

SCHEDULE 23

**THE 122 CONDOMINIUM
WARRANTY ADDENDUM TO
CONDOMINIUM PURCHASE AND SALE AGREEMENT
(Use Only With NWMLS Form 28)**

THIS WARRANTY ADDENDUM is dated for reference purposes _____, 2008, by and between Rock Equities, LLC, a Washington limited liability company (the "Seller"), and _____ (the "Buyer"), and modifies and amends that certain Condominium Real Estate Purchase and Sale Agreement of the same date (the "Agreement") relating to the Unit (the "Unit"), parking space(s), storage area(s), and finish selection specified in the Agreement, all within The 122 Condominium (the "Condominium"). The Agreement is also modified and amended by the Builder's Addendum attached hereto and incorporated herein by this reference. The Unit will be located on the real property legally described on the Exhibit A attached to the Builder's Addendum (the "Property"). The Condominium Declaration and Condominium Survey Map and Plans have not yet been recorded. Therefore, pursuant to state law, the Unit is described in the Public Offering Statement (the "POS") that will be delivered to Buyer prior to the Closing Date. The POS will include the draft Declaration and Survey Map and Plans for the Condominium. Capitalized terms not otherwise defined herein are defined elsewhere in the Agreement or in the Builder's Addendum.

The Builder's Addendum requires that Buyer execute this Warranty Addendum to disclaim those implied warranties described in RCW 64.34.445 with regard to specified defects or failures to comply with law. This Warranty Addendum provides for the agreed-upon disclaimer.

NOW, THEREFORE, the parties agree as follows:

1. **Implied Warranties.** Subject to the modifications and exclusions stated on attached Schedule 1, and the obligation to comply with the claims procedure stated in Paragraph 3 and to submit to arbitration pursuant to Paragraph 4 below, Seller makes in favor of Buyer those implied warranties required by statute subject to all limitations now or hereafter included as part of that statute. RCW 64.34.445 provides that Seller warrants that the Unit and common elements of the Condominium are suitable for the ordinary uses of real estate of its type. In addition, RCW 64.34.445 provides that Seller warrants that any improvements constructed by Seller are: (i) free from defective materials, (ii) constructed in accordance with sound engineering and construction standards, (iii) constructed in a workmanlike manner, and (iv) constructed in compliance with all laws currently applicable to those improvements. There shall be no claim under the implied warranties unless Buyer or the Condominium homeowner's association establish that the alleged breach has adversely affected or will adversely affect the performance of the portion of the Unit or common elements of the Condominium alleged to be in breach to a degree that is significant to a reasonable person.

2. **Matters Not Covered.** If Buyer or Seller discover defects or failures to comply with law prior to Closing, and Seller is not able to fix those defects or failures to comply with law in an economically viable manner, as determined by Seller in its sole discretion, such that the Unit and common elements of the Condominium fully comply with those implied warranties described in RCW 64.34.445, then Seller will clearly and conspicuously disclose those remaining defects or failures on attached Schedule 1. Seller's obligation to close is conditioned upon the Buyer signing where indicated on Schedule 1, and to acknowledge and accept Seller's disclaimer of the implied warranties as to each of those remaining defects or failures, if any. If Buyer is not willing to execute these disclaimers, Seller may terminate the Agreement and Buyer shall receive a full refund of the Earnest Money as Buyer's sole and exclusive remedy. Some of the matters described on Schedule 1 commonly occur in projects of the same type as the Condominium and, as a result, Seller has reason to know they exist in this project. To the extent an arbitrator or court of law determines that any of these matters are defects or failures that would otherwise breach the implied warranties, then THEY ARE HEREBY DISCLAIMED.

3. **Claims Procedure.** Any requests for work under or any claims for breach of the implied warranties that is made by Buyer or by the Condominium homeowner's association shall first be made in a writing entitled "Notice of Claim," and shall contain a reasonable description of the claimed defect. Each claim shall be mailed, postage paid, to:

Rock Equities, LLC
4616 25th Ave NE PMB 774
Seattle, WA 98105

or to such other address as Seller shall provide to Buyer. Seller shall have the sole right to investigate and, if it determines that the claim is valid, to propose a resolution of the claim within forty-five (45) days after receipt of Buyer's claim or within such longer period as may reasonably be required due to the nature of the claimed defect. Seller shall not be responsible for exact matching of paint colors, or of textures or finishes of other materials. Further, Seller shall be entitled to substitute materials due to unavailability with materials of equal or better quality and type. If Buyer or the Condominium homeowner's association, as the case may be, is dissatisfied with Seller's proposed cure, then the parties shall meet within fourteen (14) days in an effort to resolve the claim to the parties' mutual satisfaction. If after such a meeting the claim remains unresolved, then, unless the parties otherwise agree in writing, the claim shall be resolved in accordance with the procedures set forth in Paragraph 4 below. Seller shall not be responsible for any damages, costs or expenses as a result of the breach of the implied warranties, including costs of investigation, attorneys' fees, and the cost to correct the claimed defect unless Buyer complies with this claims procedure. Buyer shall pay for all work and inspections done by Seller on items not covered by the implied warranties.

4. **Arbitration.** All disputes and unresolved claims relating to the implied warranties, including any claims relating to the modification or exclusion of the same, shall be determined by arbitration conducted in King County, Washington, pursuant to the Superior Court Mandatory Arbitration Rules ("MAR") without regard to the jurisdictional limits stated in RCW 7.06. The parties shall be deemed to have stipulated to arbitration as authorized by MAR 8.1 (b). There shall be no substantive motions or discovery, except the arbitrator shall authorize such

discovery as may be necessary to ensure a fair hearing. The hearing shall be held within one hundred twenty (120) days after the demand for arbitration and concluded within two (2) days unless the arbitrator determines that a longer period is necessary to ensure a fair hearing. These time limits are not jurisdictional. The arbitrator shall apply substantive law and may award injunctive relief or any other remedy available from a judge, including attorney fees and costs to the prevailing party, but the arbitrator shall not have the power to award punitive damages. The decision rendered by the arbitrator shall be subject to appeal as provided in MAR 7.1, and the appealing party shall be subject to payment of the other party's attorneys' fees if it does not improve its position as provided in MAR 7.3.

5. **Survival.** The modifications and exclusions of the implied warranties stated in this Warranty Addendum, including Schedule 1, shall survive the conveyance of title, delivery of possession of the Unit, or other final settlement between the Seller and Buyer, and shall be binding upon Buyer and Seller notwithstanding any provision to the contrary contained in the Agreement or other writing.

6. **Seller's Right to Inspect.** Seller shall be entitled (but shall not be obligated) to inspect any common elements of the Condominium at any time without notice to the Buyer or the Association. Upon not less than forty-eight (48) hours' prior notice to Buyer (which may be oral), Seller shall be entitled (but shall not be obligated) to inspect the Unit at any reasonable time until four (4) years after Buyer takes possession of the Unit; provided, however, that if there is a pending action relating to the condition of any part of the Condominium, the required notice shall be five (5) days prior to the inspection, or any shorter or longer time as stated in any court order.

7. **Defects Encountered in Construction Process.** Buyer acknowledges that defects and construction problems may occur during the construction process and be corrected by Seller and its contractors during the course of or after the construction process. Defects or construction problems occurring during the construction process are not of themselves a matter requiring disclosure to Buyer.

8. **Subsequent Purchasers.** If Buyer sells the Unit at any time within four (4) years after Closing, or Buyer's taking possession of the Unit, whichever is later, Buyer shall notify Seller of the sale in writing and shall include in the signed purchase and sale agreement providing for such sale a provision that the person(s) purchasing the Unit agree that any warranty rights of such person(s) relating to the Unit or common elements of the Condominium are limited to the Buyer's rights under this Warranty Addendum. If Buyer fails to comply with this Paragraph 8, Buyer shall defend, indemnify and hold harmless Seller from and against any and all damages, costs, attorneys' fees and expenses caused by such failure.

9. **No Other Warranties.** SELLER MAKES NO EXPRESS OR IMPLIED WARRANTIES CONCERNING THE DESIGN, CONSTRUCTION OR CONDITION OF THE UNIT OR COMMON ELEMENTS OF THE CONDOMINIUM ARISING FROM SELLER'S SALE OF THE UNIT TO BUYER, OTHER THAN THE IMPLIED WARRANTIES AND ANY OTHER WRITTEN, EXPRESS, LIMITED WARRANTY THAT SELLER MAY PROVIDE TO BUYER.

10. **Warranty Addendum Controls.** The provisions of this Warranty Addendum shall control over any conflicting provisions of the Agreement or any other addenda referenced therein including the Builder's Addendum.

IN WITNESS WHEREOF, the parties have executed this Warranty Addendum as of the date stated above.

NOTE: BUYER MUST SEPARATELY SIGN THE SPECIFIC DISCLAIMERS ON SCHEDULE 1, IF ANY.

BUYER:

Name: _____

Name: _____

Date: _____

SELLER:

Rock Equities, LLC, a Washington
limited liability company

By: _____
Sean Heaton, Manager

Date: _____