agree to execute all documents and provide all information necessary to enable any lender to issue a commitment for mortgage or trust deed and to close this sale.

UNOFFICIAL COPY

(b) Seller represents that he has not received any notice from any governmental body of any ordinance, zoning or building code violation, condemnation proceeding, pending rezoning, or special assessment proceedings affecting the property.

(c) All notices herein required shall be in writing and served upon the parties at the address shown on this Contract or upon the attorney for such party. In the event the name and address of the Seller or the attorney for the Seller is unknown, written notice may be served upon the listing broker as agent for the Seller. Facsimile transmission of any offer, acceptance, notice, or rider herein provided to the parties, their broker or attorney, shall constitute sufficient notice or acceptance. Original documents shall be forwarded in all instances within three (3) business days of such notice. Notice to any one party of a multiple person party shall be sufficient service to all.

(d) This Contract and any Riders attached hereto shall constitute the entire agreement and understanding between the Seller and Buyer, and there are no other agreements, representations, or understandings, oral or written, between the parties with respect to the subject matter of this Contract. No alteration, modification, or amendment to this Contract shall be valid unless in writing and signed by all parties.

(e) This Contract shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, legal representatives and permitted assigns.

(f) This Contract is subject to the provisions of Public Act 89-111 known as the Residential Real Property Disclosure Act, the terms of which are expressly incorporated herein and made a part of this Contract. The Seller represents that the information contained in the disclosure document is accurate as of contract date.

(g) The invalidity of any paragraph or subparagraph of this Contract shall not impair the validity of any other paragraph or subparagraph. If any provision of this Contract is determined to be unenforceable by a court, such provision shall be deemed severable and this Contract may be enforced with such provision severed or as modified by such court.

(h) Prior to closing, Buyer shall have the right to enter into and make a final inspection of the premises to determine that the premises are in the condition required by the terms of the Contract. If there has been an adverse change in the condition of the premises since the Contract Date, the Seller shall return the premises to the same condition as it was on the Contract Date, or as called for by the terms of the Contract.

(i) Seller shall pay for the State of Illinois and county real estate transfer tax stamps. Any municipal transfer tax shall be paid by the party designated in the ordinance of the municipality imposing the tax.

(j) If the improvements on the property shall be destroyed or materially damaged by fire or other casualty prior to closing, the provisions of the Uniform Vendor and Purchaser Risk Act of Illinois shall apply.

(k) If the Buyer or Seller under this Contract is an Illinois land trust, the individual beneficiaries thereto have signed their names to this Contract to indicate they are the beneficiaries of said trust in order to guarantee their performance of this Contract and to indicate that they hold the sole power of direct regard to said trust.

This Contract and Riders numbered I, and Exhibits A & B (A - Colored Site Plan, B - Pre-REPORT and LEAD-BASED PAINT DISCLOSURE, unless inapplicable, are attached hereto and incorporated herein, shall be executed by Buyer and one copy thereof delivered to Seller and one copy delivered to Buyer.

THIS IS A LEGALLY BINDING CONTRACT WHEN SIGNED. IF NOT UNDERSTOOD, SEEK LEGAL ADVICE BEFORE SIGNING.

BUYER(S): [Signature]
 BUYER(S): _____
 Date of Offer: _____

Chairman

SELLER(S): [Signature]
 SELLER(S): _____
 Date of Acceptance: _____
 (This date shall be inserted only after the parties hereto have agreed to the terms and conditions of this Contract and is also referred to as the Contract Date).

IDENTITY OF BROKERS AND ATTORNEYS
 (Please complete when executing the Contract)

BUYER'S BROKER: _____
 (Company)

Telephone: _____

Fax: _____

(Designated) or (Dual Agent): (Select one)

_____ (Agent's Name)

BUYER'S ATTORNEY: _____

Telephone: _____

Fax: _____

SELLER'S BROKER: _____
 (Company)

Telephone: _____

Fax: _____

(Designated) or (Dual Agent): (Select one)

_____ (Agent's Name)

SELLER'S ATTORNEY: _____

Telephone: _____

Fax: _____

0010423734

UNOFFICIAL COPY

Rider I

This rider and its addendum's are attached to and made an integral part of the Real Estate Sales Contract (CONTRACT) dated 1/17/01 between Corrib Construction/Development Company (SELLER) and Distinctive Homes or its nominee (PURCHASER) for the property known as The Villas and Condos at Fountain Hills located at the SE Corner of 179th St. and Wolf Road in Orland Park, Illinois.

Section A Financial Information

- 1) Acres: Approximately 41.87
- 2) Price per acre: \$90,000.00
- 3) Total Purchase Price: \$3,768,000
- 4) Earnest Money: \$25,000 at signing of contract. \$25,000 at the end of the study period.

Section B Sellers Obligations

1. Approvals: Seller shall cause the Village of Orland Park to approve the final plat of subdivision for the entire Fountain Hills Development. The final plat shall have all the required signatures necessary for recording the document including a signature block for Distinctive Homes or its Nominee for purposes of identifying Distinctive Homes or its Nominee as the developer of Fountain Hills.
2. The Seller shall secure any easements that may be necessary to bring water and sewer to the site or provide for the drainage requirements of the site.
3. The Seller shall secure at its expense the required permits for the development of the property. These permits shall include but are not limited to; A) IEPA sewer and water permits. B) Army Corps or Corlands permits C) Village and or County permits as required D) IDOT permits as required.
4. Provide fully approved and complete final engineering for the entire site.
5. Complete the annexation agreement.

UNOFFICIAL COPY

6. The Fountain Hills Home Owners Association and Declaration of Covenants and Restrictions shall be prepared by the Seller. However, upon removal of all contingencies by the Purchaser the seller shall allow the Purchaser to make any changes it deems necessary prior to the Seller recording the document.

Section C

Study Period

1. Purchaser will have a 45 day due diligence or study period to review all the necessary documents relating to this transaction. Purchaser may terminate this contract for any reason during the study period. If Purchaser elects to terminate the contract via fax or mail, then the earnest money deposit shall be returned to Purchaser within three business days. The Seller agrees to pay the Purchaser \$100 per day for each day the earnest money is held past the three days.

2. The study period shall begin on the date the contract is signed by both parties, the earnest money has been deposited in escrow, and item 4 in section C of this rider is completed by the Seller.

3. At the end of the 45 day study period the Purchaser may elect one of the following options;

A) Notify the Seller in writing that all contingencies in the contract shall be removed and deposit an additional \$25,000.00 as earnest money in escrow at Chicago Title in Joliet. The closing shall take place within 45 days of the end of the study period or within 45 days in which all of the conditions outlined in section B of this rider have been complied with by the Seller.

B) Notify the Seller in writing that the contract is canceled. At which time all earnest moneys deposited by Purchaser shall be returned.

4. Within three days of the acceptance of this contract by both parties the Seller shall provide a "Data Dump" of due diligence material for the Purchaser to review. During the study period Purchaser will have complete access to all studies, analyses, and reports with respect to the property which were prepared by Seller or prepared by others on behalf of Seller, including but not limited to:**

- Full set of engineering
- A detailed engineers estimate of all the costs related to the development
- The engineers estimate shall separately detail all off site expenses associated with the development of the site
- ? • A detailed schedule of all fees that are to be paid by the Purchaser as the Developer of Fountain Hills
- Preliminary plat
- Final plat
- Soil boring reports
- Engineering tests

- ✓• Surveys
- ✓• Environmental site assessments
- ✓• Wetland studies
- ✓• Archaeological reconnaissance surveys
- 7• Traffic studies
- ✓• Annexation agreements (preliminary and or approved)
 - Farm leases
 - Recapture agreements
 - Covenants and Restrictions
- ✓• ALTA survey
- ✓• Colored site plan
 - Title examinations
- ✓• Copies of permits
- ✓• Architectural plans
- ✓• Engineering
- ✓• Drainage studies
- ✓• Copies of all plan commission and Village board meetings minutes highlighting the approvals received by the Seller for Fountain Hills.
- ✓• Village review comments

****Seller shall have all studies and reports certified to Purchaser for its use at no expense to the Purchaser after the study period has expired and the second deposit has been received by the Seller. If the transaction is not closed the Purchaser shall retain no rights to the above material.**

Section D General Conditions.

- 1) All earnest money shall be held in a federally insured escrow account pursuant to the terms of a strict joint order escrow in form and substance reasonably acceptable to Purchaser and Seller to secure Purchaser's performance hereunder. The cash deposit including interest which may accrue, less investment fees, if any, shall be included as the deposit for the benefit of Purchaser.
- 2) In the event of a default, the Purchaser shall have a 60 day right to cure period.
- 3) All notices shall be given via mail and fax to both the Seller, Purchaser and their respective attorneys.
- 4) The Seller warrants that the Fountain Hills Development is in the Orland Park Grade School and Carl Sandburg High School District.
- 5) The Seller warrants that the Village of Orland Park has the ability (capacity) to supply water and sewer for the entire site.
- 6) In the event the Purchaser defaults under the terms of this agreement, the deposited earnest money shall be used as the Sellers sole remedy.

7) If Seller has failed to comply with the agreements, covenants and warranties contained in the contract and/or its riders or fails to proceed to the closing of the sale of the property in accordance herewith, Purchaser at its option, may terminate this contract, whereupon Purchaser shall be entitled to a refund of all earnest moneys as its sole remedy, or pursue an action in equity for specific performance.

8) Each individual executing this contract respectively represents and warrants in his or her individual capacity that such person has been duly authorized to execute this contract on behalf of the party in whose name this contract is executed, and that no further approvals, authorizations or signatories are required for a binding contract, and that this contract is a valid and binding obligation of such party.

9) If any conflicts or discrepancies are found between the contract and its riders then the information found in the riders shall prevail.

10) During the study period Purchaser shall have access to the property to conduct any other tests or analysis in order to determine if the property is suitable for the proposed Fountain Hills Development.

11) Prior to entry upon the property, Buyer shall provide a certificate of insurance to Seller evidencing that buyer has liability insurance of at least \$1,000,000.00 naming Seller as additional insureds and covering any personal injury or property damage which may occur on the property as a result of the presence on the property of buyer, its employees or its agents. Buyer hereby agrees to hold Seller harmless from any and all costs, claims, liabilities or damages including mechanics liens, arising from the presence on the property of buyer, its employees or agents.

12) Both Seller and Purchaser agree to keep this contract and all of the terms and conditions contained herein confidential during the study period; however, both parties may disclose said terms and provisions to their respective attorneys, accountants, consultants and prospective lenders.

13) To Seller's actual knowledge, no part of the property has been used for disposition of toxic or hazardous waste; that Seller has not placed or permitted to be placed on the property, any toxic or hazardous substances or waste, underground storage tanks or underground containers.

14) Purchaser hereby agrees to indemnify and hold Seller harmless from any claims, liabilities, damages, or expenses which Seller, its successors and assigns, may incur by reason of any mechanic's or materialmen's liens filed against the property or claims against Seller for work performed or materials purchased by or at the direct request of Purchaser as a result of the activities involved in the due diligence procedures of the Purchaser for Fountain Hills.

15) On the closing date, Purchaser will be entitled to immediate, exclusive and unconditional possession of the property, the property will be free and clear of all tenants, and there shall be no claims of possession against or affecting the property.

UNOFFICIAL COPY

0010423734

Page 11 of 12

AGREED TO THIS 19 DAY OF January, 2001.

Buyer: Distinctive Homes Ltd.

Seller: 

By: 
Its Chairman

By: _____
Its: _____

Property of Cook County Clerk's Office

**Buyer & Seller
Information**

Buyers Information:

Distinctive Homes Ltd.
17910 Settlers Pond Way Unit 1B
Orland Park Il. 60467

Contact - Bryan Nooner Chairman
(708) 479-7700 Office
(708) 479-1800 Fax

Attorney: Jeff McCarthy
McCarthy Law Offices
136 E. 9th St.
Lockport Il. 60441

(815) 838-5297 Office
(815) 258-5297 Portable
(815) 838-5298 Fax

Sellers Information:

Company: _____

Address: _____

Contact: _____

Phone: Office _____
Fax _____

Attorney: _____

Attorney: Phone _____
Fax _____

Cook County Clerk's Office