

Purchase and Development Agreement

between

Philadelphia Land Bank

and

«Developer Name»

**For the Development of «Property Address»
Philadelphia, Pennsylvania**

THIS PURCHASE AND DEVELOPMENT AGREEMENT (“**Agreement**”) for the purchase and development of property is entered into as of _____ between the Philadelphia Land Bank (the "**Land Bank**") and «Developer Name» ("**Developer**").

The Land Bank and Developer, each of which intends to be legally bound hereunder, in consideration of these premises and mutual undertakings, agree as follows:

Agreement To Purchase

1. **The Premises.** The real estate to be conveyed subject to this Agreement is situated in the City of Philadelphia (the “**City**”), Commonwealth of Pennsylvania, as more particularly described in **Exhibit A**, attached hereto and made part hereof (the "**Premises**").

2. **Title.** Subject to Paragraph 8, the Land Bank shall convey to Developer good and marketable title to the Premises by special warranty deed, which deed shall be subject to the terms and conditions of this Agreement and a Declaration of Restrictive Covenants, Conditions and Restrictions (“**Declaration**”), a copy of which is attached as **Exhibit B**. The Land Bank shall record this Agreement in the City Department of Records before the recordation of the deed from the Land Bank to Developer. Developer agrees that the Declaration may be recorded in the City Department of Records immediately after recordation of the deed from the Land Bank to Developer.

3. **Purchase Price.** The purchase price for the Premises shall be One Dollar (\$1.00), which Developer shall pay to the Land Bank in cash at Settlement (as defined in Paragraph 4).

4. **Settlement.** Developer shall take title to the Premises in accordance with the terms of this Agreement (“**Settlement**”) not later than three (3) months after the delivery to

Developer of a fully executed original of this Agreement (“**Delivery Date**”). Developer shall schedule Settlement within such time limit by notifying the Land Bank by letter thirty (30) days in advance of the proposed Settlement date and enclosing a preliminary title report obtained by Developer at its sole cost and expense. Settlement will be held at the office of the Land Bank.

5. Inability of Land Bank to Convey Title. If the Land Bank provides notice to Developer that the Land Bank is not able to convey title as required by Paragraph 4, the Land Bank may (i) extend Settlement an additional three (3) months, or (ii) terminate this Agreement. If this Agreement is terminated, there shall be no further liability or obligation by either of the parties hereunder, and the parties shall execute a cancellation agreement (“**Cancellation Agreement**”) in a form substantially similar to **Exhibit C** and this Agreement shall become null and void.

6. Taxes and Other Municipal Charges.

- A) All State and City realty transfer taxes due in connection with this transaction shall be paid by Developer.
- B) Real estate taxes, water, sewer and stormwater fees, and other utility charges will be adjusted at Settlement pro-rata on a daily basis between the Land Bank and Developer. The Land Bank will be responsible for such items up to and including the date of Settlement and Developer will pay for all days following Settlement.
- C) Developer shall pay all costs to record this Agreement, the Declaration, the deed and all other recording fees.

7. Deposit.

A) **Purchase Deposit.** Developer has deposited with the Land Bank cash in the amount of Five Thousand Dollars (\$5,000) as a good faith deposit (“**Purchase Deposit**”). If the Land Bank tenders title in accordance with this Agreement and Developer fails to take title to the

Premises in accordance with this Agreement, the Land Bank will retain the Purchase Deposit and any interest absolutely.

B) **Performance Deposit.** To secure performance of Developer's obligations under this Agreement, the Purchase Deposit shall continue to be held by the Land Bank following Settlement as a security completion deposit under the following terms and conditions:

- (1) After issuance of a Certificate of Completion (as defined in Paragraph 16), the Land Bank shall use the Deposit to record a Certificate of Completion. Within thirty (30) days after the Land Bank's receipt of a written request from Developer, the balance of the Deposit, without interest, shall be returned to Developer.
- (2) If there is an Event of Default (as defined in Paragraph 21) by Developer after Settlement, the Land Bank may, in addition to any other remedies it may have, retain the Deposit absolutely, together with any interest accrued thereon.

8. Conditions Precedent to Settlement.

The following shall be conditions precedent to the Land Bank's obligation to convey title to the Premises:

A) Developer shall demonstrate to the satisfaction of the Land Bank the availability of the full amount of funds needed to complete construction of the Improvements (as defined in Paragraph 15); and

B) The unconditional approval of this Agreement by the Vacant Property Review Committee, Philadelphia City Council and the Land Bank's Board of Directors.

9. Time is of the Essence. Time is of the essence of all provisions of this Agreement and amendments thereto.

Construction Financing

10. Prohibition against Encumbrances. No mortgage, judgment, lien, encumbrance, security interest, attachment, levy or any other adverse charge (collectively, "**Encumbrance**") shall be entered or filed against the Premises without the prior written consent of the Land Bank. Any approved Encumbrance may not be assigned except to a bank, savings institution, commercial credit company, real estate investment trust or other nationally recognized investment company.

11. Notice of Financing, Removal of Encumbrances. Should Developer propose to obtain financing for the acquisition of the Premises or construction of the Improvements to be secured by an Encumbrance upon the Premises or any part thereof, Developer shall notify the Land Bank in writing at least thirty (30) days prior to closing on the financing.

Should any unapproved Encumbrance attach to the Premises or any part thereof, Developer shall notify the Land Bank in writing and immediately take all necessary action to and shall remove, satisfy or discharge the Encumbrance.

12. Mortgagee's Rights. Any mortgagee which has received prior approval by the Land Bank ("**Approved Mortgagee**") who obtains title to the Premises or any part thereof as a result of foreclosure or other judicial proceedings or action in lieu thereof shall be exempted from those provisions of this Agreement which require construction and completion of the Improvements within the times stated herein. These exemptions shall not run in favor of any

purchaser at foreclosure or judicial sale other than an Approved Mortgagee nor in favor of any person who subsequently obtains title to the Premises or any part thereof from an Approved Mortgagee; provided, however, that no person, including an Approved Mortgagee, may devote the Premises or any part thereof to any use or construct any improvements thereon other than those permitted uses and Improvements as provided in Paragraph 15. In all cases, the terms and conditions of the Declaration shall continue to bind the Premises.

13. Mortgagee's Option to Cure Defaults. An Approved Mortgagee shall, within thirty (30) days from the date of mailing by the Land Bank of a notice of an Event of Default, have the right to exercise the following options:

- A) upon an Event of Default, as specified in Paragraph 21, to cure or remedy such default and to add the cost thereof to the sums due under its mortgage and the lien thereof; or
- B) to assume the position and all rights, duties and obligations of Developer as if such Approved Mortgagee were substituted for and succeeded Developer in all provisions of this Agreement, in which event the Land Bank may require the prior execution and delivery of an Agreement with the Approved Mortgagee which provides for development of the Improvements consistent with this Agreement; or
- C) upon prior written consent of the Land Bank, not to be unreasonably withheld, to sell, assign or transfer all of its right, title and interest to the Premises to a purchaser, assignee or transferee, satisfactory to the Land Bank, who shall expressly assume all of the covenants, agreements and obligations of Developer under this Agreement, by written instrument to be recorded in the City Department of Records, in which event the time limits set forth in this Agreement may be extended by the Land Bank for such reasonable period of time as may then be necessary to complete the performance of Developer's obligations under this Agreement.

14. Notices of Default to and from Approved Mortgagees. A copy of any notice of an Event of Default delivered by the Land Bank to Developer under Paragraph 22 shall be

sent to each Approved Mortgagee at its last address shown in the Land Bank's records. A copy of any notice or demand delivered by any Approved Mortgagee to the Developer for any breach or default with regard to any Encumbrance shall be forwarded to the Land Bank in accordance with Paragraph 22.

Obligation to Develop

15. Obligation to Develop. Developer has submitted to the Land Bank: (i) a Site Plan, (ii) Elevations, and (iii) Floor Plans (collectively, the “**Plans**”) which show the type, material, structure and general character of the improvements (the “**Improvements**”) to be constructed on the Premises which have been approved by the Land Bank and are attached hereto as **Exhibit D**. Developer shall develop the Premises in a good and workerlike manner in accordance with the Plans. The intended use for the Improvements is single-family residences for households which meet the eligibility criteria set forth in the Declaration.

16. Commencement of Work and Completion of Construction. Prior to commencement of work on the Premises, Developer shall obtain, at its sole cost and expense, all permits, licenses, approvals and variances required by any governmental body. Developer shall commence construction of the Improvements within «Completion_of_Const_Verbal» («Completion_of_Const_Numeric») months after Settlement and shall complete construction of the Improvements to the satisfaction of the Land Bank within «Completion_of_Const_Verbal» («Completion_of_Const_Numeric») months from Settlement.

17. Indemnification. Developer shall defend, indemnify and hold harmless the Land Bank and all of its directors, officers and employees from and against any and all claims for injury or damage, including attorneys' fees and costs, arising from or during the performance of Developer's obligations under this Agreement. This obligation shall survive the issuance of a Certificate of Completion.

16. Certificate of Completion. After completion of the Improvements and compliance with the terms of this Agreement by Developer, the Developer shall request and the Land Bank shall record a certificate of completion ("**Certificate of Completion**"). Developer hereby authorizes the Land Bank to use the Deposit to pay the filing fee to record the Certificate of Completion in the City Department of Records. The Certificate of Completion shall provide that the terms, conditions and obligations of this Agreement shall be deemed completed and/or terminated except for Paragraph 15 (Indemnification) and Paragraph 18 (Covenant Against Discrimination). Paragraph 18 shall be deemed covenants running with the land.

17. Disclaimer of Warranties and Representations. The Land Bank makes no warranty or representations of any kind, express or implied, as to the condition of the Premises, including any environmental contamination. Developer is purchasing the Premises in its present "AS IS, WHERE-IS and WITH ALL FAULTS " condition, including all defects known and unknown.

Covenants Against Discrimination

18. Covenant Against Discrimination. Developer hereby covenants, promises and agrees that:

A) No person shall be deprived of the right to live in the Premises or any portion thereof, by reason of race, creed, color, national origin, gender, sexual orientation or disability; and

B) There shall be no discrimination in the use or sale of any part of the Premises against any person because of race, color, religion, national origin, gender, sexual orientation or disability.

Economic Opportunity Plan

19. Minority, Disadvantaged and Female Owned Business Enterprise Requirements.

Developer shall submit to the Land Bank an Economic Opportunity Plan ("**EOP**"), in the form attached hereto as **Exhibit E**, in which Developer will describe its good faith efforts to insure against discrimination in the issuance of contracts and how Developer intends to insure that its agents and all individuals associated with construction of the Improvements will abide by the EOP.

Restrictions Against Certain Transfers

20. Restrictions on Transfer and Assignment of Interest in Developer. Prior to issuance of a Certificate of Completion, unless the Land Bank has given its prior written consent, neither Developer nor any person, corporation, partnership or other legal entity owning a controlling legal or equitable interest in Developer will:

A) transfer, cause to be transferred or suffer any legal or equitable interest in Developer or the stock of Developer to be transferred; or

B) cause or suffer to be caused any similar significant change in the legal or equitable ownership of Developer or of the stock of Developer or in the relative distribution thereof, the identities of the parties in control of Developer or the degree of control by any method or means whatsoever; or

C) assign this Agreement; or

D) sell, mortgage, pledge, encumber, lease or otherwise transfer the Premises or any part thereof, nor will it suffer any such transfer to be made.

However, Developer may enter into any agreement to sell the Premises or any part thereof or interest therein, which conveyance shall take effect after the issuance of a Certificate of Completion. In such event, Developer shall submit to the Land Bank all instruments and other legal documents related to the transfer.

Default and Remedies

21. Events of Default.

A. The failure of the Developer to perform or observe, or a violation or breach of, any provision of this Agreement, or

B. A default of the Developer under any agreement with an Approved Mortgagee shall constitute a default ("**Event of Default**") by Developer. If the Developer fails to cure the Event of Default in accordance with Paragraph 22 the Developer will be in default of this Agreement ("**Default**"). Upon Default, the Land Bank may, in its sole discretion institute any and all proceedings permitted by law or equity against the Developer or any successor.

22. Notice of Default. Upon an Event of Default, the Land Bank will send written

notice to Developer. Developer shall proceed immediately to cure the Event of Default. If Developer fails both (1) to take and diligently pursue such action that will cure the Event of Default and (2) to cure the Event of Default, all within sixty (60) days from the date of mailing of such demand (“**Cure Period**”), the Land Bank may enforce its rights provided in this Agreement.

23. Termination and Cancellation of Agreement. If the Event of Default occurs before conveyance of the Premises to Developer or consists of refusal to accept conveyance of the Premises in accordance with this Agreement, then the Land Bank may cancel this Agreement and retain the Deposit.

24. Limitation of Developer’s Remedies. Developer agrees that if the Land Bank fails or refuses to go to Settlement or terminates this Agreement, Developer will in no event resort to, and hereby knowingly, voluntarily, intelligently and upon the advice of counsel waives any and all rights to equitable defenses, procedures of court and remedies which prevent the continuing enjoyment or the immediate and unequivocal reversion of a clear and marketable title to the Land Bank, including but not limited to any action or counterclaim for specific performance, injunctive relief or any action at law or equity which may result in the entry of the pendency of any legal or equitable action in the judgment index in the Office of the Prothonotary of the Court of Common Pleas of Philadelphia, the filing of a lis pendens or any cloud on title with respect to the Premises; but Developer may have recourse to an action at law for money demands under the terms of the Agreement.

Miscellaneous Provisions

25. No Merger. None of the provisions of this Agreement or the Declaration shall be deemed or are intended to merge with the deed to Developer or any subsequent deed and shall not be deemed to affect or impair the provisions, obligations and covenants of this Agreement or the Declaration.

26. Notices. All notices, demands or other communications under this Agreement by any party to the other shall be in writing and shall be deemed sufficiently given or delivered only if sent by registered or certified mail, postage prepaid, return receipt requested, by nationally recognized overnight courier or delivered personally with receipt obtained. In the case of Developer, notice shall be sent to the attention of:

«Developer Name»
«Developer_Address»

In the case of the Land Bank, notice shall be sent to the attention of both the Executive Director and General Counsel at:

Philadelphia Land Bank
1234 Market Street, 17th Floor
Philadelphia, Pennsylvania 19107

or such other address as the Land Bank may from time to time designate in writing.

27. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, and any transferee of the Developer, and any reference to the Developer in this Agreement shall include reference to their respective successors, assigns and transferees.

28. Amendments. This Agreement may not be amended, and no provision shall be deemed waived by the Land Bank, except by written instrument signed by Developer and a proper officer of the Land Bank.

Signature Page Follows.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed under seal the day and year above written.

Attest

«Developer Name»

By: _____

Name: _____

Title: _____

Attest

Philadelphia Land Bank

By: _____

Executive Director

