



New Home Purchase and Sale Agreement



THIS PURCHASE AND SALE AGREEMENT (“Agreement”) dated _____, 20__ is made between _____ (“Seller”) and _____ (“Buyer”) on the following terms:

1. PROPERTY. Buyer will buy and Seller will sell the following land with all improvements, fixtures and landscaping, and appurtenances on or relating to the land (“Property”):

Street Address: _____,
City: _____, County: _____, Zip Code: _____,
Multiple Listing #: _____, and being more particularly described as Lot: _____,
Block: _____, Unit: _____, Phase/Section: _____,
of _____ Subdivision, as recorded in Plat Book _____,
Page _____ of such county’s records. The full legal description of the Property is as recorded with the Clerk of the Superior Court in the county and is incorporated by reference.

2. PURCHASE PRICE. The purchase price of the Property is: \$_____ Dollars, (U.S.) to be paid per paragraph 4.A or 4.B. Buyer warrants that at closing it will have sufficient funds to complete the purchase.

Buyer (Buyer Initials) _____ does or does not have real property to sell, lease or close in order to complete the purchase. If Buyer checks “does not,” the failure to sell, lease or close on other property will not be grounds for refund of Earnest Money if a loan is denied.

3. CLOSING. This transaction will be closed on or before _____, 20__, provided, however, that if any loan described in paragraph 4 cannot be closed by that date or Seller fails to satisfy valid title objections, either Buyer or Seller may, by written notice to the other party, extend the closing date seven (7) calendar days. Buyer selects _____ as the closing attorney to close this transaction. If Buyer’s mortgage lender, if any, does not allow that attorney to serve as closing attorney, Buyer will select another attorney approved by the lender. The closing attorney shall represent the lender in transactions in which Buyer obtains financing, otherwise the closing attorney shall represent Buyer.

4. METHOD OF PAYMENT. Select A or B below:

A. **All Cash At Closing:** At closing, Buyer will pay purchase price to Seller in cash or its equivalent. Buyer’s obligation to close is not contingent on Buyer’s ability to obtain financing. Buyer will pay all usual and customary closing costs.

B. **Where New Loan Is To Be Obtained:**

(1) **Loan Terms/Financing Contingency:** This Agreement is conditioned on Buyer’s ability to obtain a loan with the principal amount being _____% of the purchase price (reduced to the next lowest hundred dollars), providing for payments in consecutive monthly installments of principal and interest over not less than _____ years, secured by a first-priority deed to secure debt on the Property, and with initial monthly payments of principal and interest not more than

\$ _____. "Ability to obtain" means Buyer is qualified to receive the described loan based upon lender's customary underwriting criteria. The loan will be a (Select (a), (b), (c) or (d) below):

- (a) Fixed Rate Mortgage Loan, with an interest rate of not more than ____% per annum on the unpaid principal balance.
- (b) Adjustable Rate Mortgage ("ARM") Loan, with an initial interest rate of not more than _____% per annum on the unpaid principal balance. The interest rate payable to lender by Buyer may increase or decrease according to the terms of the loan, and as a result, the monthly installments of principal and interest may increase or decrease.
- (c) FHA or VA Loan sees Exhibit "____," attached and incorporated.
- (d) Other Loan, see Exhibit "____," attached and incorporated.

(2) Closing Costs: Buyer will pay all usual and customary closing costs for any loan, including the Georgia intangible tax, any usual and customary incidental costs, and the cost of any survey required by lender.

(3) Loan Application: Within ____ days from the binding date of this Agreement, Buyer will both apply for the loan and notify Seller or Listing Broker of the identity of any lender to which application has been made. Buyer will pursue any application diligently and in good faith, execute all papers, provide all documents, perform all other actions necessary to obtain the loan, and accept the loan if approved by a lender. Should Buyer not apply for the loan and not timely provide the required notice to the Seller or Listing Broker, Seller may void this Agreement upon written notice to Buyer.

(4) Financing Contingency Waiver: If Seller has not received written notice from Buyer within ____ days from the binding date of the Agreement that Buyer is unable to qualify for the loan, the financing contingency will be deemed waived by Buyer.

(5) Loan Options:

- (a) Buyer acknowledges that many different loan programs, available from many different lenders, may fit the description of the loan described above. No attempt has been made to precisely describe all terms of the loan. The economics of this transaction, as bargained for by the Parties, are such that a loan with terms described above will be acceptable to Buyer and satisfy this loan contingency.
- (b) Buyer, at its option and without voiding this Agreement, may also apply for a loan with different terms and close the transaction provided:
 - i. all other terms of the Agreement are fulfilled; and
 - ii. the new loan does not increase costs charged to Seller. Notwithstanding this option, Buyer will be obligated to close this transaction if it has the ability to obtain a loan with terms as described above.

(6) Loan Responsibility: Buyer has not relied on the advice or representations of Seller or Brokers about the type or terms of any loan to be obtained by Buyer.

(7) Loan Discount: Buyer will pay any loan discount payable in connection with the loan.

(8) Loan Proceeds: Proceeds of the loan and any balance of the purchase price will be paid in cash or certified funds by Buyer to Seller at closing.

(9) Interest Rate Fluctuation: Notwithstanding anything above, a loan with an interest rate not more than one percent (1%) higher than the interest rate described above and a monthly payment

not greater than resulting from that increase will be acceptable to Buyer and the financing contingency will be subject to such adjusted rate.

(10) Private Mortgage Insurance Premium: Any private mortgage insurance premium for the loan will be paid by Buyer.

(11) Escrow Deposits: In addition to the payment of principal and interest, Buyer will pay at closing the amount necessary to establish an escrow account as required by lender and will also pay, along with each monthly payment of principal and interest, amounts required by lender for escrows, including but not limited to annual ad valorem taxes and hazard insurance premiums for the Property.

5. EARNEST MONEY.

A. Buyer has paid \$ _____ as Earnest Money to Seller, Listing Broker or Selling Broker in the form of cash or check.

B. Within five (5) banking days, the Earnest Money will be deposited in an escrow/trust account or a general account and, in the case of an escrow/trust account, will thereafter be held in such account. The Earnest Money may be deposited in an interest bearing account with the interest being retained by the holder of those funds.

C. If any check given as Earnest Money is not honored, Seller may terminate this Agreement by notice to Buyer and Brokers.

D. If the Earnest Money is to be deposited in Seller's general account, the funds will not be segregated and Seller may use them for any purpose. Brokers have no responsibility for Earnest Money deposited with Seller.

E. The Earnest Money will be applied to the purchase price at closing.

F. If the sale is not closed because of Seller's inability, failure or refusal to perform the Agreement or because Buyer never had an unconditional obligation to close because of a contingency in the Agreement, the Earnest Money will be refunded to Buyer.

G. If Buyer fails or refuses to close for any reason other than provided in paragraph 5.F., Seller will be entitled to the Earnest Money as liquidated damages. It would be extremely difficult to ascertain the actual damages to Seller in that event, the Earnest Money is a reasonable estimate of those actual damages, and the retention of the Earnest Money by Seller is not intended as a penalty but rather as full liquidated damages to Seller. As an alternative to retaining the Earnest Money, Seller may seek specific performance of the Agreement. If specific performance is granted, the Earnest Money will be applied to the purchase price at closing.

H. If the Earnest Money is held by one of the Brokers, then it will only be disbursed as follows:

(1) upon the failure of the Parties to enter into a binding agreement;

(2) upon written agreement of all Parties

(3) upon an award of the arbitrator if the Parties have agreed to binding arbitration or order of court;

(4) as set forth in paragraph 15.M.

(5) under the circumstances described in paragraph 5.F; or

(6) in accordance with the notice provision in paragraph 5.I.

I. If the Earnest Money is being held by one of the Brokers, that Broker is also authorized to disburse the Earnest Money upon Broker's reasonable interpretation of the Agreement. Before Broker disburses on this basis, it must give written notice to all Parties of its intent to disburse in the manner specified in the notice. Within 15 days from the date the notice is given, any Party may give notice to the Broker of its objection to the disbursement. If objection is made, the Broker must interplead the funds into court or, if the Parties have agreed to arbitrate, must hold them pending conclusion of the arbitration. If no objection is made, any objections to the disbursement will be waived. If an interpleader is filed, Broker will be entitled to an award against the Earnest Money for its reasonable expenses, including attorney's fees, incurred in that proceeding. The Party prevailing in that proceeding will be entitled to recover those Broker expenses and fees from the other Party. Notices provided for by this subparagraph are governed by paragraph 15.Q. No Party will be entitled to recover damages relating to Earnest Money against Broker as long as Broker complies with its duties under this paragraph.

6. **TITLE EXAMINATION.** Buyer will have a reasonable time after the binding date of the Agreement to examine title to the Property and furnish Seller a written statement of objections affecting the marketability of the title. Seller will have a reasonable time after receipt of any objections to satisfy valid objections. If Seller fails to satisfy valid objections within a reasonable time, then at the option of Buyer, evidenced by written notice to Seller, the Agreement will be null and void and the Earnest Money will be returned to Buyer.

7. **LIMITED WARRANTY.** Initial one of the following:

_____ **A. Seller Limited Warranty:** Exhibit “___” is Seller's Limited Warranty.

_____ **B. An Insured Limited Warranty:** Exhibit “___” is a limited warranty that is insured by a third party authorized to insure warranties under a state or federal insurance or risk retention statute.

THE SELECTED WARRANTY IS THE ONLY WARRANTY, EXPRESS OR IMPLIED, BY SELLER TO BUYER. SELLER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING FOR EXAMPLE WARRANTIES OF MERCHANTABILITY, HABITABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Unless otherwise provided in the selected warranty, the warranty's effective date will be closing.

8. **INSPECTIONS.**

A. Construction Standards: The only criteria and standards that will be used in connection with inspections permitted by this Agreement and in compiling the New Home Orientation Walk Through List (see below) are those in writing in:

- (1) Applicable governmental codes, regulations or ordinances;
- (2) Enforceable public or private restrictions or covenants or community association rules or regulations;
- (3) Any warranty under paragraph 7 of this Agreement;
- (4) Exhibit “A,” if that exhibit is part of this Agreement; and
- (5) Requirements in special stipulations or attached or expressly incorporated plans, specifications or similar documents.

Substantial compliance with the criteria and standards provided by this subparagraph will be referred to as the “Construction Standards.” Seller is not required to have performed work that exceeds substantial compliance with the Construction Standards, unless expressly required by law. Seller is also not responsible for addressing conditions located outside the Property even if they affect the Property. Seller has no liability, under the Limited Warranty or otherwise, for following the instructions, directions or rules of a governmental entity or official. Although Contractor takes great pride in its work, the construction process necessarily depends on labor and materials from others,

and is too complicated for any contractor to construct a perfect house. There is no such thing as a perfect house. Owner recognizes and accepts this reality.

B. *Buyer Inspection:* Buyer, at its expense, at reasonable times during normal business hours, and without interfering with work, shall have the right and responsibility to inspect, examine, test, appraise, and survey the Property and any other condition or circumstance on or in the vicinity of the Property that might affect the Property. After completion of improvements, Seller is responsible for having all utilities, pool, spa and similar items operational for purposes of such inspection. Buyer assumes all responsibility for Buyer's and Buyer's representative(s)' acts or omissions in exercising these rights. To the fullest extent permitted by Georgia law, Buyer will indemnify, hold harmless and defend Seller and its agents and employees from any claims, including ones based on their own, but not sole, negligence, arising out of or relating to that exercise. Buyer's indemnity and hold harmless covers attorney's fees and legal proceeding expenses of Seller. At its option, Seller may be present during any inspection. If Buyer becomes aware of a problem during inspection, it shall promptly notify Seller.

C. *Buyer Inspection Waiver:* Buyer has read paragraph 8.B. By initialing below, Buyer waives the inspections described in that subparagraph. In waiving its right to inspect, Buyer:

- (1) accepts the Property, **As Is**, despite any provision in this Agreement to the contrary, except as provided in paragraphs 8.D or 11 or in any express warranty provided by Seller to Buyer under paragraph 7; and,
- (2) waives and releases Seller, its agents, employees and subcontractors and Brokers from any claim, right of action, suit or arbitration seeking rescission of this Agreement, damages or other relief based on or relating to any condition or circumstance existing on or in the vicinity of the Property, except as may be covered by paragraphs 8.D. or the express warranty under paragraph 7. Buyer should not select paragraph 8.C. without consulting counsel.

_____ (Buyer's Initials)

D. *New Home Orientation Walk Through Inspection:* Whether Buyer has earlier inspected the Property, Buyer and Seller's representative will prior to closing inspect it and prepare and sign a New Home Orientation Walk Through List specifying all items, including any noted in previous inspections, that fail to comply with the Construction Standards. The inclusion of an item on the executed New Home Orientation Walk Through List that does not fail to meet the Construction Standards will not obligate Seller to address that item. Seller will make its best efforts to address all of the items specified in the New Home Orientation Walk Through List that fail to comply with the Construction Standards on a timely basis as soon as reasonably possible after closing. But, the fact that any item remains to be addressed as of closing will not be a valid reason for Buyer's failure or refusal to close, as long as a certificate of occupancy or final inspection certificate has been issued, and none of the proceeds due Seller at closing will be withheld from Seller or placed in escrow without the Seller's written consent because these items have not been addressed prior to closing. In lieu of repairing any item specified on the New Home Orientation Walk Through List, or in previous written notification, Seller will have the option of replacing it or paying reasonable sums to Buyer for repair or replacement by Buyer or a third party.

E. *Private Inspectors:* If Buyer chooses to use a private home inspector, engineer or consultant for inspections, the inspector must at the time of an inspection: (a) maintain all business licenses required by law; (b) be a member of the American Society of Home Inspectors or the Georgia Association of Home Inspectors, be a certified ICC Residential Combination Inspector, or have other credentials mutually agreed upon between the Parties in writing prior to the inspection; and (c) have general liability insurance and professional liability errors and omissions insurance of at least \$500,000 each. At the beginning of the inspection, Buyer must provide Seller proof the inspector

meets these requirements. Arrangements for a private inspection must be made at least one (1) week in advance. If the inspector concludes that there are code violations, Buyer is obligated to have the inspector provide a written list specifying the applicable code(s) and section(s) for each alleged violation. Any inspection must evaluate construction solely under the Construction Standards.

9. DISPOSAL SYSTEMS AND WATER SOURCE. Seller warrants that the main dwelling on the Property is served by:

(Seller Initials)

A. Disposal System:

- Public Sewer _____
- Septic Tank _____
- Other Disposal System _____

B. Water Source:

- Public Water _____
- Well _____

C. Lender Requirements: Any lender-imposed inspection(s) of the disposal system or water source will be obtained and paid for by Buyer.

10. WARRANTY OF TITLE.

A. Title: At closing, Seller agrees to convey good and marketable title to the Property by general warranty deed subject only to:

- (1) zoning ordinances affecting the Property;
- (2) general utility, sewer and drainage easements of record as of the binding date of this Agreement upon which buildings do not encroach;
- (3) subdivision covenants, easements and restrictions of record as of the binding date of this Agreement; and
- (4) leases and other easements, restrictions and encumbrances specified in this Agreement.

Marketable title will be determined in accordance with Georgia law as supplemented by the Title Standards of the State Bar of Georgia and will be insurable at regular rates, subject only to standard exceptions unless otherwise specified herein, by a title insurance company licensed to do business in the State of Georgia. Any defect in the title which comes within the scope of any of the Title Standards will not be a valid objection on by Buyer provided Seller furnishes an affidavit or other title papers, if any, required in those standards to cure the defect.

B. Owner's Affidavit: Seller will provide Buyer an owner's affidavit at closing stating that all bills for labor and materials have been paid in full or will be paid from the closing proceeds.

11. DISCLAIMERS AND DISCLOSURES. These disclaimers and disclosures apply to this Agreement, including, to the extent relevant, to any warranty.

A. Lack of Reliance Generally on Brokers: The Parties have not relied on the advice or representations, if any, of Brokers relative to: the legal and tax consequences of this Agreement; the terms of financing; the purchase and ownership of the Property; the structural condition of the improvements on the Property; the operating condition of the electrical, heating, air conditioning, plumbing, water heating systems, pool, spa and appliances in the Property; the availability of utilities to the Property; the investment potential or resale value of the Property; the availability and

ownership of any amenity package; or, restrictive covenants and architectural controls. If those or similar matters have been of concern to them, the Parties have sought and obtained independent advice relative to them.

B. *Toxic and Hazardous Substances:* Various substances used in the construction of the improvements on the Property or otherwise located on the Property may now or in the future be determined to be toxic or hazardous and may need to be specially treated, handled and/or removed from the Property. Persons who have an interest in the Property may be required by law to undertake the cleanup of such substances. Buyer acknowledges:

- (1) Seller and Brokers have no expertise relating to toxic wastes or hazardous substances;
- (2) These substances can be extremely costly to correct and remove;
- (3) Seller and Brokers have made no investigations or representations with respect to these substances;
- (4) Seller and Brokers will have no liability to Buyer regarding the presence of these substances on the Property; and
- (5) Buyer releases Seller and Brokers from any claim relating to the presence of these substances on the Property to the fullest extent permitted by law.

C. *Mold:* All mold cannot be eliminated from inside a house. Mold will grow when moisture or water accumulates indoors. If Buyer discovers moisture or water accumulation in or near the Home, Buyer should promptly control its source.

D. *Others:*

- (1) Finishes in model homes may be different from those in the Property improvements.
- (2) The size, type or price of future houses built in the subdivision or additions to the subdivision may vary or change.
- (3) Portions of the Property may be in a flood hazard zone. If Buyer or its lender wants flood insurance, Buyer shall purchase it at Buyer's expense.
- (4) Floor plan dimensions are only approximations.
- (5) Seller may use photographs of the Property and improvements at any time.
- (6) Views from the Property may change because of other development and other causes.
- (7) The natural light for the Property may change because of other development and other causes.
- (8) Water and other sounds may be heard in plumbing and waste water lines.
- (9) Grain patterns and colors in wood products may vary.

- (10) Veins and colors in marble, slate or other stones may vary.
- (11) Hardwood floors may be damaged from normal wear and tear, including moving furniture, high heels, and dog nails.
- (12) Buyer should carefully review directions for cleaning products to make sure they are appropriate for the area being cleaned.
- (13) Seller does not warrant or represent the location of street lights, fire hydrants, storm drains, mailboxes or utility boxes.

- (14) Seller does not make any representation about the schools that do or will serve the Property.
- (15) Seller does not make any representation about the zoning of any nearby property, development of nearby property, or the widening of nearby roads.
- (16) Construction near the Property may cause noise, odors, dust and inconvenience.
- (17) Gates or gatehouses for the neighborhood may be left open and are not a security system.
- (18) Prior to executing this Agreement, Buyer is responsible for having become acquainted with all existing and proposed neighborhood conditions of any kind that could affect the Property, the Buyer or the Buyer's family.
- (19) Information in marketing, advertising, promotional and sales documents regarding the Home, Property or subdivision in which they are located that is not included in this Agreement is not binding on the Parties.
- (20) A small percentage of homes in the United States experience elevated levels of radon gas and/or methane gas or other natural occurring gases. These are naturally occurring gases that rise up and escape from the soil. This phenomenon can occur in any home, regardless of the type of home or who builds it. Seller claims no expertise in the measurement or reduction of these gases in homes. Seller also does not provide any advice to homeowners about acceptable levels or possible health hazards of the gases. Buyer may wish to obtain a test kit that meets the EPA protocol for measuring the radon gas level in the Home. This Agreement is not conditioned upon testing results for naturally occurring gases or the presence or lack of such gases affecting the Home. Upon closing, Buyer shall be deemed to have accepted the Home and Property as to the presence of these gases now or in the future and Seller shall be released from any and all claims related to or arising from the presence of naturally occurring gases. Further information may be obtained from the U.S. Environmental Protection Agency or the applicable state environmental protection office.
- (21) Buyer acknowledges that the performance and methods and practices of operating heating and cooling systems can be directly affected by the orientation and location of a room or the Home in relation to the sun. Seller shall, therefore, have no obligation other than to install a heating and cooling system at the Property which has been sized and designed based on industry standards for the type and size of Home to be constructed.
- (22) Condensation may appear on the interior portions of windows and glass surfaces, and fogging of windows and glass surfaces may occur due to temperature disparities between the interior and exterior portions of the windows and glass and the build up of humidity within the Home due to activities including, but not limited to, washing clothes, showering, boiling water and watering plants.
- (23) No representations are made that any room, wall, ceiling or floor in the Home or any of its pipes will be soundproof.
- (24) Wood contains moisture, which dries over time. As wood in the home dries it may naturally shrink, crack and warp causing, among other things, sheetrock tears, nail pops, cracks in baseboards and warping of doors. If any of the above occurs, it is part of the normal aging of the Home and not a construction defect.
- (25) Certain materials used for fixtures in the Home (including, but not limited to, brass/chrome plumbing fixtures, brass/chrome bathroom accessories and brass/chrome light fixtures) are naturally subject to discoloration, corrosion and/or oxidation over time. These do not constitute defects in these materials.

(26) Seller or its architect owns any plans for the Home.

12. AGENCY AND BROKERAGE.

A. Agency:

- (1) "Broker" means a licensed Georgia real estate broker or brokerage firm and, where the context would indicate, the broker's affiliated licensees. No Broker owes a duty to Buyer or Seller greater than in the brokerage engagement or the Brokerage Relationships in Real Estate Transaction Act, O.C.G.A. §10-6A-1 et seq.
- (2) If either Party is unrepresented by a Broker, that Party is solely responsible for protecting its interests and Broker's role is limited to performing ministerial acts for it.
- (3) Any Broker working with Seller is identified on the signature page as the "Listing Broker." That Broker is or is not representing Seller.
- (4) Any Broker working with Buyer is identified on the signature page as the "Selling Broker." That Broker is or is not representing Buyer.
- (5) If both Parties are represented by the same Broker, a relationship of either dual agency or designated agency exists.

B. Dual Agency Disclosure: (*applicable only if dual agency has been selected above.*) The Parties consent to Broker acting as a dual agent in this transaction.

- (1) Seller and Buyer have been advised by Broker that:
 - (a) in serving as a dual agent, Broker is representing two clients whose interests are or at times could be different or even adverse;
 - (b) Broker will disclose all adverse, material facts relevant to the transaction except for information made confidential by request or instructions from another client which is not otherwise required by law to be disclosed;
 - (c) Neither Party must consent to dual agency; and
 - (d) Each Party's consent to dual agency has been given voluntarily and each has read and understands its brokerage engagement agreement
- (2) Material Relationship Disclosure. Broker and/or affiliated licensees have no material relationship with either client except as follows: _____
_____.
(A material relationship means one actually known of a personal, familial or business nature between Broker and/or affiliated licensees and a client which would impair either's ability to exercise fair and independent judgment relative to another client.)
- (3) Notwithstanding any contrary term, each Party directs Broker, while acting as a dual agent, to keep confidential and not reveal to the other Party any information which could adversely affect its negotiating position.
- (4) Designated Agency Assignment. (*Applicable only if the designated agency has been selected above.*) Broker has assigned _____ to work exclusively with Seller as Seller's designated agent and _____ to work exclusively with Buyer as Buyer's designated agent. Each designated agent will represent exclusively the Party to whom it has been assigned as a client and will not represent in this transaction the client assigned to the other designated agent.

C. Brokerage:

- (1) Broker(s) have performed valuable brokerage services and are to be paid a commission pursuant to separate agreement(s).
- (2) _____ agrees to pay a total commission at closing of \$ _____ or _____% of the purchase price.
- (3) The commission paid at closing or under this paragraph will be split as follows: _____% to Listing Broker and _____% to Selling Broker.
- (4) If the sale is not closed because of Seller's inability, failure or refusal to perform this Agreement, Seller will pay a commission equal to the lesser of one-half of the amount of the Earnest Money or the full commission. If the sale is not closed because of Buyer's failure or refusal to perform this Agreement, Buyer will pay the full commission. The amount to be paid under this subparagraph represents the full liquidated damages to which Broker(s) will be entitled under these circumstances, that amount is very difficult to estimate, is a reasonable estimate of the actual damages to be suffered by Broker(s), and is not a penalty. The commission provided for by this subparagraph will not be satisfied out of the Earnest Money.

13. STATUTORY ALTERNATIVE DISPUTE RESOLUTION:

- A. **“Act:”** Under this paragraph “Act” means O.C.G.A. §§ 8-2-35 through 8-2-43.
- B. **Notice:** GEORGIA LAW CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT OR OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO CONSTRUCTED, IMPROVED, OR REPAIRED YOUR HOME. NINETY DAYS BEFORE YOU FILE YOUR LAWSUIT OR OTHER ACTION, YOU MUST SERVE ON THE CONTRACTOR A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE. UNDER THE LAW, A CONTRACTOR HAS THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS OR BOTH. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY A CONTRACTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT OR OTHER ACTION.
- C. **“Construction Defect:”** For application of the Act, the term “construction defect” means: any matter concerning the design, construction, or repair of a “dwelling,” as that term is defined in O.C.G.A. § 8-2-36, or an alteration of or repair or addition to an existing dwelling, or of an appurtenance to a dwelling on which a person has a complaint against a “contractor,” as that term is defined in O.C.G.A. § 8-2-36; and any physical damage to the dwelling or real property on which it is located that is caused by a construction defect. This definition does not change or expand the definition of “Construction Standards” in this Agreement or obligations relating to design, construction, repair or replacement under this Agreement, any limited warranty, the law or otherwise. The term “construction defect” is incorporated into this Agreement to make it clear that any “action,” as that term is defined in O.C.G.A. § 8-2-36, whether based on breach of contract, breach of warranty, negligence, fraud or other statutory or common-law grounds, that alleges a “construction defect” is subject to the Act.
- D. **Interaction of Act and Agreement:** Buyer's obligations under this Agreement are in addition to those under the Act.
- E. **Failure to Follow Act:** Except as permitted by O.C.G.A. § 8-2-38 (o), if Buyer files an “action,” as that term is defined in O.C.G.A. § 8-2-36, without first complying with the requirements of the Act,

Buyer will be liable for the reasonable attorney's fees and expenses incurred by Seller in obtaining a stay or dismissal of that action. Buyer agrees that a dismissal, not just a stay, is appropriate given the arbitration and mediation provisions below.

14. MANDATORY BINDING ARBITRATION AND MEDIATION.

A. *Arbitration:*

(1) Claims between the Parties: The Parties will cooperate in good faith to avoid and informally resolve any claims or disputes between them. Warranty procedures first apply to any such unresolved warranty claims or disputes. Any warranty claim, if any, that thereafter remains unresolved and any other claim or dispute of any kind or nature between the Parties arising out of or relating to this Agreement or the breach of it, the Home or the Property, must be resolved by binding arbitration per O.C.G.A. § 9-9-1 *et seq.*, and the rules and procedures of the arbitrator.

(2) Non-Parties:

(A) *Buyer Claims against Non-Parties*: Any claim or dispute, if any, of any kind or nature between Buyer and the person signing this Agreement on behalf of Seller that arises out of or relates to the Home or the Property must be resolved by binding arbitration per O.C.G.A. § 9-9-1 *et seq.*, and the rules and procedures of the arbitrator. The Seller signatory's execution of this Agreement on behalf of Seller and that signatory's initialing of this arbitration provision below shall constitute that person's agreement to the arbitration and mediation provisions of this paragraph, but shall not otherwise make Seller's signatory a party to this Agreement. The arbitration of any such claim or dispute shall be consolidated with the arbitration of any claim or dispute by Buyer against Seller relating to the Home or the Property.

(B) *Seller Claims against Non-Parties*: If Seller or Seller's signatory has any claim against any non-party to this Agreement, such as a subcontractor, architect, engineer, consultant, manufacturer or supplier, that relates to a claim by Buyer against Seller or Seller's signatory, Buyer consents to that claim being addressed in an arbitration with Buyer or Seller's signatory if Seller or its signatory chooses to assert it in that arbitration and if the non-party is subject to or agrees to arbitration before the arbitrator.

(C) *Representative Status*: Buyer may not bring claims against Seller or its signatory as a representative or member of a class. Buyer's claims shall not be consolidated with the any claim arising from other houses constructed or sold by Seller.

(3) Arbitrator: Absent a subsequent agreement to a different arbitrator, Construction Arbitration Associates, Ltd. shall be the arbitrator. Any questions about the interpretation of this arbitration paragraph or the arbitrability of a dispute under it shall be decided by the arbitrator, unless specifically required by law to be decided by a court, and those decisions shall be binding. Should someone subject to arbitration under this Agreement fail or refuse to participate in arbitration proceedings, the arbitrator is authorized to proceed with the arbitration.

(4) Award: The arbitrator's award is final and may be enforced in a court having jurisdiction and venue.

(5) Arbitrator Charges: The fees and charges of the arbitrator and arbitration service shall initially be shared evenly by Buyer, Seller and any non-parties, but the arbitrator may otherwise allocate those fees and charges in the award.

(6) Attorney's Fees, Expert Fees and Other Expenses:

(A) *Lawsuit Attorney's Fees and Expenses*: If a Party files a lawsuit that is subject to arbitration under this Agreement, that Party shall be liable for the reasonable attorney's fees and

expenses incurred by the other Party or Seller's signatory in obtaining a stay or dismissal of that lawsuit. The Parties agree that, under those circumstances, a dismissal is appropriate unless the non-filing party waives arbitration.

(B) *Arbitration Attorney's Fees, Expert Fees and Expenses:* For claims or disputes between Buyer and Seller or its signatory, the arbitrator is authorized to award attorney's fees and expenses in favor of the Party or person in proportion to which the arbitrator determines that Party or person prevailed in the arbitration.

The initials below evidence agreement by the Parties and Seller's signatory to the provisions of this arbitration provision:

_____ / _____ (Buyer's initials) _____ (Seller's initials)

B. Mediation: Either Party may require the other Party (and Seller's signatory may require Buyer) to mediate a claim or dispute that is otherwise subject to arbitration as a condition to initiating or proceeding with an arbitration. If either Party (or Seller's signatory) requires mediation, those mediating shall attempt to agree on a mediator. If they cannot, the mediator shall be selected by Miles Mediation & Arbitration Services, LLC from among its mediators with significant construction litigation experience. If Seller or its signatory has a claim against any non-party to this Agreement, such as a subcontractor or architect, that relates to a claim by Buyer against Seller, Buyer consents to that claim against that non-party being addressed in the mediation with Buyer if Seller chooses to assert it in that mediation and if the non-party is subject to or agrees to mediation before the mediator. The fees and charges of the mediator and mediation service will be shared evenly by Buyer, Seller and any non-parties.

C. Insured Warranties: If an insured warranty is provided to Owner under this Agreement, its arbitration and mediation provisions, if any, shall prevail to the extent that they conflict with those provisions in paragraph 14.

D. Termination and Rescission: The arbitration and mediation terms of paragraph 14 shall apply even if the Agreement is terminated or rescinded or if termination or rescission is sought.

15. OTHER PROVISIONS.

A. Utility Services: _____ will cause all utility services to be operational. Buyer will pay all costs and deposits required by utility service companies to have services turned on in Buyer's name.

B. Property Condition: The Home will be in broom-clean condition as of closing.

C. Possession: Possession will be provided to Buyer at time of closing. Buyer will not move persons or items into the Property prior to closing.

D. Real Estate Taxes: Real estate taxes on the Property for the calendar year in which the sale is closed will be prorated between the Parties as of the date of closing. If that cannot be accurately done at closing, the Parties shall accurately prorate these taxes as soon thereafter as reasonably possible.

E. Prorations: The Parties will prorate between themselves as of the date of closing any association fees and all utility bills rendered subsequent to closing which include service for any period of time the Property was owned/occupied by Seller and any other items customarily prorated in connection with the purchase and sale of property similar to the Property.

F. IRS Compliance: The Parties will comply with and to execute and deliver those certifications, affidavits and statements required at closing to meet the requirements of the Internal Revenue Code requirements.

G. Transfer Tax: Seller will pay State of Georgia property transfer tax.

- H. *Wood Infestation Report and Soil Treatment Certification Termite Treatment:*** By closing, Seller shall provide Buyer a report from a licensed Georgia Pest Control Operator certifying that Property improvements typically treated for termites and other wood destroying organisms have been so treated, or that a system to control termites and wood destroying organisms has been installed for those improvements.
- I. *Insulation:*** Insulation has been installed (or will be installed prior to closing) in accordance with the terms of this paragraph.
- (1) Exterior walls are insulated with _____ insulation to a thickness of _____ inches which will, according to the manufacturer, yield an R-value of _____ ;
 - (2) Ceilings below attic areas are insulated with _____ insulation to a thickness of _____ inches which will, according to the manufacturer, yield an R-value of _____ ;
 - (3) Vaulted ceilings are insulated with _____ insulation to a thickness of _____ inches which will, according to the manufacturer, yield an R-value of _____ ;
 - (4) Floor overhangs are insulated with _____ insulation to a thickness of _____ inches which will, according to the manufacturer, yield an R-value of _____
- J. *Survival of Agreement:*** Except as otherwise specified in this Agreement, any condition or stipulation not fulfilled at time of closing survives the closing, execution and delivery of the warranty deed until such time as such condition or stipulation is fulfilled.
- K. *Severability:*** Each provision of the Agreement is severable from every other provision of the Agreement. If any provision is determined to be unenforceable, the rest of the Agreement will remain valid and enforceable. If any provision of the Agreement is determined to be unenforceable in part, in a particular context, or as to a particular right, the Agreement will remain enforceable in all other parts, contexts and as to all other rights.
- L. *Instructions to Closing Attorney:*** Closing Attorney is instructed to:
- (1) transfer Survival of Agreement subparagraph to the closing statement (although a failure to do so will not prevent the survival of such subparagraph);
 - (2) obtain and distribute to and from the appropriate Parties those certifications, affidavits and statements required to meet the requirements of Internal Revenue Code Section 1445 (Foreign/Non-Foreign Sellers) or in the alternative to disburse and hold the sales proceeds in the manner required to comply with Internal Revenue Code Section 1445;
 - (3) file with the Internal Revenue Service the IRS Form 1099B documenting this transaction and comply with any other reporting requirements related thereto; and
 - (4) comply with any other federal or state withholding requirements.
- M. *Destruction of the Property:*** Should the Property be destroyed or substantially damaged before closing, Seller shall promptly notify Buyer and provide Buyer all relevant information about insurance coverage and the Seller's insurance claim. Seller or Buyer may terminate the Agreement within 14 days from that notice. If neither elects to terminate, Seller shall restore the Property to substantially the same condition as it was when this Agreement became binding and shall obtain a new certificate of occupancy. In that event, the closing date shall be seven days after that restoration and certificate of occupancy.

- N. Flood Insurance:** If flood insurance is desired by Buyer, or required by Buyer's lender, Buyer will pay for it.
- O. Covenants, Easements and Restrictions:** Before executing this Agreement, Buyer has had an opportunity to review any community or subdivision covenants, restrictions and easements to which the Property is subject and Buyer is bound by them.
- P. Association Fees:** Select 1, 2 or 3 below:
- (1) Buyer acknowledges that there is a mandatory association fee in the approximate amount of \$_____ per year.
 - (2) Buyer acknowledges that there is not a required association fee.
 - (3) Buyer acknowledges that there is no association.
- Q. Notices:** Except as otherwise provided for in this Agreement, all notices or demands required or permitted hereunder must be in writing to the address provided in this Agreement and delivered either:
- (1) in person;
 - (2) by courier or overnight delivery service prepaid;
 - (3) by e-mail or facsimile (Fax) transmission; or
 - (4) by the United States Postal Service, postage prepaid, registered or certified, return receipt requested.
- A notice will be deemed to have been delivered as of the date and time actually received by the Party to whom the notice was directed. Prior to closing, Buyer's address for purposes of this subparagraph will be as indicated on the signature page. After closing, it will be the Property address. Refusal to accept or inability to deliver because of changed physical or e-mail address of which no notice was given will be deemed receipt of notice. Any Party, by written notice to the others in the manner provided in this Agreement, may designate a new physical or e-mail address. If Buyer is more than one person, notice to one shall be deemed notice to all.
- R. Modifications:** This Agreement may not be modified, altered or amended except by written instrument executed by the Parties.
- S. Transfer or Assignment:** This Agreement may not be transferred or assigned without the written consent of all Parties. Any assignee must fulfill all the terms and conditions of this Agreement.
- T. Governing Law:** Except as required by federal law, this Agreement and all of its provisions, exhibits and attachments will be governed by and construed, interpreted and enforced in accordance with the laws of the State of Georgia, without reference to its conflict of laws.
- U. Terminology and Captions:** All pronouns, singular or plural, masculine, feminine or neuter, mean the person, entity, firm or corporation to which they relate as the context may require. Wherever the context may require, the singular means the plural and the plural means the singular.
- V. Time is of the Essence:** Time is of the essence of this Agreement.
- W. Successors and Assigns:** This Agreement inures to the benefit of, and is binding on, the Parties, their heirs, successors, administrators, executors and assigns.
- X. Duty to Cooperate:** Documentation, as is reasonably necessary to carry out the duties of this Agreement, will be produced, executed and/or delivered by the Parties at the time required to fulfill the terms and conditions of this Agreement and the Parties shall in good faith take actions reasonably

necessary to consummate this Agreement. This duty does not require Seller to execute documents that impose additional obligations on Seller.

Y. *Manufacturer Warranties:* At closing, Seller will transfer to Buyer Seller's interest in all manufacturer's warranties and service contracts that by their terms are transferable to Buyer.

Z. *Keys, Etc.* At closing, Seller shall give Buyer all keys, door openers, codes and similar items for the Property.

AA. *Required Agricultural Disclosure:* To the best of Seller's knowledge, the Property is or is not within, partially within, or adjacent to any property zoned or identified on an approved county land use plan as agricultural or forestry use. If the answer is affirmative, the Seller makes the following disclosure: It is the policy of this state and this community to conserve, protect, and encourage the development and improvement of farm and forest land for the production of food, fiber, and other products, and also for its natural and environmental value. This notice is to inform prospective property owners or other persons or entities leasing or acquiring an interest in real property that the property in which they are about to acquire an interest lies within, partially within, or adjacent to an area zoned, used, or identified for farm and forest activities and that farm and forest activities occur in the area. Such farm and forest activities may include intensive operations that cause discomfort and inconveniences that involve, but are not limited to, noises, odors, fumes, dust, smoke, insects, operations of machinery during any 24 hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides. One or more of these inconveniences may occur as the result of farm or forest activities which are in conformance with existing laws and regulations and accepted customs and standards.

BB. *Counterparts and Electronic Signatures:* This Agreement may be signed in counterparts, each of which shall be deemed an original. Electronic or facsimile signatures are effective. However, either Party or Buyer's lender may require the other Party to re-execute a conformed of the Agreement with original signatures.

CC. *Entire Agreement:* This Agreement is the sole and entire agreement between the Parties. No representation, promise or inducement not included in this Agreement is relied upon or will be binding on any Party. The term "Agreement" means this Agreement in its entirety. All exhibits, amendments and addenda attached or references are part of this Agreement.

DD. *Spoilation:* Except for an emergency, Buyer shall notify Contractor of any alleged construction defect that may be a basis for a claim of any kind by Buyer against Seller or any subcontractor, if any, of Seller, and shall give Seller and any such subcontractor an opportunity to inspect that alleged defect before repairing or disturbing it. Seller's failure to do so will be spoliation, and will waive and release Buyer's claim against Seller and such subcontractor relating to that alleged defect and the consequences of it.

EE. *Waiver of Consequential Damages:* Seller and Buyer waive claims against each other for consequential damages arising out of or relating to this Agreement. This mutual waiver includes, without limitation, and except if expressly elsewhere permitted in the Agreement: (i) damages incurred by the Buyer for rental expenses, for losses of use, income, profit, for increased cost of and loss of financing, and for damages to reputation; and (ii) damages incurred by Seller for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's permissible termination of this Agreement. Nothing contained in this subparagraph shall be deemed to preclude the Liquidated Damages allowed by this Agreement.

16. EXHIBITS AND ADDENDA. These attached exhibits and/or addenda marked below are part of this Agreement. The terms of any of these exhibits or addenda that conflict with the other terms of this Agreement shall control, except for the terms of Special Stipulations.

- New Construction, Exhibit "A" (to be used when some construction or Buyer selections will occur after execution of the Agreement.)
- Limited Warranty, Exhibit "B"
- Other, _____ Exhibit "___"
- Other, _____ Exhibit "___"
- Other, _____ Exhibit "___"

17. TIME LIMIT OF OFFER. This instrument is an offer by Seller or Buyer, whichever first signs, to the other and is open for acceptance by the other until ___ o'clock __ M, on the ___ day of _____, 20__.

18. ACCEPTANCE. The offer is accepted, at ___ o'clock __ M, on the ___ day of _____, 20__.

This instrument will become a binding Agreement when written acceptance or a facsimile (FAX) transmission of acceptance is received by offeror.

19. SPECIAL STIPULATIONS. The following special stipulations are part of this Agreement and, if conflicting with the rest of the Agreement, will control: _____

(Signatures on Next Page)

<p>BUYER</p> <hr/> <p>Print or Type Name</p> <hr/> <p>Signature</p> <hr/> <p>Date</p> <hr/> <p>Phone #</p> <hr/> <p>Fax #</p> <hr/> <p>Physical Address for Notices</p>	<p>BUYER</p> <hr/> <p>Print or Type Name</p> <hr/> <p>Signature</p> <hr/> <p>Date</p> <hr/> <p>Phone #</p> <hr/> <p>Fax #</p> <hr/> <p>Physical Address for Notices</p>
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<hr/> E-Mail Address	<hr/> E-Mail Address
<p>SELLER</p> <hr/> Print or Type Full Legal Name of Seller <p>By: _____ Signature</p> <p>Title: _____</p> <hr/> Date <hr/> Phone # <hr/> Fax # <hr/> Physical Address for Notices <hr/> E-Mail Address	
<p>SELLING BROKER</p> <hr/> Brokerage Firm Name <hr/> Broker or Affiliated Licensee Name <hr/> Broker or Affiliated Licensee Signature <hr/> Date <hr/> Affiliated Licensee License # <hr/> Affiliated Licensee Phone #	<p>LISTING BROKER</p> <hr/> Brokerage Firm Name <hr/> Broker or Affiliated Licensee Name <hr/> Broker or Affiliated Licensee Signature <hr/> Date <hr/> Affiliated Licensee License # <hr/> Affiliated Licensee Phone #

<hr/> Affiliated Licensee E-Mail Address	<hr/> Affiliated Licensee E-Mail Address
<hr/> Affiliated Licensee Fax #	<hr/> Affiliated Licensee Fax #
<hr/> Broker Phone #	<hr/> Broker Phone #
<hr/> Broker E-Mail Address	<hr/> Broker E-Mail Address
<hr/> Broker Address	<hr/> Broker Address
<hr/> Brokerage Firm License #	<hr/> Brokerage Firm License #
<hr/> MLS Office Code	<hr/> MLS Office Code

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New Construction Exhibit "A"



This New Construction Exhibit "A" is an exhibit to the New Home Purchase and Sale Agreement ("Agreement") between _____ ("Seller") and _____ ("Buyer") relating to the "Property" with a street address of _____, _____, Ga, _____, which is more particularly described in the Agreement.

1. PLANS AND SPECIFICATIONS. Improvements shall be constructed substantially in accordance with the attached Plans and Specifications and substantially in accordance with the other Construction Standards, except where greater compliance is expressly required by law. The Plans are Attachment #1 to this Exhibit, entitled _____, dated _____, and consist of _____ pages. The Specifications are Attachment #2 to this Exhibit, entitled _____, dated _____, and consist of _____ pages. If there are conflicts between the terms of the rest of this Agreement and the Plans or Specifications, the Plans or Specifications shall govern. If there are conflicts between the Plans and the Specifications, the Specifications govern. Notwithstanding these conflict resolution provisions, only substantial compliance with the Plans and Specifications shall be required.

2. SELECTIONS AND ALLOWANCES.

- a. Buyer is entitled to make selections of the items listed on Attachment #3 for which an allowance has been specified. Unless an allowance is specified, the inclusion of an item on Attachment #3 does not mean that the item is included in the purchase price. Only items for which an allowance is provided or that are mentioned on the Plans or Specifications are included in the purchase price. Buyer will make every reasonable effort to select from Seller's stock on hand or other stock immediately available. Buyer will make selections by the dates specified on Attachment #3, in the absence of which Seller may make the selections. Selections must be made in writing and provided to Seller in a manner permitted for notices under the Agreement.
- b. The purchase price is based on the allowances on Attachment #3. In determining the amount actually incurred for an item, all Costs, as defined in paragraph 1.c., incurred in connection with the item, including but not limited to labor and materials, will be included. If Buyer exceeds the allowance for an item, Seller may require the extra Cost to be paid prior to or immediately upon the performance of the work. Any extra Cost not paid prior to closing will be paid at closing. Any credits due Buyer for underutilization of allowances will be given at closing.
- c. The capitalized terms "Cost" or "Costs" mean costs necessarily or reasonably incurred by Seller in the performance of work required by this Agreement and include without limitation costs of labor, supervision, subcontractors, material, supplies, tools, equipment, transportation, storage, taxes, insurance, permits and removal of debris.

3. CHANGE ORDERS.

- a. Changes. Seller will be organizing labor, subcontractors, materials, etc. based on the Plans and the Specifications, other criteria in paragraph 1, and the relevant allowance items. Because changes by Buyer may involve additional time, effort, overhead and Costs for Seller, it will not be required to make any changes. Buyer may, however, request changes. If Buyer wants a change, Buyer must request it in a timely manner so as to permit Seller to schedule the change in the normal building process.

- b. Written Change Orders. In order to avoid misunderstandings or disputes about changes, a Change Order should be signed for any agreed-upon change. The Change Order, which shall be on Attachment # 4 if so noted below, should specify:
 - i. The change in the work;
 - ii. The addition or reduction in the purchase price as a result of the change;
 - iii. When any additional amount will be paid by Buyer; and,
 - iv. Any change in the closing date as a result of the change in work.

The Change Order should be dated and signed by the Parties. At Seller’s option, it will be entitled to full payment of the agreed-upon addition to the purchase price at the time the Change Order is signed. If Seller exercises that option, it should be reflected on the Change Order. Seller will not be required to perform any change in the absence of a signed Change Order. No subcontractor or supplier is authorized to agree to a change on behalf of Seller. If Seller performs a change requested by Buyer but the parties fail to agree on and sign a Change Order, Seller will nevertheless be entitled to recover from Buyer no later than at closing any additional Costs plus a reasonable overhead and profit relating to the change and any deadline for closing will be extended a reasonable amount of time to account for the change. Buyer understands that changes may not increase the appraised value of the Property.

4. CONTRACTORS AND SUPPLIERS.

Seller is entitled to select the subcontractors, employees and suppliers to perform work and provide materials. Buyer will not direct, supervise, control or interfere with that work or delivery of materials. To avoid disruptions and delays in the work, Buyer may not have any work performed on the Property or supplies delivered to the Property prior to closing in the absence of a contrary written agreement between the Parties.

5. DELAYS.

Seller will have no liability for delays in construction caused by strikes, acts of God or nature, inclement weather, lockouts or other labor disputes, differing site conditions, unavoidable casualties, government moratoria, civil unrest, failure or unavailability of adequate sewer, water, electricity, gas, fire protection or other utility service, unavailability of materials or labor, changes in law after the date of the Agreement, force majeure, interference by Buyer or its representatives, change orders, delays in selection by Buyer, the failure by Buyer to comply with its obligations under this Agreement, or the failure of any governmental entity to act within a reasonable time. The closing date may be extended by Seller to account for such delays.

6. ATTACHMENTS.

The following are attachments to this Exhibit:

- Plans, Attachment #1
- Specifications, Attachment #2
- Selections and Allowances, Attachment #3
- Change Order, Attachment #4
- Others: _____

(Signatures on Next Page)

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<p>_____ Buyer's Signature</p> <p>Date: _____</p> <p>_____ Buyer's Signature</p> <p>Date: _____</p>	<p>Seller's Full Legal Name: _____</p> <p>_____ Signature for Seller</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>
<p>SELLING BROKER</p> <p>_____ Brokerage Firm Name</p> <p>_____ Broker or Affiliated Licensee Name</p> <p>_____ Broker or Affiliated Licensee Signature</p> <p>_____ Date</p>	<p>LISTING BROKER</p> <p>_____ Brokerage Firm Name</p> <p>_____ Broker or Affiliated Licensee Name</p> <p>_____ Broker or Affiliated Licensee Signature</p> <p>_____ Date</p>

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ATTACHMENT #1

PLANS





ATTACHMENT #2
SPECIFICATIONS





ATTACHMENT #3

SELECTIONS AND ALLOWANCES



Complete only those items below that remain to be selected by Buyer:

1. Appliances:

Item	Make, Model & Color	Allowance Amount	Selection Deadline
Trash Compactor			
Disposal			
Dishwasher			
Oven			
Double Oven			
Stove			
Microwave			
Refrigerator			
Other			

2. Others:

Item	Location	Allowance Amount	Selection Deadline
Wallpaper		\$ ____ per single roll	
Carpets		\$ ____ per sq. yd, including pad	
Vinyl		\$ ____ per sq. yd, including pad	
Tile		\$ ____	
Foyer Floor		\$ ____ per sq. ft.	
Light Fixtures		\$ ____ including chimes and bulbs	
Landscaping		\$ ____	
Paint		\$ ____	



ATTACHMENT #4
CHANGE ORDER



Change Order # _____

This is Attachment #4 relating to the New Home Purchase and Sale Agreement (“Agreement”) between _____ (“Seller”) and _____ (“Buyer”).

1. Work: Describe the change in the work to be performed by Seller:

_____ (attach additional pages if appropriate).

2. Price: The purchase price is (increased/decreased) by \$ _____ as a result of this Change Order.

3. Payment: Any increase in the purchase price relating to this Change Order shall be paid (at closing/ on following date: _____).

4. Closing Date Adjustment: Because of this Change Order, the closing date is modified as follows: _____.

5. Other Terms: All other terms of the Agreement, including those relating to Change Orders, shall apply to this Change Order, including the Limited Warranty.

<p>_____ Buyer’s Signature</p> <p>Date: _____</p> <p>_____ Buyer’s Signature</p> <p>Date: _____</p>	<p>Seller’s Full Legal Name: _____</p> <p>_____ Signature for Seller</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>
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Ex. B
Limited Warranty

This Limited Warranty is Exhibit B to and part of the New Home Purchase and Sale Agreement (“Agreement”) dated this _____ day of _____, 20____ between _____ (“Buyer”) and _____ (“Seller”) for the purchase of the property (“Property”) described in the Agreement:

1. LIMITED WARRANTY. Subject to the terms of this Limited Warranty, Seller agrees that, for the term of this Limited Warranty, the Home will substantially conform with the Construction Standards of the Agreement, which shall include, but not be limited to one of the following:

- The terms of the current version of the Homeowner Handbook published by the Greater Atlanta Home Builders Association, Inc. that cover the Home (provided that the term “closing” in the Homeowner Handbook will be deemed to be the date of Substantial Completion), supplemented by any higher standards in the current version of the Residential Construction Performance Guidelines for Professional Builders & Remodelers, published by the National Association of HomeBuilders.
- The current version of the Residential Construction Performance Guidelines for Professional Builders & Remodelers published by the National Association of Home Builders.

Buyer acknowledges that, before Buyer executed the Agreement or this Limited Warranty, Buyer was given or reviewed the current version of the Residential Construction Performance Guidelines for Professional Builders & Remodelers published by the National Association of Home Builders, and, if applicable, the current version of the Homeowner Handbook published by the Greater Atlanta Home Builders Association, Inc.

2. TERM. The term of this Limited Warranty (“Warranty Term”) is one (1) year beginning the date of closing of the purchase of the Property by Buyer or the date of occupancy, whichever occurs first. This Limited Warranty shall become effective at the closing.

3. NOTICE TO SELLER. If there is an item for which Seller has responsibility, Buyer must provide written notice of that item to Seller. The notice must be given in the manner required by the Agreement for notices. The notice must specify the item in detail and must be given to Seller within the Warranty Term. Seller shall not be responsible for items for which a required, timely notice has not been given. Buyer shall permit Seller and/or Seller’s agents, employees or contractors reasonable access to the Property during normal business hours (Monday - Friday, 9:00 a.m. - 5:00 p.m.) to inspect or perform work required under this Limited Warranty and if requested by Seller until 7:00 p.m., unless prohibited by local law or recorded community covenants

4. EXCLUSIONS. Excluded from this Limited Warranty are the following:

- a. Any items for which Seller is not responsible under the Construction Standards;
- b. Bodily or personal injury of any kind;
- c. Mental and emotional pain and suffering;
- d. Loss or damage to personal property;
- e. Loss or damage resulting from Buyer’s failure to comply with his obligations or otherwise resulting from Buyer’s improper maintenance or improper operation;
- f. Loss or damage resulting from Buyer’s failure to provide prompt notice to Seller of a problem;
- g. Any defect, damage, or loss resulting from actions or inactions of persons other than Seller, such as independent contractors retained by Buyer;
- h. Consequential or incidental damages of any kind or nature;

- i. Loss or damage caused by external forces, such as acts of God, windstorm, fire, explosion, smoke, water, hail, lightning, falling trees, flood, earthquakes, radon or other gases, pollution, toxic substances, civil disturbance, changes in the level of the underground water table that are not reasonably foreseeable at the time of construction, or criminal acts of a third party;
- j. Any loss, damage, defect, cost or expense which is caused by an occurrence for which compensation is provided by state legislation, or which is covered by Buyer's insurance;
- k. Any loss or damage by insects or vermin;
- l. Any loss or damage arising while the Property is being used primarily for nonresidential purposes or from the Property being used for such purposes;
- m. Expenses of shelter, transportation, food, moving, storage, or other incidental expenses related to relocation during repair, or any other cost or damages relating to loss of use, inconvenience, or annoyance;
- n. Normal wear and tear, normal deterioration, or normal changes that are the result of characteristics common to the materials used;
- o. Loss or damage resulting from Buyer's failure to comply with warranty requirements of manufacturers;
- p. Any appliances, piece of equipment, or other item that is a consumer product for the purpose of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, *et. seq.*, installed or included in the Home or Property, including but not limited to any heating and air conditioning equipment, heat pump, electric air cleaner, exhaust fan, thermostat, space heater, furnace, air conditioning system, humidifier, whirl pool bath, garbage disposal, water heater, water softener, sump pump, refrigerator, freezer, trash compactor, range, oven, kitchen center, dishwasher, oven hood, clothes washer, clothes dryer, ice maker, central vacuum system, smoke detector, fire alarm, fire extinguisher, garage door opener, chime, water pump, intercom, burglar alarm, electric meter, gas meter, or electric barbecue grill;
- q. Defects in swimming pools and other recreational facilities;
- r. Defects in landscaping, including sodding, seeding, shrubs, trees, plants, and fences;
- s. Exterior hardware;
- t. Loss or damage resulting from abnormal loading on floors by Buyer which exceed design loads as mandated by applicable building codes; and
- u. Damage, including but not limited to fading and ghosting of paint or other surfaces, resulting from the use of candles.
- v. Conditions or circumstances disclosed or disclaimed in the Agreement.

5. OPTIONS AVAILABLE TO SELLER. In lieu of repairing any item covered by the Limited Warranty, Seller has the option of replacing such item or paying reasonable sums to Buyer with which to have that item addressed by Buyer or third party. Unless an item is an emergency or additional material damage would result from delay in addressing it, Seller has the option of waiting to address all or several items at once or in groups.

6. MISCELLANEOUS. This Limited Warranty is part of the Agreement and incorporates its terms and provisions (including without limitation those requiring mandatory binding arbitration), except to the extent they conflict with the terms of this Limited Warranty, in which event the terms of this Limited Warranty shall prevail.

(Signatures on Next Page)

<p>_____</p> <p>Buyer's Signature</p> <p>Date: _____</p> <p>_____</p>	<p>Seller's Full Legal Name:</p> <p>_____</p>
<p>_____</p> <p>Buyer's Signature</p> <p>Date: _____</p>	<p>Signature for Seller</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p>

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