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POLO BUILDERS, INC.

LOFT PURCHASE AGREEMENT

NAME OF PURCHASE(S): KHAILI & SALIBA BARBARI
HOME ADDRESS: 2201 WESTWOOD HOME PHONE: 708-449-7307
CITY & STATE: HILLSIDE, ILL OFFICE PHONE: 708-997-7307
NAME OF SELLER: Polo Builders, Inc.
PURCHASED LOFT: Building No. 7509 W. MADISON, Unit No. ID, Unit Type: _____, Building Type: _____
(Name) _____, IN (Project Name/Location) POLO LOFTS FOREST PK, IL

1. **PURCHASE OF LOFT PROPERTY.** Seller agrees to sell and Purchaser agrees to purchase for the Purchase Price as herein provided the premises commonly identified as _____ in Building Number _____ (hereinafter referred to as the "Property") to be constructed by Seller at the location commonly known as (Project Name/Location) 7509 MADISON subject to the terms, conditions and restrictions of the Declaration of Loft, which has been recorded with the Recorder of Deeds of COOK County prior to closing on the Property; the By-Laws for the Lofts, covenants, conditions, restrictions of record; public and utility easements and roads and highways; party wall rights and agreements and general taxes for the year 2002 and subsequent years. Purchaser acknowledges receipt of the proposed Declaration of Covenants, Conditions, Easements and Restrictions for (Project Name) POLO LOFTS; By-Laws of the Association; a project operating budget, setting forth the estimated monthly assessment charges and costs for the common expenses, and a description of the improvements to be constructed upon the Property.

2. **PURCHASE PRICE AND OTHER PAYMENTS.**

Purchaser agrees to purchase the Property Ownership and to pay to Seller, at its office or at such other place as it may designate, as follows:

Base Purchase Price: \$ 290,000
Site Premium Purchase Price: \$ _____
Plus "Optional Extras", if any (attached): \$ _____
TOTAL BASE PURCHASE PRICE: \$ 290,000

3. **TERMS AND FINANCING.**

The Base Purchase Price shall be paid as follows:

Initial Earnest Money herewith deposited by Purchaser: \$ 50,000
Additional Earnest Money to be received: \$ _____
Proceeds of mortgage loan (if applicable): \$ 240,000
The balance of the Purchase Price, not including the balance due for any "Optional Extras" ordered hereafter, (plus or minus prorations) shall be paid in the form of cashiers or certified check by Purchaser to Seller at Closing together with closing costs, which have not already been made. \$ _____
Monthly Homeowner's Association Assessment: \$ _____
Initial Payment for Common Elements Maintenance: \$ _____

4. **TOTAL PURCHASE PRICE.**

- (a) The Purchaser shall also pay into the (Project Name) N/A Loft Association Account prior to closing:
(i) an amount equal to N/A (#) months' assessment of Purchaser's pro rata share of common expenses, determined in accordance with the Declaration.
(ii) N/A Dollars (\$XXX.XX) for the purpose specified below.
- (b) Said amounts shall be paid at Closing to (Project Name) N/A Loft Association (the 'Association') for the account of Purchaser. The amount equal to N/A (X) months assessment shall represent Purchaser's pro rata share of the initial working capital reserve ('Initial Working Capital Reserve'), as provided in the Declaration. Seller shall require an identical assessment, to be similarly paid by every purchaser of a property. The N/A (\$XXX.XX) paid pursuant to this subparagraph shall represent Purchaser's share of the Capital Reserve for the Common Elements as provided in the Declaration. Seller shall require an identical sum to be similarly paid by every other purchaser of a Property.
- (c) All Earnest Money shall be held by Seller for the benefit of Seller and Purchaser and shall be disbursed or applied as hereinafter provided. Three Change Orders will be permitted without charge prior to respective release date. After the third Change Order per release, a fee of one hundred fifty (\$150.00) dollars will be assessed if the request is received prior to the release date. If the request is submitted after the release date, a fee of three hundred (\$300.00) will be assessed after the Change Order has been accepted by the Purchaser. All changes resulting in additional expense to the Purchaser will be paid in full prior to the Change Order being commenced. All Change Order costs are handled independently and adjustments to the Base Purchase Price

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will not be made.

- (d) In the event that the Purchaser shall hereafter execute and Seller shall accept an order for installation or providing of options not included hereunder (herein referred to as ("Change Order"), the plans and specifications for the Residence shall be deemed modified thereby. Any changes so requested are solely for the benefit and convenience of the purchaser and seller shall not be required to agree to any such changes. The change order will include conforming changes in the agreement and completion time. Work shall be changed, and the purchase price and completion time shall be modified only as set out in the written change order. Any adjustment in the purchase price resulting in a credit or a charge to Purchaser shall be determined by mutual agreement of the parties, before starting the work involved in the change. Purchaser shall pay Seller the total price of the changes as Seller indicates on the change order concurrently with signing such order. In the event that the closing shall not occur pursuant to this agreement because of failure of the Purchaser to obtain a commitment in accordance with the provisions of paragraph 4 hereof, then Seller shall retain from monies paid Purchaser a sum deemed by Seller sufficient to compensate it for the price of all changes for which materials were supplied to the building site or installed by it or for which Seller shall become obligated to pay prior to termination of this agreement and the balance, if any, shall be refunded to Purchaser, excepting only the sum of \$200.00 representing Seller's administrative costs. Further, Seller's liability for failure to comply with such changes shall be limited to a refund of the amount charged for such changes, or in the event that the change in question resulted in a credit to the Purchaser, the seller shall charge back to the Purchaser, the amount originally credited. If the cost or the labor, materials, and services cannot be predetermined, Purchaser shall be charged for such work at the Seller's costs plus fifteen percent (15%) to cover supervision, overhead, and profit. An estimate of cost will be made at the time said change order is requested and a pre-payment will be made by the Purchaser.

5 FINANCING.

- (a) Subject to the provisions of paragraph 4 (b) below, the obligation of Purchaser to perform hereunder is contingent upon the Purchaser obtaining on or before 8-15-03 (the 'Commitment Date'), a commitment for a loan to be secured by a mortgage upon the Purchased Property in the amount of \$ 249,000 or such lesser amount as Purchaser shall apply for or accept ('Commitment'). Purchaser shall deliver to Seller a copy of the Commitment within (10) days after receipt thereof. Purchaser shall pay all lender's closing costs, including lender's commission (commonly known as 'points'), service, legal and appraisal charges, title insurance expense, mortgage insurance expense, recordation and notarization costs.
- (b) In the event that Purchaser shall fail to obtain a commitment for a loan secured by a mortgage upon the foregoing terms and conditions by the Commitment Date, Purchaser shall notify Seller prior to the Commitment Date. The date upon which Seller shall receive such notice is referred to herein as the 'Notice Date'. If Seller is not so timely notified, the contingency set forth in this Paragraph 4 shall be deemed waived. If Seller is so notified, within 120 days from the Notice Date, Seller may either aid Purchaser in attempting to obtain a Commitment or terminate this Agreement by written notice thereof to Purchaser. If Seller shall aid Purchaser in procuring a Commitment upon the terms specified above and the same shall be issued within 120 days from the Notice Date, then Purchaser shall accept the Commitment. Purchaser agrees to exercise due diligence in attempting to obtain the Commitment and make application therefore on forms provided by any lending institution or institutions suggested by Seller and otherwise to perform all acts customarily required by such institutions incident to issuance of a Commitment and opening up a mortgage loan. Nothing contained herein shall be deemed an undertaking by Seller to obtain a

Commitment. Any actions which Seller may take hereunder in connection with attempting to obtain a Commitment for Purchaser shall be solely as an accommodation to Purchaser and not as agent for Purchaser or any lender. Purchaser shall incur no indebtedness subsequent to the date hereof which might jeopardize his credit standing. Purchaser shall pay all lender's closing costs including points, service, legal and appraisal charges, title insurance expense, mortgage insurance expense, recordation and notarization costs. In the event Seller shall elect to assist Purchaser in obtaining a Commitment and said Commitment shall not be issued within 120 days from the Notice Date, then this Agreement shall become null and void; provided, however, anything herein contained to the contrary notwithstanding, if Purchaser's application for a mortgage commitment shall be pending with any potential lender at the end of said 120 day period, Seller may elect to extend said 120 day period for an additional 60 days by deliver of notice thereof to Purchaser within five (5) days after the expiration of said 120 day period, in which event, all references in this Paragraph to "120 days" shall be deemed to mean "180 days".

- (c) If this Agreement shall be terminated because Seller has terminated the Agreement pursuant to this Paragraph 5(b) or Seller has elected to assist Purchaser in obtaining a Commitment and a Commitment has not been issued within the aforesaid 120 days as extended pursuant to the preceding sentence, and provided Purchaser has fully performed all of its obligations hereunder, all sums paid to Seller shall then be refunded to Purchaser excepting only the sum of \$500.00 representing Seller's administrative costs and an amount deemed by the Seller sufficient to compensate it for the price of all extras ordered in writing by Purchaser which may be supplied to the building site or installed by it or for which Seller shall become obligated to pay prior to the time of termination of the Agreement pursuant to this subparagraph. If a commitment shall not be obtained because of the failure of Purchaser to fully perform hereunder or because of a breach by Purchaser of any of its warranties hereunder, Seller may retain all sums therefore paid by Purchaser as liquidated damages and not as a penalty.
- (d) Purchaser shall diligently proceed to furnish prospective lenders (including those lenders designated by Seller during the Additional Period all requested credit information, sign the customary papers relating to the application for securing of the mortgage commitment, pay all lenders' credit and appraisals costs and do everything necessary to obtain and consummate the loan.
- (e) Purchaser shall incur no indebtedness subsequent to the date of execution of this Agreement by Purchaser that might jeopardize their credit standing. Any undue delay on the part of Purchaser to pay any requested fees or provides any requested information shall constitute default under this agreement. To the extent not prohibited by applicable private mortgage insurance premiums, funding fees or other costs or expenses charged by the lender or required by the lender to be paid in connection with the Loan. Purchaser authorizes Seller to initiate any credit investigations which are necessary for the mortgage commitment which may be obtained by Purchaser or Seller hereunder.
- (f) A commitment for the loan shall be deemed to be obtained upon the issuance of a written Agreement by lending institution to make the Loan to Purchaser secured by a mortgage on the Purchased Home in the amount set forth, whether or not said commitment includes additional contingencies to funding. After a commitment which satisfies the provisions of this paragraph has been obtained, the mortgage contingency provided for herein shall be deemed satisfied and it shall be the obligation of Purchaser, at his cost and expense, to keep such commitment in full force and effect until time of closing and to satisfy any and all conditions of said commitment.

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Purchaser represents that all statements made on seller's preliminary application (the "application") are true and are made for the purpose of obtaining the loan. Verification may be obtained from any source named in the application, purchaser understands that the giving of false information on the application may, at seller's option, constitute a default hereunder which will result in the forfeiture of all earnest money under paragraph ten (10) hereof.

- 6 PURCHASER'S SELECTION OF OPTIONS AND FINAL SELECTIONS. Seller will offer to Purchaser options which Purchaser may add to the home. Initial Options must be chosen prior to the execution of this Agreement in order for the Seller to maintain its quality construction standards. Purchaser must request options that effect the foundation by completing and attaching the Construction Start Order to this Agreement. If Purchaser is purchasing a home under construction, the choice of Structural Options will not be available. Additional option choices shall be made by Purchaser by completing the Non-Structural Options Release Form with 14 days after the date of this Agreement. Selections will be made by appointment only. Purchaser agrees to schedule an appointment with the Seller's representative for option selections within one week after the date of this Agreement. If Purchaser is purchasing a home under construction, Seller may designate shorter time periods for the Purchaser's choices of Rough Phase Options Selection. In the event Purchaser does not complete the Non-Structural Options Release Form within 14 days, Seller shall have the right to either terminate this Agreement or to complete the selections on the Purchaser's behalf in order to commence the production process for the Premises.

Interior Color Selections shall be made by the Purchaser completing the Interior Color Selections form no later than thirty (30) days after the date of this Agreement. All Interior Color Selections will be made at a place designated by the Seller. Purchaser agrees to schedule a meeting with Seller's representative within 14 days after the date of this Agreement. If Purchaser is purchasing a home under construction, Seller may designate shorter time periods for the Purchaser's choices of Color Selections Options. In the event Purchaser does not complete the Color Selections form within 30 days, Seller shall have the right to either terminate this Agreement or to complete the selections on the Purchaser's behalf in order to commence the production process for the Premises.

- 7 CLOSING AND CONVEYANCE OF TITLE. The sale and purchase contemplated herein shall be closed ("Closing") within thirty (30) days from the date that the Purchased Property and the Building are substantially completed and ready for occupancy as herein provided. Seller's failure to complete the landscaping, walks, driveways, streets, and any other outside work in connection with the Property Ownership prior to Closing shall, under no circumstances, delay the Closing nor excuse Purchaser from meeting all obligations required of him hereunder except that Seller's obligations to complete such landscaping, walks, driveways, streets, and any other outside work shall continue after Closing. There shall be no "hold-backs", escrowing of funds or other credits against or reduction of the Purchase Price for the Property Ownership as a result of any such incomplete items.

Purchaser shall complete all closing papers and mortgage papers in preparation for the Closing when requested to do so by the Seller or the mortgage lender. Purchaser shall be entitled to occupancy and possession of the Purchased Property from and after the Closing and the payment in full by Purchaser to Seller of the Purchase Price. Upon payment by Purchaser of the Purchase Price pursuant to the terms of this Agreement the Seller shall convey to the Purchaser good and merchantable title to the Property Ownership by stamped trustee's deed. If Purchasers are husband and wife, their interest hereunder shall be as joint tenants and not as tenants in common or tenants by the entirety and title shall be conveyed accordingly unless Purchaser shall direct Seller, in writing, to the contrary not less than thirty (30) days prior to Closing. Title shall be subject only to the following ("Permitted Exceptions"): (a) general real estate taxes for the previous and current year not then due and for subsequent years, including taxes which may accrue by reason of new or additional improvements during the year of Closing; (b) special taxes or assessments for improvements not yet completed; (c) easements, covenants, restrictions, agreements, conditions and building lines of record and party wall rights; (d) the Act; (e) the Plat; (f) terms, provisions and conditions of the Loft Documents, including all amendments and exhibits thereto; (g) applicable zoning and building laws and ordinances; (h) easements, roads and highways, if any; (i) unrecorded public utility easements, if any; (j) Purchaser's mortgage, if any; (k) plats of dedication and plats of subdivision and covenants thereon; (l) acts done or suffered by or judgment against Purchaser, or anyone claiming under Purchaser; (m) liens and other matters of title over which the Title Company, as hereinafter defined, is willing to insure without cost to Purchaser; (n) drainage ditches, tiles and laterals, if any; (o) annexation agreements.

- 8 CLOSING ESCROW.

- (a) Closing shall take place through an escrow ("Closing Escrow") with a title company currently doing business in the Chicago, Illinois area ("Title Company") as escrowee (the choice to be made by Seller), which shall be established by Purchaser and Seller on a date (not later than 30 days after completion of the Purchased Property and Building) specified by Seller. The term of the Closing Escrow shall be pursuant to a form to be supplied by Seller and shall be in accordance with the general provisions of usual forms of deed and money escrow agreements then furnished and in use by the Title Company, with such additional special provisions as may be required to conform with this Agreement.
- (b) Purchaser and Seller shall each pay one-half (1/2) of the fee charged by the Title Company for the closing Escrow. Any fee charged by the Title Company for any money lender's escrow established with the Title Company by Purchaser or his mortgage lender, if any, shall be paid by Purchaser. Seller shall pay the title charges customarily charged to sellers by the Title Company, including any state or county real estate transfer tax, and the Purchaser shall pay any such charges customarily charged to purchasers, including the charge for recording Purchaser's deed and the charge for continuation of the title search to cover such recording. Purchaser shall also pay any local or municipal real estate transfer tax.
- (c) Disbursements of all deposits in the Closing Escrow shall occur upon good title being conveyed to the Purchaser subject only to the exceptions permitted by this Agreement.
- (d) Seller shall not be liable for any inconvenience, loss or damage suffered by Purchaser, resulting from any delay in Closing, however caused.
- (e) Upon opening of the Closing Escrow, Seller shall furnish Purchaser a legal description of the Property indicating the location of the Purchased Property and easements, and the usual form of commitment for title insurance evidencing the willingness of the Title Company or its title issuing affiliate to issue its regular form of owner's title insurance policy in the amount of the Purchase Price, subject only to the following (collectively referred to herein as the "permitted exceptions"): (a) title exceptions set forth in Paragraph 5, above; (b) the usual title exceptions contained in owner's title insurance policies issued by the Title Company or its title issuing affiliate; and (c) title exceptions pertaining to liens and encumbrances of a definite or ascertainable amount which may be removed by the payment of money at Closing and which Seller may so remove at Closing by using the funds to be deposited by Purchaser in the Closing Escrow. The commitment for title insurance shall include ALTA coverage over mechanic's liens up to the amount of the Purchase Price for the Property Ownership. Said commitment for title insurance shall be conclusive evidence of good title.
- (f) Upon opening of the Closing Escrow, Purchaser shall deposit in the Closing Escrow Purchaser's pro rata share of the Initial Working Capital Reserve, Purchaser's share of the Capital Reserve, Purchaser's insurance premium deposit and the balance of the Purchase Price, specified in the closing statement delivered to Purchaser, and the documents required by Purchaser's mortgage lender, if any, and shall cause Purchaser's mortgage lender, if any, to deposit in the Closing Escrow the proceeds of Purchaser's mortgage loan, without further notice or direction from Purchaser. At Closing, an amount equal to Purchaser's pro rata share of the Initial Working Capital Reserve.

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and Purchaser's share of the Capital Reserve shall be paid by the escrowee to the Association for the account of the Purchaser. In the event that subsequent to closing, either party shall determine that the Closing Statement or any other document prepared relating to this transaction contains errors which result in Purchaser obtaining Purchased Property or any personal property contained therein for a sum different from the amount that Purchaser would have paid if no such errors were present ("real value"), if the real value shall be more than the amount paid by

- (f) Purchaser at Closing, Purchaser shall forthwith pay to Seller upon notice thereof the difference between the real value and the amount paid by Purchaser. If the real value shall be less than the amount paid by Purchaser, Seller shall forthwith pay to Purchaser, upon notice thereof, the difference between the real value and the amount paid by Purchaser. Any sum not paid when due pursuant to this subparagraph shall bear interest at eighteen percent (18%) per annum from the date due until paid. The provisions of this subparagraph shall survive closing and recordation of the deed hereunder.
- (g) If the title commitment or policy delivered to Purchaser shows title exceptions other than the Permitted Exceptions, Seller shall have 60 days from the date of delivery thereof to Purchaser to cure the additional exceptions and Closing shall be delayed until said exceptions are cured. If Seller fails to cure said exceptions within said 60 day period, Purchaser shall elect upon notice to Seller within 10 days after the expiration of the 60 day period to accept title as shown in said commitment or policy without any reduction in Purchase Price or to terminate this Agreement. If Purchaser elects to terminate, this Agreement shall be null and void and all deposits and payments made by Purchaser to Seller shall be returned to Purchaser without any further obligation on either party hereto. Purchaser's failure to so elect to terminate the Agreement shall be conclusively deemed an election by Purchaser to accept title as shown in said title commitment or policy.
9. **PRORATIONS.** General real estate taxes for the year in which Closing occurs, any prepaid monthly assessments on the Property Ownership and any other items customarily prorated shall be prorated as of the day of Closing. General real estate taxes for the year in which Closing shall occur shall be prorated based on the most recent tax bill applicable to the Property; or in the event the Property shall not be taxed as a separate tax parcel, the most recent tax bill applicable to the tax parcel of which the Purchased Property is a part. In the event that the Property for the year in which Closing shall occur is taxed at a higher amount than the most recent tax bill, Seller agrees to re-prorate real estate taxes upon issuance of the bill for such year but only if the amount of such re-proration shall exceed \$25.00. If the actual real estate tax bill ("tax bill") for any year for which a proration credit is given (or any subsequent year) includes property in addition to the Property Ownership, Seller may, but shall not be obligated to, pay the tax bill on behalf of Purchaser and all other parties whose property is included in such bill. If Seller pays the tax bill, Purchaser shall reimburse Seller for Purchaser's pro rata share of this tax bill. Said reimbursement shall be made within ten (10) days after Seller shall mail to Purchaser an itemization of Purchaser's share. Any sum not timely paid shall bear interest at the rate of eighteen percent (18%) per annum from the date Seller pays the tax bill until the date Purchaser reimburses Seller. Upon recording of notice thereof, Seller shall have a lien on the Property Ownership for all sums payable by Purchaser hereunder which are not timely paid. This paragraph shall survive Closing hereunder and recordation of a deed to the Property Ownership.
10. **CONSTRUCTION AND WARRANTIES**

- (a) Seller anticipates that the Purchased Property and Building shall be completed on or before the month of 12 in the year of 2023 and will use reasonable efforts to substantially complete the Purchased Property and Building on or before said date in substantial compliance with the construction plans and specifications therefore (the "Plans"), available for purchaser's inspection during business hours at the sales office of Seller; provided however in any event, except as set forth in the next sentence, the Purchased Property and Building shall be completed within two (2) years after the date hereof.

Seller shall not be responsible for delays in the construction of the Purchased Property and Building by acts of God, strikes, wars, riots, governmental regulation or restriction, material or labor shortage or other cause or casualty beyond the reasonable control of the Seller, and in the event of such delay, Seller shall be allowed such additional time as may be caused by such delay to complete said work. The issuance of a Certificate of Occupancy by the Village whether or not said certificate shall be conditioned on completion of certain exterior items set forth in paragraph 6 above, shall be final and binding on the parties hereto as to such completion and compliance.

- (b) Within thirty (30) days after Purchase Agreement signing date and notice to Purchaser by Seller, Purchaser shall make all color and material selections permitted for the Purchased Property from such samples and on such forms as Seller shall provide. Selections so made by Purchaser shall be final, and no changes by Purchaser in colors or materials shall thereafter be permitted. If Purchaser fails to make all or any part of such selections within the stipulated time period, or as extended by Seller at its sole option, Seller reserves the right to make such selections for Purchaser to avoid delay in the completion of the Purchased Property and, in such event, Purchaser does hereby ratify and accept any such selections made by Seller on behalf of Purchaser. As variation of shade, color and finish is inherent in all products, any samples displayed or provided by Seller shall be representative only, and the color, shade or finish of any selection as installed may vary from that of the sample.
- (c) In the event of the inability of the Seller to obtain certain materials required by the Plans, Seller shall have the right, without notice to Purchaser, to substitute other material or brand names of similar or better quality, utility or color. Seller reserves the right, without notice to Purchaser, to make any changes in construction as may be required by material shortages, strikes, stoppages or such other emergency situations or other causes beyond Seller's control including, without limitation, changes in or enactment of any applicable federal, state, or local laws, ordinances, regulations, or statutes.

- (d) The thermal insulation utilized in construction of the Purchased Property shall be as follows:

<u>LOCATION OF INSULATION</u>	<u>TYPE OF INSULATION</u>	<u>R-VALUE</u>
Exterior Walls	Fiberglass Batt	R-13
Exterior Ceilings	Fiberglass Batt; or Fiberglass Batt and Blown	R-30 R-30

In the event that the type of thermal insulation to be installed in the Purchased Property has not yet been determined or shall be subsequently modified, then upon such determination or modification, Seller shall deliver to Purchaser written notice stating the type, thickness, location and R-value thereof.

- (e) Upon closing, Seller shall extend to Purchaser the Seller's standard form of limited warranty covering the Purchased Property.

Seller hereby expressly excludes any other representation or warranties, express or implied, and excludes

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specifically any and all implied warranties of merchantability, habitability, or fitness for any particular purpose or use, and excludes specifically responsibility for all consensual damages and/or losses which may rise from or out of any and all structural failures. This warranty shall only serve to the benefit of purchaser of the purchased property, and shall terminate upon the expiration of the applicable period set forth in the homeowners warranty.

- (f) Concurrently with the execution of this agreement, Seller has furnished to Purchaser a floor plan of the model and it is understood that said floor plan represents only a graphic approximation of the scale and dimensions designated therein and that the construction is controlled by the aforesaid plans and specifications which provide much greater detail and exactitude. The completed Residence may vary from both the floor plan and the said plans and specifications to the extent consonant with normal trade custom, practice and tolerance within the construction industry. Further, Purchaser authorizes Seller to make such minor variations from said plans and specifications as in its discretion, are deemed advisable. If a specific item or material or equipment shall be or become unavailable, or if Seller decides that such unavailability will cause undue delay in the construction schedule, Seller shall have the right to substitute materials or equipment of comparable quality.
- (g) Seller shall rough grade the lot but no sod, grass, seed, or other landscaping shall be provided by Seller, unless otherwise specifically provided for in the specifications or extras which are made a part hereof.
- (h) The square footage of the home is measured from exterior wall to exterior wall minus the garage and the basement. If the height of the room is more than eight feet, then the square footage is counted twice, which includes all volume type ceilings.
- In the event that a model home is on exhibit, it is for illustrative purposes only. The Residence will be completed only as described in this Agreement. Furthermore, no wall coverings, window treatments, furniture, decorations or similar items now or hereafter contained in any model home shall be in any way provided by the Seller.
- (j) Furthermore, foundation, crawl space, knee wall and basement wall heights will vary according to ground conditions on site. In the event that the lot is found to be unbuildable (unbuildable as per this agreement shall mean a condition requiring unusual or extraordinary means of construction with regard to footings and/or foundations), Seller will have the option to either: (1) choose an alternate lot at no additional expense to Purchaser, or (2) declaring this Agreement null and void.
- (k) Seller reserves the right to revise the plans, establish site grades and building elevations for the improvements on the site in order to comply with the request of the applicable governmental authority or any other entity having legal right to make said requirement or if building conditions require. Compliance by Seller with minimum site elevations established by the controlling municipality or other appropriate entity shall relieve Seller of any liability arising in connection therewith except for damage caused by Seller's own negligence.
- (l) Seller will determine if the siting and location of the improvements necessitates the removal of any brush, shrubbery, or trees. Seller shall attempt to preserve any remaining trees, or bushes on the property, but Seller shall not be liable to the Purchaser for any loss or damage thereto. Purchaser shall not remove or cause to be removed any brush, shrubbery, or trees unless approved in writing by the Seller.
- (m) Purchaser will not install or cause to be installed any wiring, plumbing, heating/ventilating, electrical fixture any type or mechanical work or any modifications to the structure without the prior written permission of the Seller. In the event Purchaser do any such work without Seller's permission, Seller will not be responsible for any damage to such items; and because such work may affect Seller's ability to pass local building department inspections, Seller may remove or cause to be removed any work completed by the Purchaser and Purchaser will reimburse Seller for any charges for such removal.
- (n) The Seller warrants as required by law, that no notice from any city, village or other governmental authority of a Dwelling Code Violation which existed in the dwelling structure before this agreement was executed has been issued and received by the Seller or his agent. This warranty shall not be construed as making any representation or warranty that the dwelling structure or other improvements on or to the property have been completed on the date of this contract.
11. **POSSESSION AND OCCUPANCY.** Seller shall have sole control and exclusive possession of the real estate to be conveyed hereunder until completion of the improvement and payment of all monies due Seller. Physical possession shall be tendered to the Purchaser at closing. The property shall be delivered in broom clean condition. Purchaser acknowledges that the property will be in a dangerous condition during construction of the Residence and that his entering upon the property would endanger his personal safety, jeopardize the Seller's agreements with its insurers and constitute a trespass. Therefore, purchaser shall have the right to inspect the property only when requested by the Seller's project manager for purposes of formal inspection. It is agreed that Purchaser's occupancy of the premises prior to closing, either forcibly or without the written consent of the Seller, shall constitute an acceptance by Purchaser of Seller's complete and satisfactory performance of the terms of this agreement and that Seller has an immediate right to evict the Purchaser and Purchaser shall be responsible for Seller's attorneys' fees and all monies paid by the Purchaser shall be forfeited to Seller as liquidated damages.
12. **TRUSTEE'S DEED.** At the closing, upon payment in full of the purchase price as provided in paragraph 2 above, Seller shall deliver a Trustee's Deed conveying to Purchaser good and merchantable title to the property, subject only to (a) general real estate taxes for the year 2002, and subsequent years; (b) special taxes or assessments not levied as of the closing; (c) building, building line and use or occupancy restrictions; (d) easements, conditions, covenants and plats of subdivision of record (e) zoning and building laws or ordinances; (f) Purchaser's mortgage, if any; (g) acts done or suffered by or judgments against Purchaser, or one claiming under Purchaser; (h) roads and highways; (i) any exceptions to title which are insured over the Title Insurance Company of Seller's choice. The Seller shall pay for the State of Illinois and County real estate transfer tax stamps; and any applicable City or Village transfer tax shall be paid by the party designated in the Ordinance of the Municipality imposing the tax. In the event no party is designated, then the City of Village transfer tax shall be paid by the Purchaser.
13. **TITLE POLICY.** Purchaser shall be entitled to receive, and Seller shall furnish to Purchaser, an owner's Title Insurance policy issued by an Illinois Insurance Company of Seller's choice, which is licensed to do business in the State of Illinois in the amount of purchaser price, showing title in Purchaser, subject only to the matters set forth in paragraph 11 above, and the usual matters contained in such owner's title insurance policies issued by a Title Insurance Company, and any matter created, caused by or suffered by Purchaser, and with ALTA coverage over mechanic's liens. Seller shall bear the title charges customarily charged sellers including title insurance in the amount of the purchase price, and purchaser shall bear the title charges customarily charged to purchasers by the Recorder of Deeds and said Title Insurance Company, including recording of Purchaser's deed and mortgage and later date title search to cover such recording and additional charges for special form title policies and encroachments.
14. **SELLER'S EASEMENT.** For the purpose of completing the development and construction of all stages of the project containing the Property (including, but not limited to, the construction and Sale of Properties in buildings

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other than the Building). Seller and its successors and assigns, and its agents, contractors, employees and subcontractors are hereby given the right of ingress and egress, and other use of the Property (other than the Purchased Property) related to said development and construction. This paragraph shall survive Closing and recording of a deed to the Property Ownership.

- 15 **ASSIGNMENT.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, executors, administrators, devisees, personal representatives, successors and assigns, provided, however, that Purchaser may not assign, set over, or transfer this Agreement, or any of Purchaser's rights or interests under this Agreement, without Seller's prior written approval. Any such purported assignment by Purchaser without said approval by Seller shall be void and of no effect.
- 16 **BROKER.** Purchaser represents and warrants that no broker was instrumental in submitting, showing or selling the Property Ownership to him, and agrees to indemnify and hold Seller harmless from any claim based on facts which are contrary to said representation.
- 17 **NOTICES.** All notices and demands herein required or given hereunder shall be in writing and shall be deemed sufficient if personally delivered or delivered by commercial messenger service, or mailed by registered or certified mail, postage prepaid, return receipt requested, to Seller at its sales office, or to Purchaser at the home address set forth on page one of this Agreement. The date of such personal delivery or mailing shall be deemed the date of notice.
- 18 **DEFAULTS.**
- (a) Time is of the essence in this Agreement. If Purchaser (i) shall fail to make any payment herein required when such payment is due, (ii) shall fail to close on the date designated by Seller, (iii) shall notify Seller orally or in writing that Purchaser intends not to close the transaction contemplated herein or that Purchaser intends not to close same on the date designated by Seller for any reason not expressly permitted by this Agreement or (iv) shall fail or refuse to carry out any other obligation of Purchaser under the terms of this Agreement and any amendments hereto, or (v) shall make a materially false statement in any written document delivered to Seller then, at Seller's option, all sums theretofore paid by Purchaser as part of the basic purchase price including the Earnest Money or for Extras shall be retained by Seller, not as penalty but as liquidated damages, and this Agreement shall thereupon terminate and be null and void and of no further force or effect.
- (b) In the event that Closing shall be delayed due to the fault of Purchaser and Seller shall elect, upon written notice to Purchaser, to extend the Closing, the Purchaser shall pay at Closing, in addition to all other sums then due hereunder, the sum of One Hundred Dollars (\$100.00) per day for each day or part thereof that the Closing is delayed after the original Closing date designated by Seller.
- (c) If Seller defaults in the performance of any of its covenants or obligations hereunder, and fails to cure such default within ten (10) days after Purchaser shall deliver to Seller written notice thereof, the Seller shall return to Purchaser all sums theretofore paid to Seller by Purchaser, without interest, and shall reimburse Purchaser in an amount equal to Purchaser's verified out-of-pocket expenses incurred in connection with this Agreement (which reimbursement shall not exceed \$100.00), as the sole and exclusive remedy of Purchaser hereunder, provided, however if Seller's default is failure to complete the Purchased Property within two (2) years of the date hereof (is extended pursuant to the second sentence of Paragraph 9 (a) above) then, Purchaser shall have the right to specific performance or actual damages in an amount sufficient to compensate Purchaser for all direct losses and direct costs incurred by Purchaser as a result of such failure. This Agreement shall thereupon be null and void and of no further force or effect, and neither party shall have any further obligation hereunder.
- (d) In the event that this Agreement shall for any reason terminate, Purchaser shall be deemed to have released any claim, which it may then have against Seller or the Property. Anything herein contained to the contrary notwithstanding, Purchaser shall pay all legal and other costs and expenses which may be incurred by Seller in defending itself or the Property against any claim which Purchaser may thereafter assert or in removing any cloud upon title which may arise because of the act of Purchaser. In such event, Purchaser shall execute any quit claim deed relative to the Property or any release in form requested by Seller.
- 19 **TIME FOR ACCEPTANCE.** This Agreement, when executed by Purchaser and delivered to Seller, together with the initial payment of earnest money specified hereunder, shall constitute, for a period of thirty (30) days after the date hereof an irrevocable offer by Purchaser to Purchase the Property. In the event Seller by a duly authorized officer executes this Agreement and delivers a copy thereof to Purchaser within said thirty (30) day period, Purchaser's offer shall be deemed accepted and the Agreement binding. In the event Purchaser's offer is not so accepted within said thirty (30) day period, all deposits made by Purchaser to Seller to date shall be returned to Purchaser and Purchaser's offer shall be deemed withdrawn.
- 20 **PURCHASER'S STATUS.** Purchaser represents and warrants that there is nothing in Purchaser's status which could or might preclude or prevent Purchaser from consummating this transaction as herein set forth, or from qualifying for the mortgage set forth in Paragraph 3(a) above. Purchaser further warrants that all financial information given to Seller was true and correct and does not fail to state any material debts or liabilities.
- 21 **SELLER'S POSSESSION.** For the purpose of completing the sale promotion of this home development, Seller and its successors and assigns, and their agents, contractors, and employees are hereby granted full right and authority to place and maintain on, in and about the home development such equipment and materials, monuments, models and sales promotion devices, at such location and in such forms as shall be determined by Seller, and to engage in any other activity related to said purpose until all homes in the development have been sold. Seller and its successors and assigns, and their agents, contractors, subcontractors and employees and prospective purchasers, are also hereby given for the same period, for the purpose of facilitating such home development, construction, and sale promotion, the right of ingress and egress, transient parking and other use of the home development related to said development, construction and sale promotion. Prior to closing, Seller shall have sole control and exclusive possession of the property.
- 22 **RECORDING.** Purchaser shall not record this Agreement, nor any memorandum hereof. If Purchaser shall record the same, then this Agreement shall, at Seller's option, become null and void, all the rights of the Purchaser hereunder shall thereupon cease and terminate and all sums paid to Seller shall be forfeited by Purchaser and become the sole property of Seller.
- 23 **MATERIAL DESTRUCTION.** If, prior to Closing, the Purchased Property or a material portion of the Building, which portion is required for reasonable access to the Purchased Property, shall be destroyed or materially damaged by fire or other causality, Seller shall have the option to repair and restore the Purchased Property or the damaged portion of said Building to its former condition within one hundred eighty (180) days after such damage occurs (and Closing shall be postponed accordingly), or to terminate this Agreement. In the event of such termination, all sums theretofore paid to Seller shall be refunded to Purchaser, and neither party shall have any further liability to the other.

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- 24. **HEADINGS.** The headings and captions contained herein are inserted for convenient reference only and shall not be deemed to construe or limit the paragraphs to which they apply.
- 25. **GENDER.** Wherever appropriate, as used herein, the singular shall denote the plural and masculine shall denote the feminine.
- 26. **ENTIRE AGREEMENT.** All negotiations, dealings, correspondence and memoranda between the parties hereto are merged, into this Agreement which constitutes the entire agreement between Purchaser and Seller. No representations, warranties, undertakings or promises, whether written or oral, expressed or implied, can be made or have been made by Seller or Purchaser or their respective agent, officers or employees, unless expressly stated herein or in the Homeowner's Warranty or unless mutually agreed upon in writing by the parties hereto.
- 27. **RIDERS.** Amendments, exhibits, supplements or riders attached hereto, are incorporated herein and made a part hereof, provided that all such amendments, exhibits, supplements or riders shall be in writing and executed by both Purchaser and
- 28. **DOCUMENTATION OF RIDERS.**
CUSTOM FEATURES SHEET FLOOR PLANS
- 29. **SURVIVAL.** All representations and warranties of the parties shall be deemed to survive the Closing.
- 30. **DEFINITION OF TERMS.** All terms used herein, if defined in the Declaration, shall have the same meanings as in the Declaration, unless specifically defined otherwise in this Agreement.
- 31. **PARTIAL INVALIDITY.** The invalidity of any of the Provisions of this Agreement shall not affect or impair the validity or enforceability of the remainder of this Agreement.
- 32. **PURCHASER'S RIGHT TO CANCEL.** Seller hereby grants, to Purchaser a period of three (3) days within which to review the Loft documents made available to the Purchaser. Notwithstanding any other provisions of this Agreement, if the Purchaser is not satisfied with the said Loft documents, the Purchaser may, at his election, by written notice to the Seller at any time prior to midnight local time of the seventh day following the date the agreement is signed by the Purchaser, terminate this Agreement, and the Purchaser's deposit shall be refunded and the parties hereto shall have no further rights or liabilities under the Agreement.
- 33. **BINDING EFFECT.** This Agreement shall be binding and insure to the benefit of their heirs, successors, administrators, and assigns as the case may be, each of the parties hereto.

Purchaser Signature and Date:

Chalif A. Barba 10/7/03

Purchaser Signature and Date:

Suleba Barba 10/7/03

Polo Builders Sales Representative Signature and Date:

Chalif A. Barba 10/7/03

ACKNOWLEDGMENT OF RECEIPT:

Polo Builders, Inc. hereby acknowledges receipt of the foregoing Agreement executed by Purchaser on the date of execution by Purchaser set forth above. This document shall not become a binding agreement until accepted by Seller where provided below.

POLO BUILDERS, INC.

By: [Signature]
Date: _____
President, Polo Builders, Inc.

Acceptance