

## PURCHASE AGREEMENT

This Purchase Agreement (the "Agreement") is made and entered into on this 13th day of January 2006 by and between OTTAWA LAND INVESTMENTS LLC, a Michigan limited liability company of 2130 Enterprise, Kentwood, Michigan 49508 ("Seller") and EASTBROOK DEVELOPMENT COMPANY, a Michigan corporation of 2130 Enterprise, Kentwood, Michigan 49508 ("Purchaser").

### RECITALS

A. Seller owns real estate located in Township of Georgetown, Ottawa County, Michigan that is approximately (Loving Woods 5) ("Property"). Project's legal description and boundary sketch to be provided by Seller at closing.

B. Seller desires to sell to Purchaser and Purchaser desires to acquire from Seller the Property.

It is the parties' desire to memorialize their agreement in writing and hereby agree as follows:

### ARTICLE 1: SALE AND PURCHASE OF PROPERTY

1.1 Sale and Purchase of Property. Seller agrees to sell, transfer, convey and assign to Purchaser, and Purchaser agrees to purchase from Seller on the Closing Date (as defined in Section 3.1 hereof), fee simple title to the Property by Warranty Deed subject only to those items identified in Section 5 ("Permitted Exceptions").

### ARTICLE 2: PURCHASE PRICE

2.1 Purchase Price. The purchase price for the Property ("Purchase Price") shall be approximately the sum of The Purchase Price to be determined by an appraisal by an independent third party. The appraised value will be the Purchase Price. The Owner will be responsible for obtaining the appraised value for the Premises based on an independent appraiser mutually agreed upon by Owner and Purchaser.

2.2 Earnest Money. Upon execution of this Agreement, Purchaser shall pay Seller earnest money in the amount of

2.3 Payment of Purchase Price. The Purchase Price, as adjusted in accordance with Sections 2.1 and 2.4, shall be paid by Purchaser to Seller in full on the Closing Date.

2.4 Closing Adjustments. The amount to be received by Seller on the Closing Date shall be adjusted to prorate the following items, as of the Closing Date:

(a) Earnest Money Credit. Credit to Purchaser for Earnest Money received by Seller;

(b) Real Property Taxes. Seller shall pay all special assessments that have become a lien upon the Property as of the Closing Date. Seller shall pay all real estate taxes that become due and payable prior to the Closing Date;

(c) Miscellaneous Expenses. Seller shall pay the cost of the owner's policy of title insurance if required by Purchaser according to the terms of this Agreement. Seller shall provide Purchaser with copies of such survey materials as Seller has in its possession. Purchaser shall be responsible for the cost of the survey, if any. Seller shall be responsible for payment of transfer taxes. Purchaser shall be solely responsible for the actual cost of recording a warranty deed and for all environmental and other inspections that Purchaser deems appropriate during the Contingency Period.

**ARTICLE 3: CLOSING DATE**

3.1 Closing and Closing Date. The closing shall occur on \_\_\_\_\_ unless Buyer and Seller mutually agree to an earlier closing date in writing ("Closing Date").

3.2 Actions at Closing.

(a) At Closing, Seller shall:

(i) Execute and deliver to Purchaser a Warranty Deed conveying the Property to Purchaser.

(ii) Execute and deliver to Purchaser a Closing Statement reflecting the computation of funds payable to Seller pursuant to this Agreement.

(b) At Closing, Purchaser shall:

(i) Execute and deliver to Seller a Closing Statement reflecting the computation of funds payable to Seller pursuant to this Agreement.

(ii) Pay the Purchase Price according to the provisions of Section 2.3 of this Agreement.

**ARTICLE 4: REPRESENTATIONS AND WARRANTIES**

4.1 Representations and Warranties of Seller. Seller hereby represents and warrants, with the intention that Purchaser shall rely thereon in performing hereunder, as follows:

(a) Compliance with Laws. To the best of Seller's knowledge, there are no existing violations of any laws, zoning ordinances, regulations, orders or requirements of departments of housing, building, fire, labor, health or other municipal departments or other governmental authorities having jurisdiction against or affecting the Property, nor has Seller received any notice of any existing or threatened condemnation or other legal action of any kind involving the Property;

(b) Pending Litigation. There is no pending, or to Seller's knowledge, threatened litigation, administrative action or examination, claim or demand whatsoever relating to the Property;

(c) Environmental Condition. Seller has not released or deposited any hazardous or Toxic Substances and, to the best of Seller's knowledge, no other hazardous or toxic substances have been released or deposited into, upon or below the surface of the Property or into any water systems on or below the surface of the Property or stored or used on or in the Property;

(d) Assessments. There is no assessment, deferred assessment nor payback agreement presently outstanding or unpaid for local improvements or otherwise, which has or may become a lien against the Property. Further, Seller knows of no public improvements that have been made or ordered to be made and/or that have not heretofore been completed, assessed and paid for;

(e) Authority to Execute. Seller has duly and validly authorized and executed this Agreement with full power to enter into and perform this Agreement. There are no agreements that Seller has entered into, or is bound by, relating to the Property, which would in any way conflict with this Agreement or the Seller's capacity to perform this Agreement.

(f) Waste. Between the effective date as defined herein and the Closing Date, Seller shall not commit any action that constitutes waste of the Property causing it to deteriorate or become less valuable due to acts or omissions of Seller;

(g) Fill Materials. To the best of Seller's knowledge, neither Seller nor any prior owner has utilized the Property as a landfill or added any significant amount of "fill" materials to the Property so as to alter the topography of the Property or to fill in any pre-existing wetland areas. To the extent that any fill materials have been utilized on the Property, Seller shall advise Purchaser of all such information available to Seller.

4.2 Representations and Warranties of Purchaser. The representations, warranties and covenants in this paragraph shall be reaffirmed by Seller as of the Closing Date and shall survive the closing and delivery of possession of the Property to Purchaser.

(a) Organizational Standing. On the date hereof, Purchaser is a Michigan corporation duly organized, validly existing and in good standing under the laws of the State of Michigan. Purchaser is duly qualified and entitled to purchase and own the Property and conduct its business operations;

(b) Organizational Approval. The consummation of the transactions contemplated by this Agreement and compliance with the provisions of this Agreement have received the approval of Purchaser as provided by the Articles of Organization or other documents regulating the affairs of Purchaser, and the officer or officers executing this Agreement and any other documents and instruments in connection with this transaction have been empowered by the Board of Directors of Purchaser to execute the same on behalf of Purchaser.

4.3 Mutual Representations, Warranties and Agreements.

(a) No Broker. Purchaser and Seller represent and warrant to each other that they have no obligations or liabilities to any broker or finder by reason of the transactions that are the subject of this Agreement. Each party agrees to indemnify the other party against, and to hold the other party harmless from any and all liabilities and agrees to pay any final judgment obtained by any person claiming broker's commissions or finder's fees or rights to similar compensation on account of services purportedly rendered on behalf of that party in connection with this Agreement or the transactions contemplated by this Agreement.

(b) Expenses. Purchaser and Seller shall each pay all of their own costs incurred incident to the preparation, execution and delivery of this Agreement and the performance of their obligations hereunder, including, without limitation, the fees and disbursements of counsel, accountants and consultants, whether or not the transactions contemplated by this Agreement shall be consummated.

## **ARTICLE 5: CONDITIONS PRECEDENT**

5.1 Preliminary Conditions. The obligations of Purchaser hereunder are subject to and contingent upon Purchaser's review and approval, in the exercise of Purchaser's good faith discretion, for a period expiring fourteen (14) days prior to closing (the "Contingency Period"), unless extended by the mutual written consent of the parties, of the following: ("Conditions").

(a) Title Commitment. If Purchaser requests title insurance from Metropolitan Title Company, then within fifteen (15) days after execution of this Agreement, Seller shall cause a title commitment covering the Property to be prepared and delivered to Purchaser (the "Title Commitment") issued by Metropolitan Title Company ("Title Insurer"). The commitment shall be for an ALTA Owner's Title Insurance Policy, without standard exceptions, in the amount of the Purchase Price. Purchaser shall have thirty (30) days after receipt of the Title commitment to notify Seller in writing of Purchaser's disapproval of any Schedule B exceptions ("Disapproved Exceptions") shown on such Commitment. All other exceptions shall be deemed "Permitted Exceptions". Seller shall have thirty (30) days from the date of receipt of any notice of disapproval to cause such Disapproved Exception(s) to be removed from the applicable Title Commitment or cause the title insurer to commit to insure against loss or damage that may be occasioned by such Disapproved Exception(s). If Seller is unwilling or unable to modify, remove or obtain a commitment for title insurance over any Disapproved Exception(s) within such period,

Purchaser shall notify Seller within five (5) days from the expiration of such period whether Purchaser shall: (i) elect to waive the Disapproved Exception(s) and complete the acquisition of the Property in accordance with this Agreement, or (ii) elect to terminate this Agreement. If Purchaser elects to terminate this Agreement, the parties shall have no further rights, obligations or liability hereunder, except as may be otherwise expressly provided herein.

(b) General Inspection. Purchaser Satisfaction with Purchaser's review of the information provided to and obtained by Purchaser pursuant to Paragraph 5.3 and Article 6.

(c) Zoning. Purchaser's ability to obtain satisfactory zoning, PUD approval or site plan approval for the Property that will be consistent with Purchaser's intended usage of the Property.

5.2 Contingency Period. Purchaser shall have until (Contingency Period") to investigate and approve the Conditions. If Purchaser concludes that the Conditions are not satisfactory, it shall deliver a written notice to Seller so indicating, whereupon this Agreement shall become null and void unless otherwise agreed to in writing by Seller and Purchaser. In the event notice of dissatisfaction of a Condition is received by Seller prior to the expiration of the Contingency Period, Purchaser shall be entitled to a full reimbursement of the Earnest Money. A failure by Purchaser to provide Seller with written notice of its dissatisfaction with the Conditions prior to the expiration of the Contingency Period shall be deemed to be an approval thereof. Purchaser shall have no right to terminate this Agreement after expiration of the Contingency Period.

5.3 Access to Information. The Contingency Period and Conditions in Article 5 of this Agreement have been established in order to afford Purchaser the opportunity to make such investigations and inquiries as it deems necessary, in its sole discretion. During the Contingency Period Purchaser and its agents, employees and contractors shall have a license to enter the Property for the limited purposes of making physical inspections of the Property. As soon as possible, Seller shall deliver to Purchaser all maps, surveys and drawings relating to the Property, any agreements that Seller may have entered into with a municipality as to zoning of the Property, including any restrictions that may affect the Property and are in the possession of Seller.

Seller hereby grants Purchaser the right of access to the Property for the purpose of such inspections that may include, without limitation, taking and analyzing soil borings, engineering tests, surveys and other examinations and samples of groundwater and surface water, and any other testing reasonably required to determine the physical and environmental condition of the Property. Purchaser shall have the right to enter upon the Property for the purpose of performing soil borings and any grading of the Property necessary to obtain the necessary borings for submission to municipal governmental agencies and/or county road commission. Purchaser hereby indemnifies and holds harmless Seller, its agents, successors and assigns, from any and all liability that in any matter may arise from Purchaser's activities upon the Property.

5.4 Recertification of Warranties. At Closing, Seller shall recertify the representations and warranties contained in Article 4, Section 4.1 of this Agreement.

## **ARTICLE 6: ENVIRONMENTAL PROVISIONS**

6.1 Environmental Provisions. Purchaser may conduct a Baseline Environmental Assessment, within the meaning of Part 201 of the Natural Resources and Environmental Protection Act, of the Property and seek a determination of non-liability from the Michigan Department of Environmental Quality (MDEQ) at Purchaser's expense. Purchaser may also seek, at Purchaser's expense, a Part 201 due care compliance analysis from MDEQ. Notwithstanding anything else in this Purchase Agreement to the contrary, at Purchaser's option the closing date may be delayed until Purchaser receives responses from MDEQ satisfactory to Purchaser.

## **ARTICLE 7: DEFAULT AND REMEDIES**

7.1 Default. Any of the parties hereto shall be in default under this Agreement if it shall (a) breach any warranty or representation under this Agreement, or (b) if it shall fail to perform any act required under this Agreement.

7.2 Remedies. In the event any party hereto shall be in default under this Agreement, the non-defaulting party may (a) elect to terminate this Agreement or to consummate the transactions contemplated hereby if such default occurs prior to the Closing Date; (b) institute an action against the defaulting party to compel rectification and correction of, or to recover damages for such default; and (c) pursue any civil remedy which the non-defaulting party may have against the defaulting party.

## **ARTICLE 8: GENERAL PROVISIONS**

8.1 Risk of Loss. After the Contingency Date, Purchaser shall have the risk of loss. Consequently, in the event of damage or condemnation, Purchaser shall not have the right to terminate this Agreement but shall proceed to close and Seller, at closing, shall assign to Purchaser (a) any insurance proceeds or other claim to reimbursement payable with respect to such damage or (b) the entire award payable with respect to such condemnation proceeding, whichever is applicable. Purchaser shall have the right to deal directly with the condemning authority after the expiration of the Contingency Period. Seller shall maintain an "All Perils" insurance policy upon the improvements to the Property, if any, until the Closing Date. Seller agrees that if the Property is damaged or destroyed by fire or other casualty and are not fully restored by the Closing Date, Purchaser shall have the option, within its sole discretion, of (a) terminating this Agreement without any penalty to Purchaser whatsoever, or (b) electing to consummate the transactions contemplated by this Agreement.

8.2 Possession. Purchaser shall be entitled to possession as of the Closing Date.

8.3 Waiver of Breach. The waiver by Purchaser of a breach of any provision of this Agreement by Seller shall not operate or be construed as a waiver of any subsequent breach by Seller. The waiver by Seller of a breach of any provision of this Agreement by Purchaser shall not operate or be construed as a waiver of any subsequent breach by Purchaser.

8.4 Descriptive Headings. Titles to articles, sections, paragraphs and subparagraphs are intended only for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

8.5 Governing Law. This Agreement and the performance hereof shall be construed and interpreted in accordance with the laws of the State of Michigan.

8.6 Severability. If any one or more provisions of this Agreement shall be adjudged or declared illegal or unenforceable, the same shall not in any way affect or impair the validity or enforceability of all or any other provision of this Agreement.

8.7 Entire Agreement. This Agreement (a) constitutes the entire agreement among the parties hereto in connection with the subject matter hereof, (b) supersedes any and all other agreements, either oral or written, among the parties hereto with respect to the subject matter hereof, and (c) may not be modified orally, and no modification shall be effective unless in writing and signed by all the parties hereto.

8.8 Section 1031 Exchange. The Property may be a part of a tax-free or tax-deferred exchange to Seller. If the Property is to be a part of a tax-free or tax-deferred exchange to Seller, Seller shall notify Purchaser of such fact at least ten (10) days prior to Closing. In the event any such exchange should fail to occur for whatever reason, the sale of the Property shall nonetheless be consummated. In connection therewith, Purchaser agrees to execute such documents which Seller deems reasonably necessary or appropriate and to otherwise cooperate with Seller to effectuate such exchange; provided,

