



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 DATE.** 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.

- 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 AND NON-REFUNDABLE CONSTRUCTION DEPOSIT. Select A and/or B below:

A. ☐ ***Non-Refundable Construction Deposit (see attached Exhibit).***

B. ☐ ***Earnest Money:***

- (1) Buyer has paid \$_____ as earnest money to ☐ Seller, ☐ Listing Broker or ☐ Selling Broker in the form of ☐ cash or ☐ check.
- (2) 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.
- (3) If any check given as earnest money is not honored, Seller may terminate this Agreement by notice to Buyer and Brokers.
- (4) 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.
- (5) The earnest money will be applied to the purchase price at closing.
- (6) 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.

- (7) If Buyer fails or refuses to close for any reason other than provided in paragraph 5.B.6, Seller will be entitled to the earnest money as liquidated damages for damages other than those covered by any Non-Refundable Construction Deposit. 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 other than for damages covered by any Non-Refundable Construction Deposit. 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.
- (8) If the earnest money is held by one of the Brokers, then it will only be disbursed as follows:
- (a) upon the failure of the Parties to enter into a binding agreement;
 - (b) at closing;
 - (c) upon written agreement of all Parties;
 - (d) upon an award of an arbitrator (if the Parties have agreed to binding arbitration) or order of court;
 - (e) as set forth in paragraph 15.M;
 - (f) under the circumstances described in subsection 5.B.6.; or
 - (g) in accordance with the notice provision set forth in paragraph 5.B.9. below.
- (9) 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 disbursal. 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 disbursal will be waived. If an interpleader is filed, Broker will be entitled to an award against the earnest money for its reasonable expenses, including attorneys 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, 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. HOME WARRANTY DISCLOSURE. 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. 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.

If the warranty provided in paragraph 7 does not address a particular item of construction, generally accepted building industry standards will be used for such item. The criteria and standards provided by this subparagraph will be referred to as the “Construction Standards.” Seller is not required to perform work that exceeds the Construction Standards. Seller is also not responsible for addressing conditions located outside the Property even if they affect the Property.

B. Buyer Inspection: Buyer, at its expense, at reasonable times during normal business hours, and without interfering with work, will have the right and responsibility to inspect, examine, test and survey the Property and any other condition or circumstance on or in the vicinity of the Property that might affect the Property. Buyer assumes all responsibility for its and its representative(s) acts in exercising these rights and to the fullest extent permitted by Georgia law, will indemnify, hold harmless, and defend Seller from any claims, including ones based on Seller’s own, but not sole, negligence, arising out of or relating to that exercise. Seller may be present during any inspection. If Buyer becomes aware of a problem during inspection, it will promptly notify Seller.

C. Buyer Inspection Waiver: Buyer has read subparagraph 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 11 or, the express warranty under paragraph 7. Buyer should not select this paragraph without consultation with counsel.

_____ (Buyer's Initials)

- D. *New Home Orientation Walk Through Inspection:*** Whether Buyer has earlier inspected the Property, prior to closing, Buyer and Seller's representative will 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 of these items 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 to 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 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, the Georgia Association of Home Inspectors, or other professional inspection association mutually agreed upon 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 with 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, the inspector must 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. MANDATORY BINDING ARBITRATION. The Parties will cooperate in avoiding and informally resolving their disputes. Warranty procedures first apply to any unresolved warranty claims. Any warranty claim 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, 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 arbitrator's award is final and may be enforced in a court having jurisdiction and venue. If the Parties do not agree on the arbitrator, Construction Arbitration Associates, Ltd. will be the arbitrator. Any questions regarding the interpretation of this arbitration provision 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 that decision shall be binding on the Parties.

The Parties' initials below evidence their agreement to the provisions of this paragraph:

_____ / _____ (Owner's initials) _____ (Contractor's initials)

The fee to initiate arbitration will be shared evenly by the Parties, but the arbitrator may allocate filing fees and arbitrator fees in the award.

10. DISPOSAL SYSTEMS AND WATER SOURCE. Seller warrants that the main dwelling on the Property is served by: (Seller and Buyer must initial on the same applicable line in A and B below.)

	(Seller Initials)	(Buyer Initials)
A. Disposal System:		
<input type="checkbox"/> Public Sewer	_____	/ _____
<input type="checkbox"/> Septic Tank	_____	/ _____
<input type="checkbox"/> Other Disposal System	_____	/ _____
B. Water Source:		
<input type="checkbox"/> Public Water	_____	/ _____
<input type="checkbox"/> Well	_____	/ _____

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

11. WARRANTY OF TITLE.

A. Title: Seller warrants that it presently has title to the Property. 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 upon which buildings do not encroach;
- (3) subdivision covenants, easements and restrictions of record; 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 affidavits or other title papers, if any, required in those standards to cure the defect.

B. Owner's Affidavit: Seller will provide Buyer a standard "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.

12. DISCLAIMER AND DISCLOSURE.

- 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.

13. 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 acknowledges that it is solely responsible for protecting its interests and that 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 has to 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 sales 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, those amounts are reasonable estimates of the actual damages to be suffered by Broker(s), and those amounts are not penalties. The commission provided for by this subparagraph will not be satisfied out of the earnest money or Non-Refundable Construction Deposit.

14. 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.

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 Property 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.
- 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 Internal Revenue Code requirements.

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

H. *Wood Infestation Report and Soil Treatment Certification:* At closing, Seller will provide Buyer a current soil treatment certification/bond, if required by Buyer's lender. If any additional inspections or reports are requested by Buyer or its lender, any costs for any inspections or reports will be paid by Buyer.

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 unenforceable in a particular context or as to a particular right, the Agreement will remain enforceable in all other 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 is to immediately notify Buyer. If Seller does not elect, within ten (10) days after receipt of notice of the amount of insurance proceeds, to repair such damage, Buyer may elect, within ten (10) days after notice by Seller of Seller's intent not to repair the damage to:

- (1) cancel the Agreement and have the earnest money returned to Buyer; or
- (2) consummate the Agreement and receive, at closing, the insurance proceeds paid on the claim of loss. Notwithstanding the foregoing, Buyer's election to cancel this Agreement must be made no later than sixty (60) days after the Property is destroyed or substantially damaged.

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 overnight delivery service prepaid;
- (3) by 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 given 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 sub-paragraph 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 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 address.

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:* 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. *Responsibility to Cooperate:* Documentation, as is reasonably necessary to carry out the obligations 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. This responsibility 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. *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.

16. SPECIAL STIPULATIONS. The following special stipulations are part of this Agreement and, if conflicting with any preceding paragraph, will control: _____

_____.

17. EXHIBITS AND ADDENDA. These attached exhibits and/or addenda are part of this Agreement:

- ☐ New Construction, Exhibit "A"
- ☐ Association/Assessment Fee, Exhibit "____"
- ☐ FHA or VA Loan, Exhibit "____"
- ☐ Non-Refundable Construction Deposit, Exhibit "____"
- ☐ Limited Warranty, Exhibit "____"
- ☐ Other, _____ Exhibit "____"
- ☐ Other, _____ Exhibit "____"

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

19. 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.

Buyer's Signature _____

Print or Type Name: _____

Social Security No: _____

Home Phone: _____

Business Phone: _____

FAX: _____

Address: _____

Buyer's Signature _____

Print or Type Name: _____

Social Security No: _____

Home Phone: _____

Business Phone: _____

FAX: _____

Address: _____

Seller's Signature

(Use full legal name)

Print or Type Name: _____

By: _____

Title: _____

Business Phone: _____

FAX: _____

Address: _____

Listing Broker MLS () Office Code

By: _____
Broker or Broker's Affiliated Licensee Signature

Print or Type Name: _____

Business Phone: _____

FAX: _____

Selling Broker MLS () Office Code

By: _____
Broker or Broker's Affiliated Licensee Signature

Print or Type Name: _____

Business Phone: _____

FAX: _____

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