

1.

Commercial Unit Purchase and Sale Agreement dated March 21, 2006, by and between Victorian Properties, LLC, as seller, and CMC Investors II, LLC, as purchaser.

**VICTORIAN GARDENS HORIZONTAL PROPERTY REGIME
COMMERCIAL UNIT PURCHASE AND SALE AGREEMENT**

PURCHASER: CMC Investors II, LLC
112 Lee Parkway
Chattanooga, TN37421

Unit: Suites 201, 202, and 206

Telephone: 423/304-1115 (M) 423/855-2552 (O) 423/855-9041 (F)

E-Mail: rbwhitmire@comcast.net

SELLER: **VICTORIAN PROPERTIES, LLC**
230 Maggie Bluff
Lookout Mountain, GA 30750

Effective Date: 1/20/2006

1. "Agreement" means this Commercial Unit Purchase and Sale Agreement and includes all schedules and exhibits attached to this Agreement and also those documents listed in paragraph 4 of this Agreement.

2. **CONDITIONS TO SELLER'S OBLIGATIONS:**

Seller's principal has entered into a contract for the purchase of Victorian Gardens office building located at 6918 Shallowford Road, Chattanooga, TN 37421 ("Building") and his closing of the purchase is contingent upon his satisfactory evaluation of the economic feasibility of the Building as a condominium regime under The Tennessee Horizontal Property Regime Act ("Act"). The closing of the purchase, if it occurs, will occur on or before September 1, 2005. In connection with the closing, the purchase contract will be assigned to Seller.

3. **PURCHASE AND SALE:**

A. Subject to the acquisition of the Building as set forth in Section 2 which is a condition precedent to all of the obligations of Seller under this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller the following property upon the terms and conditions set forth in this Agreement: Commercial Unit # 201,202,206, as depicted on the floor plan attached hereto as Schedule "A" (the "Unit") of VICTORIAN GARDENS HORIZONTAL PROPERTY REGIME which is to be formed by Seller (the "Condominium"). The Condominium shall be created by Seller by recording a Declaration (Master Deed) of Victorian Gardens Horizontal Property Regime (the "Master Deed") prior to Closing. Certain capitalized terms as used herein will be defined in the Master Deed. The Unit shall include an undivided 16.4% interest in the "Common Elements" of the Condominium and shall include certain "Limited Common Elements".

B. Subject to the satisfaction of the conditions set forth in Section 2 above, Seller intends to begin the renovations to the Building and the Unit that are specified on Schedule "C" or "D" 14 days after execution of contract, and expects it will be complete such renovations not later than 60 days after of the beginning of construction, ("Outside Completion Date"), subject to construction delays, acts of God, acts of war, terrorism and other events beyond Seller's reasonable control. These dates are estimates only, and during the course of construction, Seller may notify Purchaser of changes in the proposed construction schedule. The date of closing shall be established as provided in paragraph 1.A of Schedule "B."

4. **PURCHASE PRICE AND TERMS OF PAYMENT:**

A. The purchase price for the Unit (the "Purchase Price") shall be approximately \$ 744,832

B. The Purchase Price shall be paid in the following manner:

Revision #1 to replace Page 1&2 of Victorian Gardens Horizontal Property Regime
Commercial Unit Purchase and Sale Agreement
March 16, 2006

- 1. A cash deposit equal to thirteen and four-tenths percent (13.4%) of the Purchase Price in the amount of One Hundred Thousand Dollars shall be paid to Seller at the time of execution of this Agreement. This cash deposit is non-refundable if this Agreement is cancelled by Purchaser \$ 100,000.00
- 2. The balance of the Purchase Price, to be paid at closing shall be Six hundred forty four thousand eight hundred thirty two dollars. \$644,832.00

Said closing MUST take place within two weeks of completion of the improvements stated above.

- C. All deposits shall be placed by Seller in an account of an insured bank in Tennessee, and shall be held and disbursed by Seller in accordance with the terms of the contractor for improvements made and under the terms of this Agreement.
- D. Purchaser also will deposit with Seller at Closing, for transmittal to the Victorian Gardens Condominium Owners Association, Inc., a to-be-formed nonprofit corporation composed of Unit Owners (the "Association"): (i) the initial monthly installment of the assessment for Common Expenses allocable to the Unit in the amount of \$1,693.58, the final amount to be determined by Seller at Closing, and (ii) an initial working capital contribution in the amount of fifty-nine hundred dollars (\$5,900.00) payable in twelve (12) equal monthly installments beginning the first month of occupancy. These amounts shall be non-refundable.

- 5. EFFECTIVE DATE: The Effective Date will be the latest of the dates set forth beside the signatures of the parties below.
- 6. SCHEDULES: The provisions of Schedules "A", "B", "C" and "D" are incorporated herein by reference and are an integral part of this Agreement.

IN WITNESS WHEREOF, Seller and Purchaser have executed this Agreement as of the date indicated below (the "Effective Date").

SELLER:

PURCHASER:

VICTORIAN PROPERTIES, LLC

By: David F. Moore
David F. Moore, Chief-Manager

John H. Bomer

Date: 3/21/06

Date: 3-21-06

SELLING BROKER (if any):

NONE

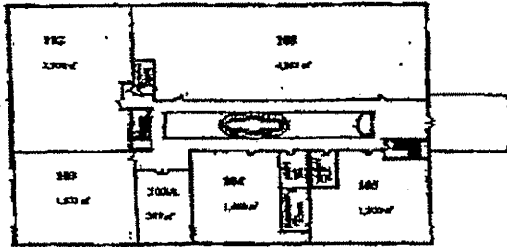
By: _____

Telephone No. _____

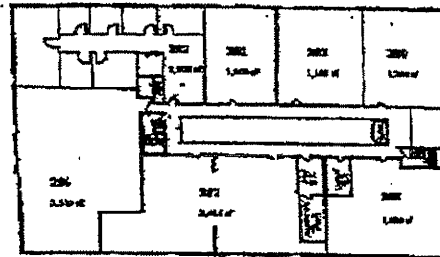
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SCHEDULE "A"

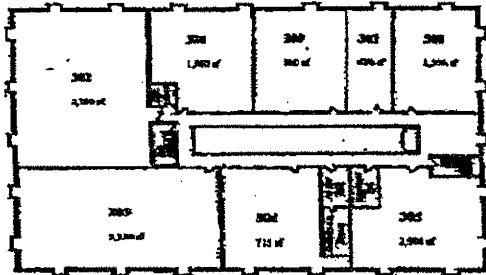
Victorian Gardens Floor Plans



FIRST FLOOR PLAN



SECOND FLOOR PLAN



SCHEDULE "B"

TERMS AND CONDITIONS

1. CLOSING:

- A. The closing of the transactions contemplated under this Agreement (the "Closing") shall take place on the "Scheduled Closing Date," which shall be the date specified by Seller in a written notice to Purchaser, delivered at least thirty (30) days prior to the Scheduled Closing Date, notifying Purchaser that renovations to the Unit will be substantially complete by the specified date. Seller shall use good faith efforts to notify Purchaser, from time to time, of the anticipated Closing Date in order to facilitate Purchaser's closing preparations. If necessary, the Scheduled Closing Date may be extended by Seller for a period not to exceed thirty (30) days to allow Seller to complete the improvements to the Unit. The certification by Seller of substantial completion of the improvement to the Unit as specified on Schedule B shall constitute irrefutable and conclusive evidence of substantial completion of the Unit. The fact that the Unit may require minor repairs, touch-ups or adjustments shall not constitute a valid reason for Purchaser to fail to close on the Scheduled Closing Date.
- B. The Closing shall take place at the offices of Seller's attorney or the title company insuring Purchaser's title in Chattanooga, Tennessee. Purchaser understands and acknowledges that it has the right to designate its attorney of preference to represent Purchaser in the Closing of the Unit.
- C. The Closing shall be deemed to have occurred on the date that Seller receives all funds due from Purchaser, as shown on the Closing Statement prepared for Closing in accordance with this Agreement, and Purchaser has executed all necessary documents (the "Actual Closing Date").
- D. Prior to the Actual Closing Date, Purchaser shall, at its expense, make arrangements with the appropriate utility companies to have the accounts for utility services to the Unit transferred into its name. If Purchaser fails to do so, then Purchaser shall pay to Seller on demand any utility charges for the Unit pertaining to periods after the Actual Closing Date, together with an administrative fee of \$100.00. At any time following ten (10) days after the Actual Closing Date, Seller shall be entitled (without further notice to Purchaser) to request that the utility companies discontinue service to such Unit until the accounts for such service are transferred into Purchaser's name.
- E. If Purchaser is unable or unwilling to close on the Scheduled Closing Date provided for in Paragraph 1, Purchaser shall be in default under this Agreement, and Seller shall have the option of exercising all of its rights and remedies as provided in this Agreement or by law for Purchaser's default, or of postponing the Closing, in which event (unless otherwise set forth herein) Purchaser agrees to pay a late charge at a rate of \$100.00 per day from the Scheduled Closing Date until the Actual Closing Date. The parties agree that such late charge constitutes a good faith estimate of the damages that will be incurred by Seller as a result of the delay. Time is of the essence with respect to the Scheduled Closing Date, and also with respect to any other provision of this Agreement that requires performance by Purchaser within a specified time period.
- F. All payments at Closing shall be made by certified check or cashier's check drawn on a bank located in the Chattanooga, Tennessee, metropolitan area in United States currency.

2. EXPENSES OF CLOSING:

- A. The additional costs to be paid by the Purchaser at the Closing include the following:

1. All closing costs associated with any mortgage loan which Purchaser places on the Unit, including without limitation loan origination fees, prepaid items such as interest and escrows, loan discount points, Purchaser's legal fees, and any insurance premiums (including private mortgage insurance and homeowners' insurance).
2. All title insurance premiums.
3. The cost of recording the deed.
4. The cost of the transfer tax on the deed.
5. Purchaser's pro rata share of all real property taxes on the Unit, which shall be prorated on a calendar year basis as of the Actual Closing Date. If the Unit is not separately assessed in the calendar year in which the closing occurs, Purchaser shall pay Seller a pro rata share of the real property taxes on the tax parcel that includes the Unit on the basis of Seller's good faith estimate of Purchaser's pro rata share thereof (regardless of whether the individual parcels have actually been added to the official tax rolls or an alternative minimum tax is owed by Seller), and Seller agrees to pay when due all applicable real property taxes for the calendar year in which the closing occurs.
6. Purchaser's pro rata share of the initial monthly installment of the assessment for Common Expenses allocable to the Unit, prorated to the date of Closing, and an initial working capital contribution in an amount equal to twice the monthly installment of the assessment for Common Expenses allocable to the Unit. These amounts shall be forwarded by Seller to the Association, and shall not be refundable.

B. The Seller agrees to pay the following amounts in connection with the Closing:

1. The expense of preparation of the deed, lien affidavits and the Internal Revenue Service Form 1099.
2. Seller's attorneys' fees, if any.

3. **INSPECTIONS:**

A. After completion of improvements to the Unit and prior to Closing, Purchaser shall inspect the Unit with representatives of Seller and Seller's contractor and complete a punch list, noting any work required to be completed or corrected in order for the Unit to conform to the Plans. If Seller has not completed the improvements prior to Closing, Purchaser shall have the option, exercisable by written notice to Seller, to (i) close in accordance with this Agreement, without holdback for any portion of the Purchase Price, or (ii) postpone the Closing, without payment of any late charges pursuant to Paragraph 2B, until such time as the repairs have been completed in accordance with this Agreement. Purchaser shall provide Seller and Seller's contractor with reasonable access to the Unit following the Closing for the purpose of making any foregoing repairs.

4. **LIMITED WARRANTIES:**

- A. Purchaser acknowledges that the certification by Seller of substantial completion of the improvements to the Unit as specified on Schedule B shall constitute conclusive evidence that the Seller has fulfilled all of its obligations with respect to the Unit, subject to the completion of any unfinished items set forth on the punch list. Seller shall cause Contractor to warrant the construction of the improvements to the Unit to Purchaser for a period of one (1) year from the Actual Date of Closing in accordance with Contractor's then-prevailing warranty standards.
- B. Seller shall furnish to Purchaser all manufacturers' warranties relating to the appliances, personal property, and equipment included within the Unit, including all components of the heating and air conditioning system. **SELLER ITSELF IS NOT PROVIDING ANY WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED, OR OTHERWISE WITH REGARD TO THE APPLIANCES, PERSONAL PROPERTY, EQUIPMENT, AND HEATING AND AIR CONDITIONING SYSTEM INCLUDED**

WITHIN THE UNIT, AND PURCHASER AGREES TO LOOK SOLELY TO THE MANUFACTURERS WITH RESPECT TO ANY CLAIMS RELATING TO THOSE ITEMS.

- C. Purchaser acknowledges that no additional express or implied warranties with respect to the Building, the Unit or any of the General Common Elements or Limited Common Elements are made by Seller whatsoever unless required by law.

5. DEFAULT:

- G. If Seller fails to perform any material covenants of this Agreement, then at Purchaser's option, as Purchaser's only remedy, Purchaser may terminate this Agreement by written notice to Seller and all earnest money and other deposits paid by Purchaser to Seller pursuant to this Agreement shall be returned to Purchaser, and thereafter the parties shall be relieved of further liability hereunder. Purchaser's legal and equitable remedies shall be limited to those contained in this Paragraph 8.A. and in no event shall Seller be liable for damages of any kind.
- H. If Purchaser fails to perform any of the covenants of this Agreement, then Seller shall have the right to terminate this Agreement and retain all earnest money and other deposits paid by Purchaser. In addition, Seller shall have the right to exercise any other right or remedy which may be provided by law or equity, including any actions for specific performance and/or monetary damages.

7. CONVEYANCE: Seller shall convey marketable title to the Unit by Limited Warranty Deed, subject to the following "Permitted Exceptions":

- A. All taxes and assessments not yet due and payable.
- B. Applicable zoning ordinances and all other restrictions and regulations by governmental authorities.
- C. All of the terms, conditions, provisions, rights, privileges, obligations, easements and liens set forth and contained in the Master Deed, the plat showing the boundaries of the Unit, the charter, Bylaws and rules and regulations for the Association, copies of which will be furnished to Purchaser not later than ninety (90) days after the Effective Date, and as hereafter amended. Purchaser expressly acknowledges, by execution of this Agreement, that the Unit shall be subject to all of the terms, conditions, use restrictions, easements, assessments, architectural restrictions and other provisions contained in those documents and all amendments thereto, including the obligation to pay monthly assessments to the Association.
- D. All other restrictions, agreements, and easements of record which affect the Unit.

The acceptance by Purchaser of the deed to the Unit shall be deemed to be full performance and discharge of every agreement and obligation on the part of Seller to be performed pursuant to the provisions of this Agreement, except those which are specifically designated in this Agreement to survive the Closing or which survive the Closing by operation of law.

- 8. POSSESSION: Possession of the Unit shall be delivered by Seller to Purchaser at Closing.
- 9. PERFORMANCE DISRUPTION: Notwithstanding anything to the contrary contained in this Agreement, Seller shall not be liable for delay in the performance of its obligations if such performance is prevented, hindered, delayed or affected by: workers' or subcontractors' labor strike, riots, acts of God (including but not limited to fire, windstorm, flood, tornados, earthquakes, lightning or other casualty), acts of war or terrorism, failure of Seller's or Contractor's suppliers of building materials to deliver requested building materials, or any other unusual act, event or catastrophe beyond Seller's reasonable control. If the Condominium or the Unit is substantially damaged or destroyed by fire or other casualty prior to Closing, then Seller may, at its option, either terminate this Agreement by delivery of written notice to Purchaser, in which event all earnest money and other

deposits paid by Purchaser to Seller shall be returned to Purchaser and neither party shall have any further liability under this Agreement, or Seller may extend the Closing for a period of up to sixty (60) days from the date of the casualty in order to repair the damage.

10. **NOTICE:** The delivery of any item and the giving of notice in compliance with this Agreement shall be accomplished in writing by personal delivery or by certified mail addressed to the parties at the addresses set forth on the first page of this Agreement. Any notice given in accordance with the provisions of this Paragraph 12 shall be deemed to be effective, if personally delivered, on the date of such delivery, or if mailed by registered or certified mail, on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be. Each party may give notice to the other party of a change of its address for the purpose of giving notice under this Paragraph 9.
11. **ASSIGNMENT:** This Agreement may be assigned by Purchaser prior to Closing; provided, however, that such assignment shall not be effective unless and until Purchaser and such assignee execute and deliver unto Seller an assignment and assumption agreement which confirms such assignment and contains the unconditional agreement of both Purchaser and its assignee that both Purchaser and such assignee shall remain jointly and severally liable for all payment and performance hereunder of every nature and kind hereunder. Any attempted assignment in violation of this provision shall be null and void. Seller shall have the right to assign this Agreement without the consent of Purchaser.
12. **REAL ESTATE BROKER:** Seller and Purchaser acknowledge that this Agreement was procured without intervention of any broker except for NONE, which shall be entitled to a commission payable by Seller in accordance with the terms of a separate agreement with Seller if and only if the sale closes. Purchaser shall indemnify Seller against the claim of any other broker, including any attorney's fees incurred as a result of such claim.
13. **BINDING EFFECT:** This Agreement shall be binding upon, and shall inure to the benefit of, the heirs, successors, personal representatives, legal representatives and permitted assigns of the respective parties.
14. **EFFECTIVE DATE:** The Effective Date of these Terms shall be the same date as the Purchase and Sale Agreement.
15. **PURCHASER:** If Purchaser is composed of more than one person, the choices, designations, and other decisions of one person shall bind all of the others, and all persons composing Purchaser shall be jointly and severally liable for all obligations of Purchaser under this Agreement.
16. **MISCELLANEOUS:** References to Purchaser or Seller and other references contained herein shall be deemed to include the plural, neuter, feminine and masculine. If any provision of this Agreement is held invalid or unenforceable, the remaining provisions shall not be affected thereby, and to this end the provisions hereof are declared severable.
17. **COMPLETE AGREEMENT:** This Agreement contains all agreements of Seller and Purchaser with respect to the Unit, and supersedes any prior written or oral agreements between the parties. Neither party is relying on any statement or representation made by or on behalf of the other party that is not set forth in this Agreement. This Agreement may not be modified orally, but only by a written modification agreement executed by both Seller and Purchaser.
18. **TIME IS OF THE ESSENCE:** Time is of the essence to all provisions of this Agreement, unless expressly stated otherwise in a particular paragraph.

SELLER:

VICTORIAN PROPERTIES, LLC

By: David F. Moore

Date: _____

PURCHASER:

Date: _____

SCHEDULE "D"

November 30, 2005

Minimum IMPROVEMENTS to VICTORIAN GARDENS

Blacktop and Restripe Parking Lot.

Redecorate the common area including new carpet and replace grass cloth wall covering on first floor.

Fix miscellaneous defects in common space and outside the building. Fix up all common area rest rooms.

Dress up roof over elevator and replace elevator flooring with entrance green carpet.

Pressure wash parking garage.

Repaint exit doors.

Key all rest rooms.

Fix bushes in front so it does not restrict driving visibility.

Clean stairwells

Redo former water fountain in atrium to work again with three water fountains.

Fix Skylight to reduce radiant heat and light and make more energy efficient.