

**RED TAIL CANYON CONDOMINIUMS**

**Unit Sales Agreement**

Sales Agreement # \_\_\_\_\_

**DATED:** \_\_\_\_\_, 2009

**BETWEEN:** **RED TAIL CANYON, L.L.C.** **SELLER**  
**8149 SE Aspen Summit Drive**  
**Portland, Oregon 97266**

**AND: Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**Phone:** \_\_\_\_\_  
**E-mail:** \_\_\_\_\_

**PURCHASER**

providing for the acquisition by Purchaser of Unit # \_\_\_\_\_ of Red Tail Canyon Condominiums, a condominium located or to be located in the City of Portland, Multnomah County, Oregon, and more particularly described in **Exhibit A**, including the general and limited common elements pertaining to such unit, and the upgrade options, if any, shown on **Exhibit B**, for a total purchase price of \$ \_\_\_\_\_. Estimated amount of initial monthly assessment of the association of unit owners for this unit is \$ 150.00. Estimated assessments (approximately 2 months) due at closing: \$ 300.00 Working Capital Assessment, \$ 150.00 as the next month's monthly assessment for this unit, plus a pro rata portion of the current month's assessment. The unit is now substantially complete and ready for occupancy; closing shall occur by \_\_\_\_\_, or as soon thereafter as the property is submitted to the condominium form of ownership and the final plat recorded. Additional terms, if any:

**TERMS OF PAYMENT AS FOLLOWS:**

**A purchase price of .....A\$**

(To be payable to and deposited with Escrow Agent)

Earnest money received for herewith .....B\$

Additional earnest money due before closing.....C\$

Balance due [ ] within 15 days after notice from Seller  
[ ] on or before .....D\$

At closing the sum of (Lines B, C, D and E should equal Line A).....E\$

This sale is subject to the following terms and conditions:

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

2. **PURCHASE PRICE.** The purchase price for such unit and property shall be the sum set forth on page 1 above.

3. **PAYMENT OF PURCHASE PRICE.** The total purchase price in the amount set forth on page 1 shall be paid as follows:

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

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

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

4. **COMPLETION.**

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

4.2 **Substantial Completion.** The unit is substantially complete and Purchaser is the tenant in the unit. Seller will use Seller's best efforts to substantially complete any agreed upgrades to the above unit by the date indicated on page 1 of this Agreement, but does not warrant that construction will be substantially complete by such date. Seller does warrant, however, such completion by no later than six (6) months from the date of this Agreement, unless prevented from so doing by strike, fire, floods, acts of third parties, acts of the government or other causes beyond its control not occasioned by Seller's own fault or negligence. For purposes of this Agreement, "substantially complete" means that the unit is ready for occupancy and the upgrades are complete and usable, even though one or more minor items of work remain to be corrected, provided Seller agrees in writing to complete or correct such minor items within a reasonable time thereafter.

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

## 5. **CLOSING PROCEDURE.**

5.1 **Closing.** The sale shall be closed by whichever of the dates described in Section 3.3 is marked on page one at the offices of **Pacific Northwest Title Company with WENDY WAY (503) 350-5084**, Portland, Oregon .

5.2 **Deed.** At closing, upon payment of the purchase price, Seller shall convey to Purchaser the unit described above, along with the common elements pertaining to such unit, by special warranty deed free and clear of any liens and encumbrances, except the condominium documents, the provisions of the Oregon Condominium Act, any easements of record, conditions and restrictions of record, governmental ordinances, administrative decisions of record, revocable permits of record, any taxes which are a lien but not yet due, and any liens or encumbrances placed upon the unit by Purchaser. The existing trust deed on the project provides for release of individual units as they are sold upon payment of a portion of the sales price to the lender. Closing of this sale is conditioned upon completion of the conversion of the Red Tail Canyon project to the condominium form of ownership and release of this unit from such trust deed.

5.3 **Possession; Closing Costs.** Seller shall deliver to Purchaser possession of the unit on or before date of closing. Taxes, maintenance assessments, and rentals, if any, shall be prorated as of (a) date of closing, (b) date of possession, except when such possession is pursuant to a rental agreement, or (c) the date within which closing must occur as provided in Section 5.1, whichever is first. Seller shall be responsible for the payment of the premium for the owner's title insurance policy, accrued replacement reserves for this unit, the recording fees

for any partial releases, any broker's commission and Seller's portion of the escrow fee. Purchaser shall be responsible for the recording fee for the deed, any sales or transfer tax, initial contribution to the working capital of the association of unit owners equal to two months of association assessments, the next month's assessment for this unit, a pro rata share of the current month's assessment, Purchaser's portion of the escrow fee, and all fees, costs and expenses in connection with Purchaser's loan, if any, including the premium for any mortgagee's title insurance policy.

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

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

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

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

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

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

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

7. **LIMITED WARRANTY ON GENERAL COMMON ELEMENTS.** Seller warrants that the general common elements shall be free of defects in materials or workmanship for a period of one year from the date of the first conveyance of a unit in the

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

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

9. **DEFAULT.**

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

9.2 **By Purchaser.** Time is of Purchaser’s performance is of the essence of this Agreement. In the event that Purchaser shall fail to make any deposit or payment required under this Agreement within the time set forth in this Agreement, Seller may declare Purchaser to be in default and the entire amount deposited by Purchaser, including any interest earned on

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

## 10. **DISPUTE RESOLUTION.**

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

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

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

10.4 **Attorney Fees.** Should any suit, action or arbitration be commenced in connection with any dispute related to or arising out of this Agreement or the transactions contemplated hereunder, to obtain a judicial construction of any provision of this Agreement, to rescind this Agreement or to enforce or collect any judgment or decree of any court or any award

obtained during arbitration, the prevailing party shall be entitled to recover its costs and disbursements, together with such investigation, expert witness and attorneys' fees incurred in connection with such dispute, as the court or arbitrator may adjudge reasonable, at trial, in the arbitration, upon any motion for reconsideration, upon petition for review, and on any appeal of such suit, action or arbitration proceeding, up to a limit of five thousand dollars (\$5,000) total. The determination of who is the prevailing party and the amount of reasonable attorneys' fees to be paid to the prevailing-party shall be decided by the arbitrator (with respect to attorneys' fees incurred prior to and during an arbitration proceeding) and by the court or courts, including any appellate or review court, in which such matter is tried, heard or decided, including a court that hears a request to compel or enjoin arbitration or that hears exceptions made to an arbitration award submitted to it for confirmation as a judgment (with respect to attorneys' fees incurred in such proceedings).

## 11. **GENERAL PROVISIONS.**

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

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

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

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

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

STATUTORY WARNING. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS, THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352.

11.6 Potential Construction Liens. Effective September 17, 2003, ORS 87.007, the Homebuyer Protection Act ("HPA"), requires a seller of new residential property and the seller of an existing residence with \$50,000 or more in improvements made within ninety (90) days immediately prior to the sale to notify the purchaser of the method the seller has selected to comply with HPA. The condominium unit is not "new residential property" and the Seller does not expect to make \$50,000 or more in improvements in the 90 days before the sale. For this reason, ORS 87.007(2) does not apply to this sale.

**Purchaser** has executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2007. Purchaser certifies that Purchaser has received and read the State of Oregon disclosure statement [*strike the preceding clause if the disclosure statement has not been issued at the time of execution of this agreement*], proposed condominium declaration, the proposed bylaws and the escrow agreement and accepts and agrees to be bound by the provisions contained in such documents.

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

**Seller** has executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**RED TAIL CANYON, L.L.C.,**  
An Oregon limited liability company

By Red Tail Management Company, Co-Manager:

By \_\_\_\_\_  
J. Blaine Hoggard, President

**AGENCY ACKNOWLEDGMENT**

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

1. \_\_\_\_\_ (selling licensee) of \_\_\_\_\_ (selling firm) is the agent of (check one:  the Purchaser exclusively (“buyer agency”).  The Seller exclusively (“subagency”).  Both the Seller and Purchaser (“in-company transaction”).

2. **Joshua Svaren** (listing licensee) of **Taylor Group Realty** (listing firm) is the agent of (check one):  The Seller exclusively.  Both the Seller and Purchaser (“in-company transaction”).

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

Purchaser Signature \_\_\_\_\_  
Print \_\_\_\_\_ Date \_\_\_\_\_

Purchaser Signature \_\_\_\_\_  
Print \_\_\_\_\_ Date \_\_\_\_\_

Seller:

**RED TAIL CANYON, L.L.C.,**  
An Oregon limited liability company

By Red Tail Management Company, Co-Manager:

By \_\_\_\_\_  
J. Blaine Hoggard, President

**CO-OP SALES**

This is a co-op transaction between Joshua Svaren (Listing Broker) and \_\_\_\_\_  
(Selling Broker). Selling Broker to receive a commission in the amount of 2.25% of purchase  
price, to be deducted from the” commission otherwise payable to Listing Broker. Commissions  
are to be paid on the purchase price less any Sellers concessions.

Selling Broker’s address:

Phone Number:

Fax Number:

Listing Broker’s Initials:

Selling Broker’s Initials:

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

**RECEIPT FOR EARNEST MONEY**

\_\_\_\_\_, 2008

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

\_\_\_\_\_

By \_\_\_\_\_  
Sales Agent

**RED TAIL CANYON CONDOMINIUMS  
SQUARE FOOTAGE DISCLAIMER**

Square footages are approximate and based upon “architectural” measurements taken from architectural plans. Final square footages may differ, and the square footages as shown on the condominium declaration and plat will be based upon condominium measurement standards, which are not the same as “architectural” measurements. Purchaser is buying the unit based on Purchaser’s own inspection of the unit and not based on any representation of the exact square footage of the unit.

**BUYER:** \_\_\_\_\_

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

**BUYER:** \_\_\_\_\_

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

EXHIBIT A

Legal Description

RED TAIL CANYON CONDOMINIUMS, LOT \_ \_

EXHIBIT B

Upgrade Options

## EXHIBIT C

### Specifications