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REAL ESTATE SALE AND PURCHASE AGREEMENT
Cook County Recorder 122.50

THIS AGREEMENT is made and entered into as of the 11th day of October, 2002, by and between DONVEN HOMES, INC., an Illinois corporation, or its nominee, hereinafter referred to as "Purchaser", and TIMOTHY BRUNETTE, hereinafter collectively referred to as "Seller".



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W I T N E S S E T H:

WHEREAS, Seller is the owner of record of approximately 5.00 acres of real estate located at 15237 and 15309 West 129th Street in unincorporated Cook County near Lemont, Illinois. Said 5.00 acres of real estate is legally described on Exhibit "A," attached hereto and incorporated herein by reference. Said 5.00 acre parcel of real estate as legally described on Exhibit "A," together with any improvements or structures thereon and any easements and appurtenances thereto, mineral, gas and water rights, whether or not appurtenant thereto and in and to any streets, alleys or other public ways included thereto or adjacent thereto are collectively herein referred to as the "Property";

WHEREAS, Purchaser is desirous of acquiring and Seller is desirous of selling the Property upon the terms and conditions hereinafter recited;

WHEREAS, Purchaser is desirous of annexing the Property to the Village of Lemont and developing thereon townhomes, hereinafter referred to as the "Contemplated Development"; and

WHEREAS, the parties hereto are desirous of committing the terms of their agreements to writing.

NOW, THEREFORE, in consideration of the foregoing and the agreements of the parties hereinafter contained, and for other good and valuable considerations, the receipt and sufficiency of which are hereby mutually acknowledged, the parties agree as follows:

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1. Preambles. The preambles set forth above are hereby incorporated into and made a part of this Agreement.

2. Sale of Property. Seller shall sell to Purchaser and Purchaser shall purchase from Seller, subject to the terms and conditions of this Agreement, the following:

A. The Property described in Exhibit "A," as the 5.00 acre parcel, attached hereto, together with Seller's right, title and interest in and to all easements and appurtenances thereto, and in and to any streets, alleys or other public ways included therein or adjacent thereto, if any;

B. All improvements or structures existing upon the real estate (including all replacements or additions thereto between the date hereof and the Closing date); and

C. All shrubs, trees and plants existing on the Property and all mineral, oil, gas and water rights, whether or not appurtenant thereto, owned by Seller.

3. Purchase Price: Earnest Money.

A. The purchase price for the Property shall be the sum EIGHT HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$850,000.00) allocated equally between the two parcels comprising the Property, plus or minus prorations and minus the Earnest Money deposited as set forth in subparagraph B below, payable by Purchaser to Seller at Closing by cash, wire transfer of immediately available funds, or Cashier's Check.

B. Purchaser shall deliver to Seller upon execution of this Agreement by Seller, as and for Earnest Money, the sum of THIRTY THOUSAND AND 00/100 DOLLARS (\$30,000.00). The Earnest Money shall be deposited into a Joint Order Escrow at Chicago Title Insurance Company, to be held in an interest bearing account for the mutual benefit of the parties in accordance with the terms and conditions of this Agreement, with the interest accruing thereon to be for the benefit of Purchaser. At Closing, or upon the termination of this Agreement in accordance with its terms (except

by reason of Purchaser's default), the Earnest Money, and interest earned thereon, shall be a credit to or returned to Purchaser, subject, however, to the following:

- (i) TEN THOUSAND AND 00/100 DOLLARS (\$10,000.00) of the earnest money shall be non-refundable; and
- (ii) An additional TEN THOUSAND AND 00/100 DOLLARS (\$10,000.00) shall become non-refundable in the event Purchaser exercises its rights for the Extended Approval Period described in Paragraph 9.

4. Closing.

A. The "Closing" shall occur within thirty (30) days after Purchaser satisfies or waives the contingencies and Review Period described in Paragraph 9 below, or sooner at the option of the Purchaser upon fifteen (15) days' prior written notice to Seller, or on the date, if any, to which said date is extended by reason of Paragraph 7 below.

B. This purchase and sale shall be closed through an Escrow with Chicago Title Insurance Company (herein referred to as the "Title Company"), in accordance with the general provisions of the usual form of Deed and Money Escrow Agreement (and if necessary Money Lender Escrow) then in use by the Title Company, with such special provisions inserted in the escrow agreement as may be required to conform with this Agreement. Upon the creation of such an Escrow, anything herein to the contrary notwithstanding, the Earnest Money, and interest earned thereon, shall be deposited in the Escrow and the payment of the purchase price and delivery of deed shall be made through the Escrow. The cost of the Escrow shall be divided equally between Seller and Purchaser. Said Escrow shall be ancillary to this Agreement and this Agreement shall not be merged into nor in any manner superseded by said Escrow.

C. At the request of either party, the transaction shall be closed by means of a "New York Style Closing" with the concurrent delivery of the documents of title, transfer of interests, delivery of the Title Policy, as hereinafter defined, and the payment of the purchase price. Seller shall provide any

undertaking (the "Gap Undertaking") to the Title Company necessary to the New York Style Closing. Seller and Purchaser shall each pay fifty percent (50%) of the charges of the Title Company for such New York Style Closing.

5. Possession. Possession shall be delivered to Purchaser at closing; provided, however, Seller shall be entitled to retain possession of the residence and unattached garage on the East Parcel and the residence and attached garage on the West Parcel for a period not to exceed six (6) months from the date of closing ("Possession Period"). Purchaser shall have the right to remove all other improvements including the unattached garage on the West Parcel. Purchaser shall provide access to the house and remaining garages to Seller, provided, however, Purchaser may commence construction work on the Property. In the event that Seller fails to vacate on or before the expiration of the Possession Period, Seller shall pay Purchaser the sum of One Hundred and 00/100 Dollars (\$100.00) per day as and for liquidated damages and not as a penalty and Purchaser may commence a forcible entry and detainer action. In addition, Seller shall be responsible for reasonable attorneys' fees incurred by Purchaser in enforcing the terms of this Paragraph 5. Seller shall only be responsible for utilities and shall not pay any rent. Notwithstanding the terms of this Paragraph 5, Purchaser will notify Seller in writing when, and if, Purchaser determines, in Purchaser's sole discretion, that Seller will be entitled to extended possession, if any, pursuant to this Paragraph 5. Under no circumstances, however, shall Purchaser be obligated to grant any extended possession to Seller.

6. Survey: Survey Defects.

A. Purchaser shall prepare, at Purchaser's sole cost and expense, a Plat (or Plats) of Survey to be dated not later than three (3) months from the date of this Agreement, prepared by a duly licensed Illinois land surveyor, certified by the surveyor as having been made in compliance with the Illinois Land Title Survey

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Standards and having all corners of the Property staked. The survey shall indicate thereon the following:

- (i) The legal description of the Property;
- (ii) The acreage of the Property;
- (iii) The perimeter lot lines of the Property;
- (iv) The location of any and all structures which are visible and located on the Property, specifically including, but not limited to, any underground storage tanks of any size or condition whether in use or not;
- (v) All sewage, water, electricity, gas and other utility lines and facilities which are visible above ground and in place as of the date of the survey, noting specifically all encroachments on any part thereof of any adjoining improvements or structures;
- (vi) All curb cuts, roads and highways bordering on or contiguous to the Property;
- (vii) The location of all easements affecting the property and other right-of-ways or covenants affecting the Property which are capable of specific dimensions and locations, including all recording document numbers for any recorded easements, restrictions or other documents; and
- (viii) Certifying whether any portion of the real estate is located within any designated flood plain or flood way area.

Seller shall deliver to Purchaser a copy of any existing survey(s) for the Property in Seller's possession.

B. If the survey discloses any encroachments onto the Property from any adjacent property, or any encroachments by or from the Property onto any adjacent property, or any violation of any recorded building line, restriction or easement affecting the Property, or any fact which would cause the Title Insurer to raise an exception to title regarding possible rights of third parties ("Survey Defects"), Seller shall have twenty (20) days from the date of delivery thereof to have all Survey Defects removed from the survey and from the Title Commitment or to have the Title Insurer commit to insure against loss or damage that may be occasioned by such exceptions, and to deliver to Purchaser a revised survey and Title Commitment with such Survey Defects

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removed or insured against. If Seller fails to have the Survey Defects so removed or insured against within said twenty (20) day period, Purchaser may elect to:

- (i) Terminate this Agreement, in which event the deposit and all interest earned thereon shall forthwith be returned to Purchaser and thereupon neither party shall have any further rights or obligations hereunder; or
- (ii) Accept the Property subject only to those Survey Defects which have not been so removed or insured against.

7. Evidence of Title: Permitted Exceptions.

A. As evidence of Seller's title to the Property, Seller shall deliver to Purchaser, within thirty (30) days after Seller's acceptance of this Agreement, a commitment by the Title Company to issue an ALTA Form B Owner's Title Insurance Policy with Extended Coverage and Access Endorsements for the Property (hereinafter referred to as the "Title Policy"). The parties acknowledge that this provision shall be satisfied by Purchaser ordering a title commitment and, therefore, in the event this Agreement is terminated by its terms (except by reason of the default of Seller) Purchaser shall be responsible for the cost of the title commitment. The commitment shall be in the amount of TEN THOUSAND AND 00/100 DOLLARS (\$10,000.00) and at Closing, Seller shall cause the commitment to be revised to reflect an insurance amount which will equal the aggregate purchase price for the Property, and will show title to all of the Property in Seller as of a date subsequent to the date of execution hereof, naming Purchaser, or its nominee, as the proposed insured. Purchaser shall have thirty (30) days after delivery of such commitment to review and approve or not approve of any exceptions noted on the commitment. In the event Purchaser notifies Seller that it does not approve of any of the exceptions within said thirty (30) day period, then same shall be deemed unpermitted exceptions. All of the approved exceptions, if any, shall hereinafter collectively be called the "Permitted Exceptions", and the parties shall list all

Permitted Exceptions on Exhibit "B," which Exhibit shall be approved by the attorneys for the parties hereto and attached hereto and made a part hereof.

B. If the title commitment discloses unpermitted exceptions, Seller shall have thirty (30) days from the date of notice from Purchaser in which to have such unpermitted exceptions removed from the commitment (or to have the title insurer commit to insure against loss or damage that may be caused by such exceptions) and the Closing shall be delayed, if necessary, during said thirty (30) day period to allow Seller to have said exceptions waived. If such unpermitted exceptions are not removed or insured over by the Title Company within said time, then, and in that event, upon written notice by Purchaser to Seller, given within ten (10) days after the expiration of the permitted time to have such unpermitted exceptions removed, purchaser may elect to:

- (i) Terminate this Agreement;
- (ii) Extend the permitted time in which such exceptions may be removed or insured over by the Title Company; or
- (iii) Take title as it then is and deduct from the purchase price the amount necessary to discharge any unpermitted liens or encumbrances of a definite or ascertainable amount.

If Purchaser does not so elect, or upon the election to terminate, as aforesaid, this Agreement shall become null and void without further action of the parties and the Earnest Money deposited by purchaser with Title Company, and the interest earned thereon, shall forthwith be returned to Purchaser.

8. Conveyance of Title; Seller and Purchaser's Closing

Deliveries.

A. At Closing, Seller shall convey or cause to be conveyed to purchaser, or the nominee of Purchaser, good and marketable title in fee simple to the Property by a recordable Warranty Deed subject only to the Permitted Exceptions, as aforesaid.

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B. At Closing, Seller shall, at Seller's sole cost and expense cause the Title Company to issue an Owner's Title Insurance Policy pursuant to, and in accordance with, the title commitment, with the Endorsements as aforesaid, (herein the "Title Policy") insuring fee simple title in Purchaser, or Purchaser's nominee as of the Closing date subject only to the Permitted Exceptions on Exhibit "B," or such other title exceptions approved by Purchaser.

C. Seller shall pay the amount of any transfer tax imposed by the law of the State of Illinois and Cook County on the transfer of title, and shall furnish completed Real Estate Transfer Declarations signed by Seller or Seller's agent in the forms required pursuant to the Real Estate Transfer Tax Act of the State of Illinois and shall furnish any declaration signed by the Seller or the Seller's agent or meet other requirements as established by any local ordinance with regard to a transfer or transaction tax, such tax required by local ordinance shall be paid by the party upon whom such ordinance places responsibility therefor.

D. Contemporaneously with the conveyance by Seller of the Property, Seller shall provide Purchaser with an Affidavit of Title, Affidavit of Non-Foreign Status, Plat Act Affidavit, if required, Closing Statement and any and all other customary or required real estate closing documents.

E. Seller shall comply with all requirements of the Illinois Responsible Property Transfer Act, including the completion of all reporting forms and the deposit into Escrow all documents required for recording with the Cook county Recorder of Deeds.

F. At Closing, Purchaser shall deliver the balance of the purchase price, ALTA statement, in duplicate, any required documentary or transfer stamp declaration, a current Certificate of Good Standing from the Illinois Secretary of State evidencing Purchaser's good standing with the Illinois Secretary of State and a copy of a Resolution by the Board of Directors authorizing the

purchase of the Property by Purchaser.

9. Access to Property for Purchaser's Inspection: Financing and Review Period Contingencies.

A. For a period of one hundred fifty (150) days from the date of Seller's acceptance of this Agreement ("Review Period"), Purchaser shall have the right to secure a written financing commitment for the purchase of the Property acceptable to the Purchaser, and Purchaser and its representatives, employees, agents and contractors, including architects and engineers, shall have the right to enter upon the Property, at all reasonable times, and upon reasonable advance notice to Seller, for the purpose of making inspections, studies, surveys, conducting soil and environmental tests and surveys and the like, and for such other matters as may be reasonably required by Purchaser in connection with reviewing the potential use of the Property and securing financing. Seller shall have the option to accompany Purchaser during any such inspections. Purchaser and/or its agents agree to have insurance satisfactory to Seller in place prior to any inspections to cover, public liability and to hold Seller harmless and indemnify Seller from any and all claims, liens, costs and damages whatever resulting from the activities of Purchaser pursuant to this Paragraph 9. Upon request Purchaser shall provide Seller with a copy of a Certificate of Insurance evidencing Purchaser's insurance required hereunder. Upon execution of this Agreement Seller shall furnish to Purchaser all information concerning the Property which Purchaser may reasonably request, including but not limited to, copies of any soil, environmental, utility, development, roadway or other studies or tests with respect to the Property which Seller now has in its possession. Purchaser shall keep the Property free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Purchaser. Seller may require Purchaser to provide Seller with waivers of lien or evidence of

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payment from all contractors engaged by Purchaser. Purchaser shall defend, indemnify and hold Seller harmless from and against any and all obligations, costs, expenses and liabilities, including reasonable attorneys' fees and costs, suffered or incurred by Seller as a result of any liens against the Property or any other activity or conduct carried on by Purchaser or Purchaser's employees, agents or contractors on the Property.

B. If the Property is not deemed suitable for Purchaser's Contemplated Development, or Purchaser does not secure an acceptable written commitment for financing, or Purchaser does not waive such contingencies, then, Purchaser shall have the right to terminate this Agreement upon written notice to Seller within three (3) days after said Review Period. In the event of such termination, the Earnest Money deposited by Purchaser, pursuant to Paragraph 3B above and the interest earned thereon, shall be forthwith returned to Purchaser. In the event no notice to terminate is given in accordance with this Paragraph 9B, then the contingencies in this Paragraph 9 shall be deemed waived by Purchaser and this Agreement shall remain in full force and effect.

C. For a period of one hundred fifty (150) days from the date of Seller's acceptance of this Agreement ("Approval Period"), Purchaser shall have the right to obtain from the Village of Lemont and any other appropriate governmental entities or agencies having jurisdiction over the Property:

- (i) The annexation (or an agreement for annexation) of the Property to the Village of Lemont;
- (ii) A zoning classification by way of a zoning and/or Planned Unit Development, including any required variations or special use permits to permit the development and construction of the Contemplated Development; and
- (iii) Any other required approvals or permits from the U.S. Army Corps. of Engineers, Illinois Department of Transportation and any other appropriate governmental entities or agencies required for Purchaser's development of the Contemplated Development.

Provided, however, that in the event Purchaser is otherwise

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diligently pursuing its development approvals, then, and in that event, Purchaser shall be entitled upon five (5) days advance written notice to Seller, prior to the termination of the Approval Period receive an extension of one hundred twenty (120) days beyond the Approval Period, to secure its final development and zoning approvals and complete the annexation process ("Extended Approval Period").

Provided further, however, that any final ordinance adopted or annexation agreements entered into affecting the Property shall be specifically conditioned upon the Closing of the sale of the Property pursuant to this Agreement.

D. Purchaser shall attempt to commence the approval process by the filing of required petitions, applications and the like, within ninety (90) days from the date of Seller's acceptance of this Agreement. Purchaser shall use its best efforts and shall diligently pursue all required approvals during said Approval Period. Seller agrees to cooperate with Purchaser in serving necessary legal notices, signing and filing appropriate petitions for annexation and applications for zoning and if required, by any zoning officials, appearing at zoning hearings, and to execute or cause to be executed all documents reasonably necessary to obtain the development approvals contemplated to be secured by Purchaser in accordance with this Paragraph 9. Provided, however, that Seller shall have no liability in connection with any costs relating to the annexation, zoning or approval of other matters in connection with the development of the Property.

E. In the event Purchaser is unable to satisfy or otherwise waive the above Paragraph 9C contingencies within the Approval Period or the Extended Approval Period, if applicable, then Purchaser shall have the right to terminate this Agreement upon written notice to Seller within three (3) days after said Approval Period or Extended Approval Period, if applicable. In the event of such termination, the Earnest Money deposited by Purchaser

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pursuant to Paragraph 3B above, and the interest earned thereon, shall be forthwith returned to Purchaser, less any non-refundable portion. In the event no notice to terminate is given in accordance with this Paragraph 9E, then the contingencies in this Paragraph 9 shall be deemed waived by Purchaser and this Agreement shall remain in full force and effect and proceed to a Closing.

10. Environmental Representations and Warranties of Seller.

A. Seller hereby represents to Purchaser as follows:

- (i) That, during Seller's ownership of the Property (and prior thereto to the best of Seller's knowledge and belief), (1) no Hazardous Materials (as defined below) have been located on the Property or have been released into the environment, or discharged, placed or disposed of at, on or under the Property; and (2) no underground storage tanks are or have been located on the Property; and
- (ii) Seller has not received any notices or other communications from any federal, state, county or local environmental agency, department or office regarding any Environmental Law violations or occurrences on the Property.

B. The term "Hazardous Materials" shall mean any substance, material, waste, gas or particulate matter which is regulated by any local governmental authority, the State of Illinois, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of Illinois law; (ii) petroleum; (iii) asbestos; (iv) polychlorinated biphenyl; (v) radioactive material; (vi) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C., Sec. 1251, et seq. (33 U.S.C., Sec. 1317); (vii) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C., Sec. 6901, et seq. (42 U.S.C., Sec. 6903); or (viii) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C., Sec. 9601, et seq. (42 U.S.C., Sec. 9601). The term

"Environmental Laws" shall mean all statutes specifically described in the foregoing sentence and all federal, state and local environmental health and safety statutes, ordinances, codes, rules, regulations, orders and decrees regulating, relating to or imposing liability or standards concerning or in connection with Hazardous Materials.

C. The continued validity in all respects of the aforesaid representations and covenants shall be a condition precedent to Purchaser's obligations to close under this Agreement.

D. The representations, warranties and covenants in this Paragraph 10 shall be remade as of the Closing and Seller shall indemnify, defend, save and hold Purchaser harmless from and against any and all claims, suits, liabilities, causes of action, or damages sustained by Purchaser, or threatened against Purchaser, by reason of Seller's intentional breach of this Paragraph 10.

11. Indemnities.

A. Seller hereby agrees to indemnify, defend and hold Purchaser harmless from and against any and all loss, damage, liability and expense (including reasonable attorneys' fees and other litigation expense) which Purchaser may suffer, sustain or incur as a result of any misrepresentation or breach of warranty or agreement by Seller under or with respect to this Agreement or any document or instrument executed or to be executed by or on behalf of Seller pursuant to this Agreement or in furtherance of the transaction contemplated hereby.

B. Seller shall not be liable or responsible for any hazardous Materials which were not located at the Property on or before the Closing date, and the Purchaser agrees to indemnify, defend and hold harmless Seller, and Seller's Beneficiary, from and against any and all loss, damage, liability and expense (including reasonable attorneys' fees and other litigation expenses) suffered or incurred by Seller as a result of any hazardous Materials which are first introduced, placed or located on the Property after the

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Closing date.

12. Prorations: Real Estate Taxes. Adjustments to the purchase price shall be made between Seller and Purchaser for the following items, with all prorated items to be prorated on a per diem basis as of midnight of the day preceding the date of Closing:

A. General real estate taxes and other state or city taxes, charges and assessments affecting the Property, and any other real estate sharing the same tax identification number with the Property, not yet due and payable, on the basis of the calendar year for which the same are levied or assessed. If the rate and amount of any such taxes, charges or assessments shall not be fixed before the date of the Closing, the adjustment thereof at the Closing shall be based upon the amount of the taxes for the preceding calendar year and shall be re-prorated when the actual bills are issued (the foregoing shall in no way affect Seller's obligation to pay for any taxes for prior years on the Property, or any part thereof, which was assessed under the dual valuation method of assessment resulting from a change in the use of Property); and

B. Such additional adjustments as are normally made in connection with the sale of vacant real estate.

13. Representations and Warranties of Seller and Purchaser.

A. Seller further represents and warrants to Purchaser as follows:

- (i) That Seller has no knowledge of any pending or threatened litigation or governmental proceeding effecting or which may effect the Property and Seller shall deliver to Purchaser, promptly upon receipt, copies of all notices or other communications received by Seller after the date of this Agreement from any governmental or quasi-governmental agency with respect to the Property;
- (ii) Seller has no knowledge of any pending or threatened special assessments or condemnation proceedings;
- (iii) There are no leases or license agreements for any

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portion of the Property for the use and/or occupancy of the Property (specifically excluding any easements of record) which cannot be terminated upon thirty (30) days notice from Seller;

- (iv) No commitments or agreements have been made by Seller, or will be made by Seller, to any governmental unit or agency or school board or other person or entity relating to the Property (except for commitments or agreements disclosed to Purchaser and approved by Purchaser in writing), which would impose any obligations upon Purchaser to make any recapture payments or contribution of money or land;
- (v) From and after the date of this Agreement, Seller shall not, and will not, suffer or permit any third party to adversely affect Seller's title to or interest in the Property and will not suffer or permit to be created any exceptions to the title of the Property other than the Permitted Exceptions;
- (vi) Seller has made no improvements or repairs in or to the Property nor has any work been done thereon, nor have any materials been furnished or delivered to the Property, which have not been fully paid for or will not be fully paid at or prior to a closing hereunder. No contracts have been made or entered into or anything done, suffered or permitted in relation to the Property in consequence of which any lien or claim may be made against the Property under the Mechanic's Lien Laws of the State of Illinois; and
- (vii) Seller is authorized to enter into and consummate the transaction described herein and the persons executing this Agreement are authorized to so act.

B. Purchaser represents and warrants to Seller, as follows:

- (i) Purchaser is an Illinois corporation in good standing with the Illinois Secretary of State, and as such has full power and authority to enter into this Agreement and carry out the obligations of Seller hereunder;
- (ii) The Board of Directors has authorized the execution of this Agreement; and
- (iii) In the event that Purchaser determines that it will be unable to consummate the Purchase of the Property, Purchaser shall notify Seller of same within five (5) business days after Purchaser reaches that determination.

C. The representations, warranties and covenants of this Paragraph 13 shall be remade as of the closing.

14. **Default: Remedies.**

A. If Seller should breach any of its covenants, conditions, representations or covenants contained in this

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Agreement or should fail to consummate the sale contemplated herein, or any part thereof, for any reason other than Purchaser's default, Purchaser shall give written notice to Seller of the existence and nature of such breach or default and, if such breach or default is not cured within fifteen (15) days after Seller's receipt of such notice, and provided Purchaser is not then in default hereunder, Purchaser in addition to all remedies contained elsewhere in this Agreement, or as provided in law or in equity, may:

- (i) Terminate this Agreement and the Earnest Money deposited hereunder, plus accrued interest, shall forthwith be returned to Purchaser; or
- (ii) Enforce by legal proceeds the specific performance of this Agreement.

B. Subject to all conditions herein contained, if Purchaser shall fail to consummate the sale contemplated herein, or any part thereof, for any reason other than Seller's default, and Purchaser shall fail to cure the default after fifteen (15) days written notice from Seller, the Earnest Money deposited by Purchaser, plus accrued interest, shall be retained by Seller, as Seller's liquidated damages, and shall be Seller's sole remedy.

15. Condemnation. If, prior to closing, any judicial, administrative or other proceeding relating to the proposed taking of any portion of the Property by condemnation of eminent domain or any act in the nature of eminent domain is instituted or threatened, Seller hereby agrees to furnish Purchaser written notification with respect to any such proceeding or threatened proceeding within forty-eight (48) hours of Seller's learning of same, and Purchaser shall have the option, if such proceeding or threatened proceeding relates to a Substantial Portion (as hereinafter defined) of the Property, to terminate this Agreement by giving Seller written notice of such termination within twenty (20) days after receipt of written notification of any such proceeding or threatened proceeding. Purchaser's failure to give

such notice in such time shall be conclusive evidence that Purchaser has waived such option to terminate and, in such event, Purchaser shall be credited (against the purchase price) or assigned, at Closing, all Seller's rights to any proceeds or award for such taking; provided, however, that subsequent to the termination or waiver of the Review Period, Seller may not settle any such proceeding without Purchaser's prior written consent. Should Purchaser elect to terminate this Agreement due to the institution of such proceeding, the Earnest Money, and interest earned thereon, shall immediately be returned to Purchaser, and thereupon, this Agreement shall become null and void, and neither party shall have any further rights or obligations hereunder. If the proceeding does not involve a Substantial Portion of the Property, Purchaser shall not have the right to terminate this Agreement but shall be credited (against the purchase price or assigned, at Closing), all of Seller's rights to the proceeds or award relating thereto. For the purposes of this paragraph, the proceeding shall be deemed to involve a "Substantial Portion" of the Property if the proceeding (i) affects more than the equivalent of TEN THOUSAND AND 00/100 (\$10,000.00) DOLLARS in value, as reasonably determined by Purchaser; or (ii) causes a material deprivation of access to the Property; or (iii) involves a taking of parking areas located on the Property such that subsequent to such taking, the Property will be in violation of municipal zoning codes and ordinances; or (iv) causes a substantial disruption of Purchaser's financing of the purchase of the Property; or (v) causes a disruption of Purchaser's intended use of the Property; or (vi) involves the relocation of utility facilities serving the Property (provided this latter condition shall be deemed deleted if Seller shall agree to pay the cost of relocation of the same, and Seller may use such part of the proceeds of the award allocable thereto for such purpose).

16. Notices. Any notice, demand or other communication

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which any party may desire or may be required to give to any other party shall be in writing and shall be deemed given (i) if and when personally delivered, (ii) upon receipt if sent by a nationally recognized overnight courier addressed to a party at his/its address set forth below, or (iii) on the second (2nd) Business Day after being deposited in United States registered or certified mail, postage prepaid, addressed to a party at his/its address set forth below, or to such other address as the party to receive such notice may have designated to all other parties by notice in accordance herewith:

PURCHASER: DONVEN HOMES, INC.
6428 Joliet Road
Countryside, IL 60525
Attn: Donald A. Stevens, President

WITH COPY TO: GOLDSTINE, SKRODZKI, RUSSIAN
NEMEC AND HOFF, LTD.
815 McClintock Drive
Second Floor
Burr Ridge, IL 60527
Attn: Thomas P. Russian

SELLER: TIMOTHY BRUNETTE
15237 West 125th Street
Lemont, IL 60439

WITH COPY TO: MARTIN REID
6732 West Cermak Road
Berwyn, IL 60402

or at such other address or to such other party which any party entitled to receive notice hereunder designates to the other in writing.

17. Intentionally Deleted.

18. Governing Law. The validity, meaning and effect of this Agreement shall be determined in accordance with the laws of the State of Illinois.

19. Brokerage. Purchaser and Seller represent and warrant to each other that neither has used the services of a broker in connection with the Property. Each party agrees to indemnify and hold the other harmless for any damage, expense, cost or liability arising in connection with a breach by the indemnifying party of the foregoing representation and warranty.

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20. Confidentiality. Seller agrees that, except as may be necessary to perform its obligations hereunder; neither it, nor its attorney, assigns and agents will at any time disclose the contents of this Agreement; the terms and conditions hereof will remain confidential; and this Agreement and confidentiality shall survive the Closing.

21. Survival of Terms; Binding. The agreements and undertakings set forth in this Agreement shall survive the Closing of this transaction, shall not be deemed merged in any document delivered pursuant hereto, and shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

22. Assignment. Purchaser may assign this Agreement to any person, firm or corporation provided that Purchaser shall remain liable for its obligations hereunder.

23. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and may not be modified or amended except by written agreement executed by both Seller and Purchaser.

24. Seller's Acceptance. Upon Seller's acceptance of this Agreement, Seller shall insert the date of acceptance adjacent to its signature below, which shall be the commencement date of the Review Periods in Paragraph 9 above.

IN WITNESS WHEREOF, the parties have executed hereto this Agreement as of the day and year first above written.

PURCHASER:

DONVEN HOMES, INC., an Illinois corporation

By: Donald A. Stevens
DONALD A. STEVENS, President

SELLER:

Date of Acceptance:

10-11-02, 2002

By: [Signature]
TIMOTHY BRUNETTE

UNOFFICIAL COPY

EXHIBIT "A"
TO
REAL ESTATE SALE AND PURCHASE AGREEMENT
BY AND BETWEEN DONVEN HOMES, INC.,
AS PURCHASER, AND TIMOTHY BRUNETTE, AS SELLER,
FOR THE PREMISES COMMONLY KNOWN AS
15237 AND 15309 WEST 129TH STREET, LEMONT, IL 60439

East Parcel:
Legal Description:

15237 West 129th Street, Lemont, IL 60439
PIN: 22-32-201-012

West Parcel:
Legal Description:

15309 West 129th Street, Lemont, IL 60439
PIN: 22-32-201-017

Property of Cook County Clerk's Office

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EXHIBIT "B"
TO
REAL ESTATE SALE AND PURCHASE AGREEMENT
BY AND BETWEEN DONVEN HOMES, INC.
AS PURCHASER, AND TIMOTHY BRUNETTE, AS SELLER,
FOR THE PREMISES COMMONLY KNOWN AS
15237 AND 15309 WEST 129TH STREET, LEMONT, IL 60439

Permitted Exceptions:

1. Real estate taxes not yet due and payable;
2. Rights of way for drainage tiles, ditches, feeders and laterals, if any;
3. Rights of the public, the State of Illinois and the municipality in and to that part of the land, if any, taken or used for road purposes; and
4. Acts of Purchaser.

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SENT TO: MARTIN T. REID
ATTORNEY AT LAW
6732 WEST CERMAK ROAD
BERWYN, ILLINOIS
60402



Property of Cook County Clerk's Office