



**TEXAS ASSOCIATION OF REALTORS®
COMMERCIAL CONTRACT - IMPROVED PROPERTY**

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1. **PARTIES:** Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: Tuscan Hills L.L.C.

Address: _____

Phone: _____ Fax: _____

E-mail: fsaletta512@aol.com

Buyer: A.P. Equity Properties, LTD/ John F. Graham and/or assigns

Address: 7703 North Lamar, Suite 510, Austin, TX 78752

Phone: (512) 617-6301 Fax: (512) 617-6302

E-mail: jfq@austinpartners.net

2. **PROPERTY:**

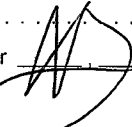
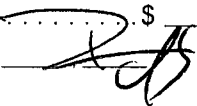
A. "Property" means that real property situated in Travis County, Texas at 401 S. RR 620, Lakeway, TX, 78734 (address) and that is legally described on the attached Exhibit N/A or as follows: Lot 1(a), Cardinal Hill Unit 3, City of Austin, Travis County, Texas. Approximately 1.769 Acres

- B. Seller will sell and convey the Property together with:
- (1) all buildings, improvements, and fixtures;
 - (2) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
 - (3) Seller's interest in all leases, rents, and security deposits for all or part of the Property;
 - (4) Seller's interest in all licenses and permits related to the Property;
 - (5) Seller's interest in all third party warranties or guaranties, if transferable, relating to the Property or any fixtures;
 - (6) Seller's interest in any trade names, if transferable, used in connection with the Property; and
 - (7) all Seller's tangible personal property located on the Property that is used in connection with the Property's operations except: N/A

*(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)
(If the Property is a condominium, attach condominium addendum.)*

3. **SALES PRICE:** At or before closing, Buyer will pay the following sales price for the Property:

A. Cash portion payable by Buyer at closing	\$	<u>25,000.00</u>
B. Sum of all financing described in Paragraph 4	\$	<u>3,175,000.00</u>
C. Sales price (sum of 3A and 3B)	\$	<u>3,200,000.00</u>

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4. FINANCING: Buyer will finance the portion of the sales price under Paragraph 3B as follows:

- A. Third Party Financing: One or more third party loans in the total amount of \$ 3,175,000.00. This contract:
 - (1) is not contingent upon Buyer obtaining third party financing.
 - (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum.
- B. Assumption: In accordance with the attached Commercial Contract Financing Addendum, Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$ _____.
- C. Seller Financing: The delivery of a promissory note and deed of trust from Buyer to Seller under the terms of the attached Commercial Contract Financing Addendum in the amount of \$ _____.

5. EARNEST MONEY:

- A. Not later than 3 days after the effective date, Buyer must deposit \$ 25,000.00 as earnest money with First American Title/ Phyllis Avery (escrow agent) at 1913 RR 620 S., Suite 101, Austin, TX 78734 (address). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract by providing written notice to Buyer before Buyer deposits the earnest money and may exercise Seller's remedies under Paragraph 15.
- B. Buyer will deposit an additional amount of \$ _____ with the escrow agent to be made part of the earnest money on or before:
 - (i) _____ days after Buyer's right to terminate under Paragraph 7B expires; or
 - (ii) _____Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.
- C. Buyer may instruct the escrow agent to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

6. TITLE POLICY, SURVEY, AND UCC SEARCH:

- A. Title Policy:
 - (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by First American Title (title company) in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
 - (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
 - (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
 - (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
 - (a) will not be amended or deleted from the title policy.
 - (b) will be amended to read "shortages in areas" at the expense of Buyer Seller.
 - (3) Buyer may object to any restrictive covenants on the Property within the time required under Paragraph 6D.
 - (4) Within 7 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within 7 days after the effective date:

- (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
- (2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after ³⁻¹¹⁻⁰⁸ ~~the effective date~~. The survey must be made in accordance with the Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
- (3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's existing survey of the Property dated _____ along with an affidavit required by the title company for approval of the survey. If the survey is not acceptable to the title company, Seller, at Seller's expense, will obtain a survey acceptable to the title company and deliver the acceptable survey to the buyer and the title company within 15 days after Seller receives notice that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 15 days if necessary for Seller to deliver an acceptable survey within the time required.

C. UCC Search:

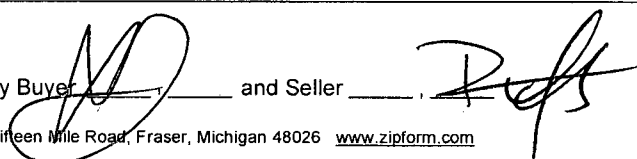
- (1) Within _____ days after the effective date, Seller, at Seller's expense, will furnish Buyer a Uniform Commercial Code (UCC) search prepared by a reporting service and dated after the effective date. The search must identify documents that are on file with the Texas Secretary of State and the county where the Property is located that relate to all personal property on the Property and show, as debtor, Seller and all other owners of the personal property in the last 5 years.
- (2) Buyer does not require Seller to furnish a UCC search.

D. Buyer's Objections to the Commitment, Survey, and UCC Search:

- (1) Within 7 days after Buyer receives the commitment, copies of the documents evidencing title exceptions, any required survey, and any required UCC search, Buyer may object to matters disclosed in the items if: (a) the matters disclosed constitute a defect or encumbrance to title to the real or personal property described in Paragraph 2 other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date Buyer actually receives the survey; or (ii) the deadline specified in Paragraph 6B.
- (2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.
- (3) Buyer's failure to timely object or terminate under this Paragraph 6D is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

7. **PROPERTY CONDITION:**

- A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: None



B. Feasibility Period: Buyer may terminate this contract for any reason within 53 days after the effective date (feasibility period) by providing Seller written notice of termination. (Check only one box.)

(1) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 100.00 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the escrow agent. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to timely deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

(2) Not later than 3 days after the effective date, Buyer must pay Seller \$ _____ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to timely pay the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

C. Inspections, Studies, or Assessments:

(1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.

(2) Seller, at Seller's expense, will turn on all utilities necessary for Buyer to make inspections, studies, or assessments.

(3) Buyer must:

- (a) employ only trained and qualified inspectors and assessors;
- (b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
- (c) abide by any reasonable entry rules or requirements of Seller;
- (d) not interfere with existing operations or occupants of the Property; and
- (e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

(4) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

(1) Delivery of Property Information: Within 7 days after the effective date, Seller will deliver to Buyer:

- (a) a current rent roll of all leases affecting the Property certified by Seller as true and correct;
- (b) copies of all current leases pertaining to the Property, including any modifications, supplements, or amendments to the leases;
- (c) a current inventory of all personal property to be conveyed under this contract and copies of any leases for such personal property;

- (d) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
- (e) copies of all current service, maintenance, and management agreements relating to the ownership and operation of the Property;
- (f) copies of current utility capacity letters from the Property's water and sewer service provider;
- (g) copies of all current warranties and guaranties relating to all or part of the Property;
- (h) copies of fire, hazard, liability, and other insurance policies that currently relate to the Property;
- (i) copies of all leasing or commission agreements that currently relate to all or part of the Property;
- (j) a copy of the "as-built" plans and specifications and plat of the Property;
- (k) copies of all invoices for utilities and repairs incurred by Seller for the Property in the 24 months immediately preceding the effective date;
- (l) a copy of Seller's income and expense statement for the Property from _____ to _____;
- (m) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
- (n) real & personal property tax statements for the Property for the previous 2 calendar years; and
- (o) _____

(2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer and all copies that Buyer made of those items; and (b) deliver copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed. This Paragraph 7D(2) survives termination of this contract.

E. Contracts Affecting Operations: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.

8. LEASES:

A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:

- (1) any failure by Seller to comply with Seller's obligations under the leases;
- (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
- (3) any non-occupancy of the leased premises by a tenant;
- (4) any advance sums paid by a tenant under any lease;
- (5) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
- (6) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.

B. Estoppel Certificates: Within _____ days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than _____ by each tenant that leases space in the Property. The estoppel certificates must state:

- (1) that no default exists under the lease by the landlord or tenant as of the date the estoppel certificate is signed;
- (2) the amount of the scheduled rents to be paid through the end of the lease and any rental payments that have been paid in advance;
- (3) the amount of any security deposit;
- (4) the amount of any offsets tenant is entitled against rent;
- (5) the expiration date of the lease;
- (6) a description of any renewal options; and
- (7) _____

9. BROKERS:

A. The brokers to this sale are:

<u>McCallister and Associates</u>	<u>McCallister and Associates</u>
Cooperating Broker	Principal Broker
License No. _____	License No. _____
<u>201 Barton Springs Rd</u>	<u>201 Barton Springs Rd</u>
Address	Address
<u>Austin, TX 78704</u>	<u>Austin, TX 78704</u>
<u>(512) 472-2100</u>	<u>(512) 472-2100</u>
Phone	Phone
<u>(512) 472-2905</u>	<u>(512) 472-2905</u>
Fax	Fax
E-mail: <u>todd@developaustin.com</u>	E-mail: _____

Cooperating Broker represents buyer.

Principal Broker: *(Check only one box)*

represents Seller only.

represents Buyer only.

is an intermediary between Seller and Buyer.

B. Fees: *(Check only one box.)*

- (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.
- (2) At the closing of this sale, Seller will pay:

Cooperating Broker a total cash fee of:	Principal Broker a total cash fee of:
<input checked="" type="checkbox"/> <u>3.000</u> % of the sales price.	<input checked="" type="checkbox"/> <u>3.000</u> % of the sales price.
<input type="checkbox"/> _____	<input type="checkbox"/> _____

The cash fees will be paid in Travis County, Texas. Seller authorizes escrow agent to pay the brokers from the Seller's proceeds at closing.

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

10. CLOSING:

A. The closing of the sale will be on or before March 30, 2009 or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (the closing date).

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- B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.
- C. At closing, Seller will execute and deliver to Buyer, at Seller's expense, a general special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
- (1) with no liens, assessments, or Uniform Commercial Code or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
 - (2) without any assumed loans in default; and
 - (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.
- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
- (1) tax statements showing no delinquent taxes on the Property;
 - (2) a bill of sale with warranties to title conveying title, free and clear of all liens, to any personal property defined as part of the Property in Paragraph 2 or sold under this contract;
 - (3) an assignment of all leases to or on the Property;
 - (4) to the extent that the following items are assignable, an assignment to Buyer of the following items as they relate to the Property or its operations:
 - (a) licenses and permits;
 - (b) maintenance, management, and other contracts; and
 - (c) warranties and guaranties;
 - (5) a rent roll current on the day of the closing certified by Seller as true and correct;
 - (6) evidence that the person executing this contract is legally capable and authorized to bind Seller;
 - (7) an affidavit acceptable to the escrow agent stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the escrow agent to: (i) withhold from Seller's proceeds an amount sufficient to comply applicable tax law; and (ii) deliver the amount to the Internal Revenue Service together with appropriate tax forms; and
 - (8) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and the issuance of the title policy, all of which must be completed and executed by Seller as necessary.
- E. At closing, Buyer will:
- (1) pay the sales price in good funds acceptable to the escrow agent;
 - (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
 - (3) sign and send to each tenant in the Property a written statement that:
 - (a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
 - (b) specifies the exact dollar amount of the security deposit;
 - (4) sign an assumption of all leases then in effect; and
 - (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.
- F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.
- 11. POSSESSION:** Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

12. SPECIAL PROVISIONS: (Identify exhibit if special provisions are contained in an attachment.)

1. Per Section 5 (C) of contract, escrow agent (First American Title) shall deposit earnest money (\$25,000.00 per contract) into an interest bearing account. The sum of principle and interest earned are to be applied against the purchase price at closing. In addition, the earnest money becomes non-refundable on February 27th, 2009, and will be paid directly to Tuscan Hills L.L.C. without any further authorizations.

2. Per Section 7 (B) of contract, "Feasibility Period"; parties acknowledge that the 53-day period in which the Buyer has the unrestricted right to terminate contract shall not extend beyond February 26th, 2009, regardless of the actual calendar date of contract execution.

3. The parties acknowledge that the cooperating broker, McCallister and Associates (including independent agents Todd Dailey and Justen Aranda) will not be held responsible for any associated costs involved in the sale and/or closing of Tuscan Hills Professional Building by Tuscan Hills L.L.C.

13. SALES EXPENSES:

A. Seller's Expenses: Seller will pay for the following at or before closing:

- (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
- (2) release of Seller's loan liability, if applicable;
- (3) tax statements or certificates;
- (4) preparation of the deed and any bill of sale;
- (5) one-half of any escrow fee;
- (6) costs to record any documents to cure title objections that Seller must cure; and
- (7) other expenses that Seller will pay under other provisions of this contract.

B. Buyer's Expenses: Buyer will pay for the following at or before closing:

- (1) all loan expenses and fees;
- (2) preparation fees of any deed of trust;
- (3) recording fees for the deed and any deed of trust;
- (4) premiums for flood and hazard insurance as may be required by Buyer's lender;
- (5) one-half of any escrow fee; and
- (6) other expenses that Buyer will pay under other provisions of this contract.

14. PRORATIONS:

A. Prorations:

- (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
- (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
- (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other

charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.

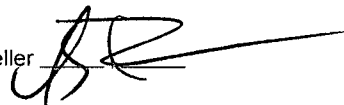
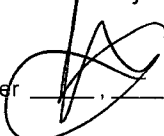
- B. Rollback Taxes: If Seller changes the use of the Property before closing or if a denial of a special valuation on the Property claimed by Seller results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.
- C. Rent and Security Deposits: At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

- A. If Buyer fails to comply with this contract, Buyer is in default and Seller may:
 - (1) terminate this contract and receive the earnest money as liquidated damages, thereby releasing the parties from this contract; or
 - (2) enforce specific performance, or seek other relief as may be provided by law, or both.
- B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:
 - (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as the sole remedy; or
 - (2) extend the time for performance up to 15 days and the closing will be extended as necessary.
- C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:
 - (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages, thereby releasing the parties from this contract; or
 - (2) enforce specific performance, or seek such other relief as may be provided by law, or both.

16. CASUALTY LOSS AND CONDEMNATION:

- A. If any part of the Property is damaged or destroyed by fire or other casualty after the effective date, Seller must restore the Property to its previous condition as soon as reasonably possible and not later than the closing date. If, without fault, Seller is unable to do so, Buyer may:
 - (1) terminate this contract and the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer;
 - (2) extend the time for performance up to 15 days and closing will be extended as necessary; or
 - (3) accept at closing: (i) the Property in its damaged condition; (ii) an assignment of any insurance proceeds Seller is entitled to receive along with the insurer's consent to the assignment; and (iii) a credit to the sales price in the amount of any unpaid deductible under the policy for the loss.
- B. If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:
 - (1) terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer; or
 - (2) appear and defend the condemnation proceedings and any award will, at Buyer's election, belong to: (a) Seller and the sales price will be reduced by the same amount; or (b) Buyer and the sales price will not be reduced.



17. ATTORNEY'S FEES: If Buyer, Seller, any broker, or any escrow agent is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

18. ESCROW:

- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer.
- B. If both parties make written demand for the earnest money, escrow agent may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of escrow agent from all parties.
- C. If one party makes written demand for the earnest money, escrow agent will give notice of the demand by providing to the other party a copy of the demand. If escrow agent does not receive written objection to the demand from the other party within 15 days after the date escrow agent sent the demand to the other party, escrow agent may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors.
- D. Escrow agent will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- E. If escrow agent complies with this Paragraph 18, each party hereby releases escrow agent from all claims related to the disbursal of the earnest money.
- F. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to escrow agent are effective upon receipt by escrow agent.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: (Check only one box.)

- A. Seller is not aware of any material defects to the Property except as stated in the attached Property Condition Statement.
- B. Except as otherwise provided in this contract, Seller is not aware of:
 - (1) any subsurface: structures, pits, waste, springs, or improvements;
 - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
 - (3) any environmental hazards or conditions that materially affect the Property;
 - (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
 - (5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
 - (6) any wetlands, as defined by federal or state law or regulation, on the Property;
 - (7) any threatened or endangered species or their habitat on the Property;
 - (8) any present or past infestation of wood-destroying insects in the Property's improvements;
 - (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
 - (10) any material physical defects in the improvements on the Property; or
 - (11) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(11) in Paragraph 12 or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

- A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
- B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

22. AGREEMENT OF THE PARTIES:

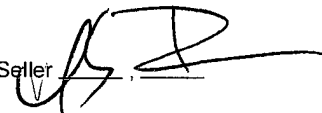
- A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns.
- B. This contract is to be construed in accordance with the laws of the State of Texas.
- C. This contract contains the entire agreement of the parties and may not be changed except in writing.
- D. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.
- E. Addenda which are part of this contract are: *(Check all that apply.)*
 - (1) Property Description Exhibit identified in Paragraph 2;
 - (2) Commercial Contract Condominium Addendum;
 - (3) Commercial Contract Financing Addendum;
 - (4) Commercial Property Condition Statement;
 - (5) Addendum for Seller's Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards;
 - (6) Notice to Purchaser of Real Property in a Water District (MUD);
 - (7) Addendum for Coastal Area Property;
 - (8) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway; and
 - (9) _____

(Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by TAR are appropriate for use with this form.)

F. Buyer may may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all of Buyer's obligations under this contract.

23. TIME: Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

24. EFFECTIVE DATE: The effective date of this contract for the purpose of performance of all obligations is the date the escrow agent receipts this contract after all parties execute this contract.



25. ADDITIONAL NOTICES:

- A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.
- B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.
- C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.
- D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135, Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract.
- E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract.
- F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.
- G. If apartments or other residential units are on the Property and the units were built before 1978, federal law requires a lead-based paint and hazard disclosure statement to be made part of this contract.
- H. Section 1958.154, Occupations Code requires Seller to provide Buyer a copy of any mold remediation certificate issued for the Property during the 5 years preceding the date the Seller sells the Property.
- I. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers.

26. CONTRACT AS OFFER: The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on _____ the offer will lapse and become null and void.

READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. CONSULT your attorney BEFORE signing.

Buyer: A.P. Equity Properties, LTD

Seller: Tuscan Hills L.L.C.

By: _____

By: [Signature]

Printed Name: A.P. Equity Prop. Man. L.L.C.

Printed Name: FRANK SAUETTA

Title: Managing Member, John Graham

Title: _____

Buyer: _____

Seller: [Signature]

By: _____

By: [Signature]

Printed Name: _____

Printed Name: Renee Saletta

Title: _____

Title: _____

AGREEMENT BETWEEN BROKERS

Principal Broker agrees to pay _____ (Cooperating Broker) a fee of \$ _____ or 0.000 % of the sales price when the Principal Broker's fee is received. Escrow agent is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

Cooperating Broker _____

Principal Broker _____

By: _____

By: _____

ATTORNEYS

Buyer's attorney is:

Seller's attorney is:

Name: _____

Name: _____

Address: _____

Address: _____

Phone & Fax: _____

Phone & Fax: _____

E-mail: _____

E-mail: _____

Buyer's attorney requests copies of documents, notices, and other information:

Seller's attorney requests copies of documents, notices, and other information:

the title company sends to Buyer.

the title company sends to Seller.

Seller sends to Buyer.

Buyer sends to Seller.

ESCROW RECEIPT

Escrow agent acknowledges receipt of:
 A. the contract on this day 1-8-09 (effective date);
 B. earnest money in the amount of \$ _____ in the form of _____ on _____

Escrow Agent: First American Title/ Phyllis Avery

Address: 1913 RR 620 S., Suite 101

Austin, TX 78734

Phone & Fax: (512) 263-0542

By: [Signature]

E-mail: pavery@firstam.com

NOTICE TO PROSPECTIVE BUYER

As required by law, I advise you to have the abstract covering the property known as

_____ (Address) examined by an attorney of your own selection OR you should be furnished with or obtain a policy of title insurance.

If the property is situated in a Utility District, Chapter 49 of the Texas Water Code requires you to sign and acknowledge the statutory notice from the seller of the property relating to the tax rate, bonded indebtedness or standby fee of the District.

DATED: _____, _____.

Brokerage Company Name

Broker or Sales Associate

I have received a copy of this **NOTICE TO PROSPECTIVE BUYER**.

Prospective Buyer

A.P. Equity Properties, LTD

*APEQUITYPROP.MANAG, LLC.
MANANG, member*

Prospective Buyer

This form has been approved by the Texas Real Estate Commission (TREC) for use when a contract of sale has not been promulgated by TREC. The form should be presented before an offer to purchase is signed by the prospective buyer. Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, 1-800-250-8732 or (512) 459-6544 (<http://www.trec.state.tx.us>). TREC Notice to Prospective Buyer. (12/99) OP-C replaces MA-C.

(TAR-2505) 12/99

The Linder Group 12117 Bee Caves Road Building 1, Suite 101 Austin, TX 78738
Phone: (512) 296 - 8390 Fax: Lee Ann Linder

Produced with ZipForm™ by RE FormsNet, LLC 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipform.com

01A TREC NO. OP-C

Page 1 of 1

Tuscan Hills L

STATUTORY NOTICE TO PURCHASERS OF REAL PROPERTY
Under Section 49.452(c), Water Code
(Property Within Municipality Boundaries)

The real property, described below, that you are about to purchase is located in the **TRAVIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 17**. The district has taxing authority separate from any other taxing authority and may, subject to voter approval, issue an unlimited amount of bonds and levy an unlimited rate of tax in payment of such bonds. As of this date, the rate of taxes levied by the district on real property located in the district is **\$ 0.0635** on each \$100 of assessed valuation. The total amount of district-wide bonds, excluding refunding bonds and any bonds or any portion of bonds issued that are payable solely from revenues received or expected to be received under a contract with a governmental entity, approved by the voters and which have been or may, at this date, be issued is **\$ 4,725,000.00**, and the aggregate initial principal amounts of all district-wide bonds issued for one or more of the specified facilities of the district and payable in whole or in part from property taxes is **\$ 4,725,000.00**.

The district has created the **Steiner Ranch Defined Area**. As of this date, the rate of taxes levied by the district on real property located in the **Steiner Ranch Defined Area** is **\$ 0.0635** on each \$100 of assessed valuation for the district-wide tax described above, and **\$ 0.6152** on each \$100 of assessed valuation for tax on the **Steiner Ranch Defined Area** bonds, for a total of **\$ 0.6787** on each \$100 of assessed valuation. The total amount of bonds which have been approved by the voters, excluding refunding bonds and any bonds or any portion of bonds issued that are payable solely from revenues received or expected to be received under a contract with a governmental entity, and which have been or may be, at this date, issued for the **Steiner Ranch Defined Area** is **\$ 118,500,000.00**. The aggregate initial principal amounts of all bonds issued for one or more of the specified facilities is **\$ 17,205,000.00** payable in whole or in part from property taxes on taxable property within the **Steiner Ranch Defined Area**.

The district has created the **Comanche Trail Defined Area**. As of this date, the rate of taxes levied by the district on real property located in the **Comanche Ranch Defined Area** is **\$ 0.0635** on each \$100 of assessed valuation for the district-wide tax described above, and **\$ 0.2467** on each \$100 of assessed valuation for tax on the **Comanche Trail Defined Area** bonds, for a total of **\$ 0.3102** on each \$100 of assessed valuation. The total amount of bonds which have been approved by the voters, excluding refunding bonds and any bonds or any portion of bonds issued that are payable solely from revenues received or expected to be received under a contract with a governmental entity, and which have been or may be, at this date, issued for the **Comanche Trail Defined Area** is **\$ 1,090,000.00**. The aggregate initial principal amounts of all bonds issued for one or more of the specified facilities of the **Comanche Trail Defined Area** and payable in whole or in part from property taxes on taxable property within the **Comanche Trail Defined Area** is **\$ 1,090,000.00**.

The district has created the **Flintrock Ranch Estates Defined Area**. As of this date, the rate of taxes levied by the District on real property located in the **Flintrock Ranch Estates Defined Area** is **\$0.0590** on each \$100 of assessed valuation for the District-wide tax described above, and **\$0.1419** on each \$100 of assessed valuation for tax on the **Flintrock Ranch Estates Defined Area** bonds, for a total of **\$0.2009** on each \$100 of assessed valuation. The tax rate for such bonds is limited by contract to a projected rate of either **\$0.95** per \$100 of assessed valuation minus the District's District-wide tax rate at the time of calculation, or **\$0.65** per \$100 of assessed valuation, whichever is greatest. The total amount of bonds which have been approved by the voters, excluding refunding bonds and any bonds or any portion of bonds issued that are payable solely from revenues received or expected to be received under a contract with a governmental entity. And which have been or may be, at this date, issued for this **Flintrock Ranch Estates Defined Area** is **\$24,200,000**. The aggregate initial principal amounts of all bonds issued for one or more of the specified facilities of the **Flintrock Ranch Estates Defined Area** and payable in whole or in part from property taxes on taxable property in the **Flintrock Ranch Estates Defined Area** is **\$1,180,000**.

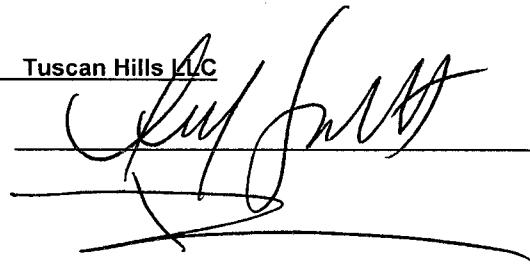
The district has the authority to adopt and impose a standby fee on property in the district that has water, sewer, sanitary, or drainage facilities and services available but not connected and which does not have a house, building, or other improvement located thereon and does not substantially utilize the utility capacity available to the property. The district may exercise the authority without holding an election on the matter. As of this date, the standby fee is **\$ -0-**. An unpaid standby fee is a personal obligation of the person that owned the property at the time of imposition and is secured by a lien on the property. Any person may request a certificate from the district stating the amount, if any, of unpaid standby fees on a tract of property in the district.

The district is located in whole or in part in the extraterritorial jurisdiction of the City of **Austin** and the City of **Lakeway**. By law, a district located in the extraterritorial jurisdiction of a municipality may be annexed without the consent of the district or the voters of the district. When a district is annexed, the district is dissolved.

The purpose of this district is to provide water, sewer, drainage, or flood control facilities and services within the district through the issuance of bonds payable in whole or in part from property taxes. The cost of these utility facilities is not included in the purchase price of your property, and these utility facilities are owned or to be owned by the district. The legal description of the property you are acquiring is as follows:

LEGAL: Lot 1A, Cardinal Hills Unit 3, Travis County, Texas

Tuscan Hills LLC



Seller:

Seller:


PURCHASER IS ADVISED THAT THE INFORMATION SHOWN ON THIS FORM IS SUBJECT TO CHANGE BY THE DISTRICT AT ANY TIME. THE DISTRICT ROUTINELY ESTABLISHES TAX RATES DURING THE MONTHS OF SEPTEMBER THROUGH DECEMBER OF EACH YEAR, EFFECTIVE FOR THE YEAR IN WHICH THE TAX RATES ARE APPROVED BY THE DISTRICT. PURCHASER IS ADVISED TO CONTACT THE DISTRICT TO DETERMINE THE STATUS OF ANY CURRENT OR PROPOSED CHANGES TO THE INFORMATION SHOWN ON THIS FORM.

The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or prior to execution of a binding contract for the purchase of the real property described in such notice or at closing of purchase of the real property.

1-8-08
(Date)

A.P. Equity Properties, LTD.

AP Equity Prop. Manag. LLC. Purchaser:
John F. Graham
managing member

 Purchaser:

(NOTE: Correct district name, tax rate, bond amounts, and legal description are to be placed in the appropriate space). Except for notices included as an addendum or paragraph of a purchase contract, the notice shall be executed by the seller and purchaser, as indicated. If the district does not propose to provide one or more of the specified facilities and services, the appropriate purpose may be eliminated. If the district has not yet levied taxes, a statement of the district's most recent projected rate of tax is to be placed in the appropriate space. If the district does not have approval from the commission to adopt and impose a standby fee, the second paragraph of the notice may be deleted. For the purposes of the notice form required to be given to the prospective purchaser prior to execution of a binding contract of sale and purchase, a seller and any agent, representative, or person acting on the seller's behalf may modify the notice by substitution of the words "January 1, 2006" for the words "this date" and place the correct calendar year in the appropriate space.



TEXAS ASSOCIATION OF REALTORS®
COMMERCIAL PROPERTY CONDITION STATEMENT

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.
 ©Texas Association of REALTORS®, Inc. 2005

CONCERNING THE PROPERTY AT: 401 S. RR 620, Lakeway, TX, 78734

THIS IS A DISCLOSURE OF THE SELLER'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED. IT IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES A BUYER OR TENANT MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER, SELLER'S AGENTS, OR ANY OTHER AGENT.

PART I - Complete if Property is Improved or Unimproved

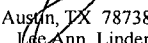
Are you (Seller) aware of:	<u>Aware</u>	<u>Not Aware</u>
(1) any of the following environmental conditions on or affecting the Property:		
(a) radon gas?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) asbestos components:		
(i) friable components?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(ii) non-friable components?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) urea-formaldehyde insulation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) endangered species of their habitat?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) wetlands?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f) underground storage tanks?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g) leaks in any storage tanks (underground or above-ground)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(h) lead-based paint?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(i) hazardous materials or toxic waste?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(j) open or closed landfills on or under the surface of the Property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(k) external conditions materially and adversely affecting the Property such as nearby landfills, smelting plants, burners, storage facilities of toxic or hazardous materials, refiners, utility transmission lines, mills, feed lots, and the like?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(l) any activity relating to drilling or excavation sites for oil, gas, or other minerals?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) previous environmental contamination that was on or that materially and adversely affected the Property, including but not limited to previous environmental conditions listed in Paragraph 1(a)-(l)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) any part of the Property lying in a special flood hazard area (A or V Zone)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) any improper drainage onto or away from the Property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(5) any fault line or near the Property that materially and adversely affects the Property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(6) outstanding mineral rights, exceptions, or reservations of the Property held by others?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
(7) air space restrictions or easements on or affecting the Property?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
(8) unrecorded or unplatted agreements for easements, utilities, or access on or to the Property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

(TAR-1408) 10-18-05

Initialed by Buyer or Tenant: 

and Seller 

Page 1 of 4

The Linder Group 12117 Bee Caves Road Building 1, Suite 101 Austin, TX 78738
 Phone: (512) 296 - 8390 Fax: 

Tuscan Hills L

- | | Aware | Not
Aware |
|---|-------------------------------------|-------------------------------------|
| (9) special districts in which the Property lies (for example, historical districts, development districts, extraterritorial jurisdictions, or others)? <u>E.D.I.C. 17</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (10) pending changes in zoning, restrictions, or in physical use of the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (11) your receipt of any notice concerning any likely condemnation, planned streets, highways, railroads, or developments that would materially and adversely affect the Property (including access or visibility)? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (12) lawsuits affecting title to or use or enjoyment of the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (13) your receipt of any written notices of violations of zoning, deed restrictions, or government regulations from EPA, OSHA, TCEQ, or other government agencies? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (14) common areas of facilities affiliated with the Property co-owned with others? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (15) an owners' or tenants' association or maintenance fee or assessment affecting the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| If aware, name of association: _____ | | |
| Name of manager: _____ | | |
| Amount of fee or assessment: \$ _____ per _____ | | |
| Are fees current through the date of this notice? <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> unknown | | |
| (16) subsurface structures, hydraulic lifts, or pits on the Property? <u>detention pond</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (17) intermittent or weather springs that affect the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (18) any material defect in any irrigation system, fences, or signs on the Property? | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| (19) conditions on or affecting the Property that materially affect the health or safety of an ordinary individual? | <input type="checkbox"/> | <input type="checkbox"/> |

If you are aware of any of the conditions listed above, explain. (Attach additional information if needed.) _____

PART 2 – Complete only if Property is Improved

A. Are you (Seller) aware of any material defects in any of the following on the Property?

- | | Aware | Not
Aware | Not
Appl. |
|--|--------------------------|-------------------------------------|-------------------------------------|
| (1) <u>Structural Items:</u> | | | |
| (a) foundation systems (slabs, columns, trusses, bracing, crawl spaces, piers, beams, footings, retaining walls, basement, grading)? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) exterior walls? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| (c) fireplaces and chimneys? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| (d) roof, roof structure, or attic (covering, flashing, skylights, insulation, roof penetrations, ventilation, gutters and downspouts, decking)? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (e) windows, doors, plate glass, or canopies? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

- | | <u>Aware</u> | <u>Not
Aware</u> | <u>Not
Appl.</u> |
|--|-------------------------------------|-------------------------------------|-------------------------------------|
| (2) <u>Plumbing Systems:</u> | | | |
| (a) water heaters or water softeners? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) supply or drain lines? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (c) faucets, fixtures, or commodes? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (d) private sewage systems? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (e) pools or spas and equipments? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (f) sprinkler systems? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (g) water coolers? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (h) private water wells? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (i) pumps or sump pumps? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (3) <u>HVAC Systems:</u> any cooling, heating, or ventilation systems? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (4) <u>Electrical Systems:</u> service drops, wiring, connections, conductors, plugs, grounds, power, polarity, switches, light fixtures, or junction boxes? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (5) <u>Other Systems or Items:</u> | | | |
| (a) security or fire detection systems? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) porches or decks? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (c) gas lines? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (d) garage doors and door operators? | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (e) loading doors or docks? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (f) rails or overhead cranes? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (g) elevators or escalators? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (h) parking areas, drives, steps, walkways? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (i) appliances or built-in kitchen equipment? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |


If you are aware of material defects in any of the items listed under Paragraph A, explain. (Attach additional information if needed.) N/A

B. Are you (Seller) aware of:

- | | <u>Aware</u> | <u>Not
Aware</u> |
|--|--------------------------|-------------------------------------|
| (1) any of the following water or drainage conditions materially and adversely affecting the Property: | | |
| (a) ground water? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) water penetration? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (c) previous flooding or water drainage? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (d) soil erosion or water ponding? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

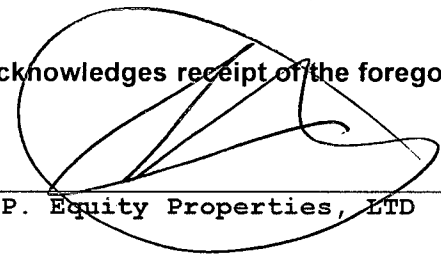
- | | <u>Aware</u> | <u>Not
Aware</u> |
|---|--------------------------|-------------------------------------|
| (2) previous structural repair to the foundation systems on the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) settling or soil movement materially and adversely affecting the Property? | <input type="checkbox"/> | <input type="checkbox"/> |
| (4) pest infestation from rodents, insects, or other organisms on the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (5) termite or wood rot damage on the Property needing repair? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (6) mold to the extent that it materially and adversely affects the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (7) mold remediation certificate issued for the Property in the previous 5 years? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <i>if yes, attach a copy of the mold remediation certificate.</i> | | |
| (8) previous termite treatment on the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (9) previous fires that materially affected the Property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (10) modifications made to the Property without necessary permits or not in compliance
with building codes in effect at the time? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (11) any part, system, or component in or on the Property not in compliance with
the Americans with Disabilities Act or the Texas Architectural Barrier Statute? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If you are aware of any conditions described under Paragraph B, explain. (Attach additional information, if needed.) _____

Seller:  Date: JAN 8-09
 Tuscan Hills L.L.C.

Seller: _____ Date: 1-8-09

The undersigned acknowledges receipt of the foregoing statement.

Buyer or Tenant:  Date: 1-8-08
 A.P. Equity Properties, LTD

Buyer or Tenant: _____ Date: _____

NOTICE TO BUYER OR TENANT: The broker representing Seller and the broker representing you advise you that this statement was completed by Seller, as of the date signed. The brokers have relied on this statement as true and correct and have no reason to believe it to be false or inaccurate. YOU ARE ENCOURAGED TO HAVE AN INSPECTOR OF YOUR CHOICE INSPECT THE PROPERTY.