



NEW CONSTRUCTION CONTRACT OF PURCHASE

(This is a legally binding contract. If you do not understand any part of it, please seek competent advice before signing)

This NEW CONSTRUCTION CONTRACT OF PURCHASE (the "Contract") made as of _____, 2021 between Beacon at Bay Creek, LLC, a Virginia limited liability company ("Seller"), whose address is 509 Viking Drive, Suite F, Virginia Beach, VA 23452 and _____ ("Purchaser") whose address is _____.

The Listing Company (who represents Seller) is Bay Creek Realty and the Selling Company who () does OR () does not represent Purchaser is _____.

1) **REAL PROPERTY:** Purchaser agrees to buy and Seller agrees to sell the land and all improvements thereon located in the Town of Cape Charles, Northampton County, Virginia and described as (legal description):

and more commonly known as: Residence, Palmer Lake Villas together with the land within the boundaries of the lot (subject to any easements, conditions and restrictions of record), the house, and any other improvements constructed (or to be constructed) thereon, including any options listed in this Contract (the "Property").

2) **PURCHASE PRICE:** The purchase price to be paid by Purchaser to Seller for the Property shall be _____ ("Purchase Price").

3) **DEPOSIT:** Purchaser shall make the following deposits:

- a. An initial deposit of \$20,000 upon execution of this Contract.
- b. An additional deposit in an amount required to make the total deposit equal to the sum of Ten Percent (10%) of the Purchase Price due within Ten (10) days upon the pouring of the slab for the Property.
- c. Deposit to be held by Escrow Agent, the law firm of Pender & Coward, P.C.
- d. If Purchaser fails to pay the additional Deposit as set forth herein, then Purchaser shall be in breach of this Contract. At Seller's option and in lieu of all other remedies set forth in this Contract, Seller may terminate this Contract by written notice to Purchaser and neither party shall have any further obligation hereunder. Purchaser's initial deposit of \$20,000 shall be deemed non-refundable to Purchaser in this event.
- e. If Escrow Agent is a Virginia Real Estate Board ("VREB") licensee, the parties direct Escrow Agent to place Deposit in an escrow account by the end of the fifth (5th) business banking day following the latter of: (i) the Date of Ratification or (ii) the Extended Deposit Date. If Escrow Agent is not a VREB licensee, the parties direct Escrow Agent to place Deposit in an escrow account in conformance with applicable Federal or Virginia law and regulations. Deposit may be held in an interest-bearing account, and the parties waive any claim to interest resulting from such Deposit. Deposit shall not be released by Escrow Agent until (i) credited

toward the Purchase Price at settlement; (ii) Seller and Purchaser agree in writing as to its disposition; (iii) a court of competent jurisdiction orders a disbursement of the funds; or (iv) disbursed in such manner as authorized by the terms of this Contract or by Virginia law or regulations. Seller and Purchaser agree that Escrow Agent shall have no liability to any party for disbursing Deposit in accordance with this paragraph, except in the event of Escrow Agent's negligence or willful misconduct.

- 4) **DISCOUNT POINTS, PREPAIDS, CLOSING COSTS:** Purchaser shall pay all discount points, prepaids and closing costs in connection with the closing of Purchaser's purchase of the Property, except the following, which shall be paid by Seller: (i) any grantor's tax to be paid in connection with the recording of the deed conveying the Property to Purchaser, and (ii) any items required by FHA or VA to be paid by Seller (if an FHA or VA loan). Any contribution made by Seller shall be applied towards closing costs and/or prepaids (If allowed by lender). Such sum shall include any fees required by FHA or VA to be paid by Seller and any fees to be paid to the settlement agent. Such sum shall not include any grantor's tax. If Seller contribution is more than the sum of the closing costs and prepaids allowed to be paid by Seller (per lender's underwriting requirements for the loan), any excess portion of such funds shall be retained by Seller and shall not be paid or otherwise credited to Purchaser.
- 5) **FINANCING:** Purchaser's obligations under this Contract () are () are not conditioned upon a financing contingency. If Purchaser's obligations are conditioned upon a financing contingency, then the following sections apply:
- a. **LOAN APPLICATION:** Purchaser's application for the loan (if applicable) must be completed and submitted to the lender within seven (7) days of the Date of Ratification. Purchaser must provide all information, documents and fees requested by lender in a timely manner and diligently cooperate with the lender to obtain loan approval.
 - b. **LOAN APPROVAL CONFIRMATION:** Purchaser shall deliver written confirmation of a commitment to loan from the lender (if a loan is to be obtained) to Seller within _____ days of the Date of Ratification ("Loan Commitment Date") or evidence satisfactory to Seller (in Seller's reasonable discretion) that Purchaser is able to proceed to Settlement without a loan (the "Confirmation"). If Seller has not received such written Confirmation within the stated time period, Seller shall have the right, at any time thereafter, to send a written request for such Confirmation to Purchaser and, if such Confirmation has not been received by Seller within five (5) days after Purchaser's receipt of such request, Seller shall have the right, without further notice, to terminate this Contract by delivering a written notice of termination to Purchaser and refunding or retaining deposits as provided in Paragraph 5(c).
 - c. **FAILURE TO RECEIVE LOAN APPROVAL CONFIRMATION:** If this Contract is terminated by Seller in response to its failure to receive a loan approval Confirmation and such failure is the result of a denial of the loan application by the lender or the failure of the lender to complete the processing of the loan application by the Loan Commitment Date, and Purchaser submitted the loan application and cooperated with the lender as provided for above, the Deposit shall be refunded to Purchaser. Any Options deposit(s) are to be retained by Seller as liquidated damages and not as a penalty. If this Contract is terminated by Seller in response to its failure to receive a loan approval confirmation as provided for in paragraph 5(b), and such failure is for any reason other than those specified above, or Purchaser has failed to submit the loan application or cooperate with the lender as provided for in paragraph 5(d) the Deposit and any Options deposit(s) shall be retained by Seller as liquidated damages and not as a penalty. The refund of any deposit sums under this section is specifically conditioned on Purchaser signing a release form to be provided by Seller, acknowledging the termination of this Contract and any rights of Purchaser to purchase the Property.
 - d. **LENDER INFORMATION:** Purchaser hereby agrees that Seller shall have the right to contact the lender from whom Purchaser is obtaining the loan and authorizes the lender to provide written confirmation to Seller, at any time, relating to: (i) the satisfaction of Purchaser's obligations under paragraphs 5(a) and 5(b); (ii) the status of the processing of Purchaser's loan application; (iii) any loan approval conditions; and (iv) if loan approval is denied, the reasons for said denial.

- e. **CHANGE OF LENDER:** Except as specifically provided below, Purchaser shall not change the lender from whom Purchaser is obtaining the loan within the sixty (60) day period immediately preceding the Estimated Closing Date. Purchaser may change lenders during the sixty period identified above, provided that: (i) Purchaser complied with the requirements stated in paragraph 5(a) in submitting and cooperating with the prior lender; (ii) prior lender has revoked approval of the loan application; (iii) Seller has provided Purchaser with a written statement from the prior lender confirming satisfaction of the requirements stated in paragraph 5(d), and revocation of approval for the loan application; and (iv) such change shall not be deemed to change or modify, in any way, the provisions of paragraph 5(f).

- f. **PURCHASER'S REPRESENTATIONS REGARDING FINANCING:** Purchaser acknowledges that Seller is relying upon all of Purchaser's representations, including, without limitation, the accuracy of the financial information given by Purchaser to Seller and lender. If Purchaser makes a deliberate misrepresentation or material omission or takes any action which results in Purchaser's inability to obtain financing, then Purchaser shall be deemed to be in default. Purchaser shall notify Seller in writing within three (3) days of Purchaser's actual notice of the occurrence of any material adverse change in Purchaser's financial condition which prevents Purchaser from obtaining financing under this Contract. Purchaser's failure to give notice of the material adverse change required above shall constitute a default under the terms of this Contract. Within three (3) days of receipt of written notice of the material adverse change from Purchaser, the Deposit and Option deposit shall be released to and retained by Seller as liquidated damages and not as a penalty, and Seller shall notify Purchaser in writing of Seller's election to: (i) proceed to closing based upon a modification to this Contract acceptable to Seller and Purchaser; (ii) require that Purchaser execute a First Right of Refusal Contract allowing Seller to terminate this Contract and enter into another sales contract if Purchaser cannot demonstrate the ability to proceed to Settlement within five (5) days of Seller's request for confirmation; or (iii) terminate this Contract.

6) CONSTRUCTION OF HOME:

- a. **CONSTRUCTION:** Construction will begin on or about _____ and will be completed on or about _____. Purchaser is aware that delays caused by events beyond the control of Seller such as work stoppages; municipal approvals and permits; strikes; lockouts; weather; availability of labor, materials, and craftsmen; pandemics; acts of God; terrorism; everything unanticipated and unforeseen; and anything of occurrence not within the contemplation of the parties at time of ratification are not included in the calculation of time estimates. Delays caused by such events do not constitute abandonment or constitute a default on Seller's part. In the absence of any delays such as those described in this paragraph, Seller agrees that construction will be completed within two (2) years from the date of executed contract.

- b. **SELECTION OF STANDARD MATERIALS:** The Purchase Price includes the finishes and materials in accordance with attached Exhibit "A" including, but not limited to, standard floor coverings, standard appliances and standard cabinetry. Purchaser shall have the privilege of selecting the colors and/or materials and/or appliances to be installed from the standard selections offered by Seller unless they have already been ordered or, if already ordered, in accordance with Seller's Change Order Policy. Materials and/or appliances not detailed in Exhibit "A" are not included in the Purchase Price and additional payment is required. Only those colors, materials and/or appliances approved by Seller (and the Homeowner's Association for the community, if applicable) will be available for selection purposes. Purchaser shall identify all desired options or upgrades (the "Options") on the Seller's "New Construction Selections, Options, and Upgrades Addendum." If Purchaser fails to complete their selections on or before _____ (the "Selection Date") Seller shall have the right to make selection decisions on behalf of Purchaser.

- c. **SELECTION OF OPTIONS:** The Purchase Price includes only Seller's standard structural layout for the Property. Purchaser shall have the privilege of purchasing Options offered by Seller in accordance with Seller's Change Order Policy. The price of Options selected by Purchaser shall be added to the Purchase Price. Seller shall have the absolute authority to determine the Options it will offer and shall have no obligation to accept any custom Options.

- d. A non-refundable deposit of the total cost of any Options (the "Option Deposit) will be required on or before the Selection Date. The Option Deposit shall be released to Seller after the Selection Date and applied to the Purchase Price.
- e. **SELLER'S RIGHT TO CHANGE DESIGNS OR LIMIT OPTIONS AND SELECTIONS:** Seller reserves the right to change the design or limit any Options or standard selections offered for the Property. If Seller changes or limits any element of the Property chosen by Purchaser as an Option or standards selection, and the change has a significant effect on the quality, value or appearance of the Property, Purchaser shall have the right to terminate this Contract within five (5) days of notice of the change and Seller shall refund Deposit and all Option deposit(s) to Purchaser. If Purchaser elects to proceed to closing without the Options and/or standard selections eliminated by Seller, the Purchase Price will be adjusted for the deletion of any Options that were included in the calculation of the Purchase Price. If Seller changes any Option or standards selection for other homes, Seller shall have no obligation to make corresponding changes to the Property sold to Purchaser. Purchaser understands and agrees that Purchaser is not allowed to make any personal changes or additions to the Property before settlement.
- f. **MATERIALS:** Seller, in its sole discretion, may replace materials or fixtures used in the structure(s) and/or depicted on the plans, drawings or renderings of the Property with substitutions of similar quality acceptable under government and/or industry standards. Seller is not required to notify Purchaser of the substitution of materials or fixtures unless it materially affects the Property.
- g. **STREET LIGHTS, ELECTRICAL FACILITIES, UTILITY PEDESTALS:** Street lights, telephone, cable television and electrical facilities, utility pedestals and transformers are installed by utility companies. Seller makes no representation as to the final location of such facilities. Purchaser should consult the appropriate utility.
- h. **NEW HOME DESIGNS, TYPES, LOCATIONS AND PRICES:** Purchaser acknowledges that Seller has reserved the right to determine which home designs and/or types will be constructed at all locations owned by Seller and to re-establish the prices of all other homes, past, present, and future, constructed by Seller in this neighborhood and any other location. No change in design, type, location or price of any other home shall have an effect on the terms and conditions of this Contract and Seller shall have no obligation to amend this Contract or modify the Property based upon any factor or condition of any other home constructed by Seller in the neighborhood or elsewhere.
- i. **TRESPASS:** As a consideration for public safety and for reasons related to insurance requirements, Purchaser shall not enter the lot during the construction of improvements unless authorized in writing and accompanied by a representative of Seller and at a time mutually agreed upon. Purchaser understands that the construction site is hazardous and agrees to comply with the safety rules and requests of Seller and will not hold Seller responsible for injuries sustained at the construction site. Purchaser hereby releases Seller, its employees, agents, and affiliates from any and all damages and/or injuries which may arise in conjunction with Purchaser entering the lot or any other portion of the neighborhood during the construction of the structure(s) or other homes in the neighborhood.
- j. **INTERFERENCE WITH CONSTRUCTION:** Purchaser shall not interfere with Seller's construction of the structure(s), as provided for under this Contract. In the event of Purchaser interference, Purchaser must sign and return an acknowledgement of Purchaser's intent to cease the same within ten (10) days after Purchaser's receipt from Seller of a request for such an acknowledgement, and refrain from engaging in such act(s) of interference at all times thereafter. Seller shall have the right, at its option, to terminate this Contract by delivery of a written notice of termination to Purchaser. In the event of such a termination, and upon Seller's receipt of a release signed by Purchaser acknowledging the termination of this Contract and any rights of Purchaser to purchase the Property, Seller shall refund

the Deposit to Purchaser. Any Options deposit(s) are to be retained by Seller as liquidated damages and not as a penalty.

k. **LOSS OF PROPERTY:** If any part of the Property is damaged or destroyed by casualty prior to settlement, Seller will have the option to restore the Property to its previous condition as reasonably as possible. In the event Seller elects to restore the Property, the closing date and any other applicable date or deadline will be extended. Seller agrees to notify Purchaser of its decision within ten (10) business days from the date of any such casualty. In the event Seller elects not to restore the Property, then this Contract will terminate, and Purchaser will receive a full refund of Deposit and Option deposit(s) paid. All risk of loss or damage to the Property by fire, windstorm, casualty, or other cause is assumed by Seller until settlement.

l. **COMPLETION OF CONSTRUCTION:** Notwithstanding any other provisions of this Contract, or any addenda or modification hereto to the contrary, and assuming no defaults by Purchaser, Seller acknowledges an absolute obligation to deliver the Property no later than twelve (12) months from the date of this Contract. If Seller fails to do so, except for reasons outside Seller's control or as a result of the action or inaction of a third party whose actions are necessary to the performance of Seller's obligations, Purchaser may avail themselves of any and all remedies, in law or equity, including specific performance. Any projected completion dates estimated by Seller are based upon local conditions and capabilities of Seller on the date of the estimate and are subject to change. Completion may be delayed by bad weather, shortages of materials or labor, acts of God or other events beyond the control of Seller. SELLER WILL NOTIFY PURCHASER OF AN UPDATED ESTIMATED CLOSING DATE AT THE COMPLETION OF DRYWALL. SELLER SHALL NOT BE LIABLE TO PURCHASER FOR ANY DELAYS INCOMPLETION AND WILL NOT REIMBURSE PURCHASER FOR RENTAL, STORAGE, MOVING, INCREASE IN THE COSTS OR INTEREST RATE FOR THE LOAN OR ANY OTHER EXPENSE ARISING FROM FAILURE OF SELLER TO ACHIEVE THE UPDATED ESTIMATED CLOSING DATE. PURCHASER IS RESPONSIBLE FOR THE PROMPT AND TIMELY DELIVERY OF INFORMATION AND SELECTIONS NECESSARY FOR UNINTERRUPTED CONSTRUCTION OF THE PROPERTY. IF PURCHASER DOES NOT PROVIDE INFORMATION OR SELECTIONS IN A PROMPT AND TIMELY MANNER, SELLER SHALL HAVE THE RIGHT TO MAKE DECISIONS, SELECTIONS OR COMMITMENTS NECESSARY TO ALLOW CONSTRUCTION TO CONTINUE.

m. **SETTLEMENT:** Settlement under this Contract is projected to be on or about _____ ("Estimated Closing Date") or within five (5) days after written notification by Seller that the Property has been substantially completed or within five (5) days after the loan has been approved, whichever is last ("Settlement Date"). The Property is considered substantially completed when the certificate of occupancy ("CO") is issued.

7) **NOTICE TO PURCHASER:** Purchaser should exercise whatever due diligence Purchaser deems necessary with respect to information on sexual offenders registered under Chapter 23 (Sec 19.2-387 et seq.) of Title 19.2. Such information may be obtained by contacting your local police department or the Department of State Police, Central Records Exchange at (804) 674-2000 or www.vsp.state.va.us/.

8) **NOTICE OF DISCLOSURE PURSUANT TO VIRGINIA RESIDENTIAL PROPERTY DISCLOSURE ACT:** The Property () is or () is not subject to the Virginia Residential Property Disclosure Act. If subject to the Act, disclosure is attached. (Attachment does not become part of this Contract.)

9) **DEFAULT:** If Seller or Purchaser defaults under this Contract, the defaulting party, in addition to all other remedies available at law or in equity, shall be liable for the brokerage fee referenced in paragraph 10 as if this Contract had been performed and for any damages and all expenses incurred by non-defaulting party, Listing Company and Selling Company in connection with this transaction and the enforcement of this Contract, including, without limitation, attorneys' fees and costs, if any. Payment of a real estate broker's fee as the result of a transaction relating to the Property which occurs subsequent to a default under this Contract shall not relieve the defaulting party of liability for the fee of Listing Company in this transaction and for any damages and expenses incurred by

the non-defaulting party, Listing Company and Selling Company in connection with this transaction. In any action brought by Seller, Purchaser, Listing Company or Selling Company under this Contract or growing out of the transactions contemplated herein, including, without limitation, a suit to secure the release of any earnest money deposit that the other principal to the transaction has refused to authorize, the prevailing party in such action shall be entitled to receive from the non-prevailing party or parties, jointly and severally, in addition to any other damages or awards, reasonable attorneys' fees and costs expended or incurred in prosecuting or defending such action. Seller and Purchaser acknowledge and agree that Listing Company and Selling Company are intended third-party beneficiaries of this Contract as to any commissions due them as a result of the transactions contemplated by this Contract.

10) BROKERAGE FEE: Seller and Purchaser authorize and direct the settlement agent to disburse to Listing Company and/or Selling Company from the settlement proceeds their respective portions of the brokerage fee payable as a result of this sale and closing under the Contract. Each of Listing Company and/or Selling Company shall deliver to the settlement agent, prior to settlement, a signed written statement setting forth the fee to which such company is entitled and stating how such fee and any additional sales incentives are to be disbursed. Seller and Purchaser authorize and direct the settlement agent to provide to Seller, Purchaser, Listing Company and Selling Company a copy of the unified settlement statement for the transaction.

11) MISCELLANEOUS: This Contract may be signed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same document. Documents delivered by email or facsimile machine shall be considered as originals. Unless otherwise specified herein, 'days' mean calendar days. For the purpose of computing time periods, the first day shall be the day following the Date of Ratification. This Contract represents the entire agreement between Seller and Purchaser and may not be modified or changed except by written instrument executed by the parties. This Contract shall be construed, interpreted and applied according to the laws of the state in which the Property is located and shall be binding upon and shall inure to the benefit of the heirs, personal representatives, successors, and assigns of the parties. To the extent any handwritten or typewritten terms herein conflict with or are inconsistent with the printed term hereof, the handwritten and typewritten terms shall control. Whenever the context shall so require, the masculine shall include the feminine and singular shall include the plural. Unless otherwise provided herein, the provisions of this Contract affecting title shall be deemed merged into the deed delivered at settlement and shall not survive settlement.

12) NON-BINDING MEDIATION: In an effort to avoid the expense and delay of litigation, the parties agree to submit any disputes or claims arising out of this Contract, including those involving the Listing Company or the Selling Company, to mediation prior to instituting litigation. Such mediation will be *non-binding*, that is, no party will be obligated to enter into any settlement arising out of mediation unless that settlement is satisfactory to that party. Any settlement the parties enter into will be binding, but if the parties are not able to reach agreement on a settlement, they may resort to arbitration or litigation as if the mediation had never taken place. The mediation will be performed by a mutually agreeable mediator or mediation service in the area. This agreement to mediate does not apply to foreclosure, unlawful detainer (eviction), mechanics lien, probate, or license law actions. Judicial actions to provide provisional remedies (such as injunctions and filings to enable public notice of pending disputes) are not violations of the obligation to mediate and do not waive the right to mediate.

13) LICENSEE STATUS:

- a. Listing Company and Selling Company may from time to time engage in general insurance, title insurance, mortgage loan, real estate settlement, home warranty and other real estate-related businesses and services, from which they may receive compensation during the course of this transaction, in addition to real estate brokerage fees. The parties acknowledge that Listing Company and Selling Company are retained for their real estate brokerage expertise, and neither has been retained as an attorney, tax advisor, appraiser, title advisor, home inspector, engineer, surveyor or other professional service provider.
- b. Disclosure of Real Estate Board/Real Estate Commission licensee status, if any, is required in this transaction: One or more principals of Seller are licensed real estate agents.

14) ADDITIONAL PROVISIONS:

- a. **MODELS AND PLANS:** Model homes and advertisements, brochures, sales literature and other marketing materials (the "Marketing Materials") are for display and marketing purposes only, to give Purchaser a general idea of the types of homes Seller constructs. Purchaser has viewed Marketing Material depictions as an example of the type of home they are purchasing. The Property, at completion, will be substantially similar to the Marketing Material Purchaser viewed, but may differ because of variations in dimensions, substitution of materials or minor changes in design. Settlement constitutes Purchaser's unconditional acceptance of the Property as built (subject to any items to be completed pursuant to the Pre-Settlement Orientation Report) without regard to differences between the Property and the Marketing Materials. PURCHASER ACKNOWLEDGES THEIR UNDERSTANDING THAT THE MODEL HOMES (THE FURNITURE, OPTIONAL AND DECORATIVE ITEMS, LANDSCAPING, AND OTHER ITEMS DISPLAYED THEREIN) AND ALL MARKETING MATERIALS ARE SOLELY FOR DISPLAY AND MARKETING PURPOSES AND DOES NOT CONSTITUTE A WARRANTY OR REPRESENTATION FROM THE SELLER THAT THE PROPERTY WILL CONTAIN THOSE ITEMS OR THAT THE DIMENSIONS OF ROOMS IN THE STRUCTURE(S) WILL BE THE SAME.
- b. **SUBDIVISION PLATS:** A drawing depicting all or a portion of the subdivision, of which the Property is a part, is displayed (the "Drawing") at Seller's Real Estate Discovery Center. The Drawing is to give a general overview of the proposed location of amenities, improvements, grading, and easements. The Drawing does not depict all easements, improvements, and features that exist or will exist. During construction, the exact location of improvements, easements, and amenities, as well as the final grading, are subject to modification, deletion, and/or relocation. Seller's role and exclusive representation and warranty regarding these issues is that they will be performed in compliance with applicable rules, regulations, and laws.
- c. **LOTS:** Seller reserves the right to: (i) change the location of the lot boundary lines as necessary to construct the structure(s), locate or accommodate the utility lines or easements, and/or otherwise properly develop the Property (provided that there is no net reduction in the size of the lot); (ii) determine the grade of the lot, the ground elevation, and the location of the structure(s) on the lot; (iii) reverse the physical layout of the structure(s); and (iv) remove trees and shrubbery from the lot. Seller is not liable for any damage to trees or shrubbery not removed.
- d. **SELLER'S RIGHT TO ADAPT SITE CONDITIONS:** The shape of the lot and the contours and elevations of the land may require Seller to adapt the foundation, basement, porch, patio, walkway, driveway, and garage or other structure(s) to provide reasonable access and adequate drainage. Seller has the right to grade, excavate, fill, and/or to remove native trees, shrubs, and ground cover during the construction process
- e. **HOMESITE PREMIUM:** An additional charge related to the size and/or location of the lot in the neighborhood (the "Homesite Premium") may be included in the Purchase Price of the Property. The Homesite Premium, if any, has been determined by Seller in the exercise of its sole discretion. The only basis for the Homesite Premium is the size and/or location of the lot in the neighborhood. Purchaser acknowledges that Seller is not responsible for any change of view and/or change of use or development of any surrounding property, or any other factor with regard to surrounding property, even if owned by Seller, and that such change or factor shall not reduce or otherwise change the Homesite Premium, whether occurring before or after settlement.

15) OTHER TERMS: (Use this space for additional terms not covered elsewhere in this Contract.)

Mandatory Club Membership. Buyer understands, acknowledges, agrees and accepts that the Property is subject to a deed restriction which requires Buyer to be a member in good standing of the Bay Creek Club. Buyer's failure to pay Bay Creek Club dues is a violation of the conditions and restrictions in the deed and club membership agreement and the Club may pursue all legal remedies in any action to collect said dues.

- 16) ACCEPTANCE:** This Contract, when signed by Purchaser, shall constitute an offer to enter into a bilateral contract, and the offer shall remain in effect unless earlier withdrawn, until _____ local time in Virginia), on _____ (date). if not accepted by such time, this offer shall be null and void.
- 17) WIRE FRAUD ALERT:** Criminals are hacking email accounts of real estate agents, title companies, settlement attorneys, and others, resulting in fraudulent wire instructions being used to divert funds to the account of the criminal. Purchaser and Seller are advised not to wire any funds without personally speaking with the intended recipient of the wire to confirm the routing number and the account number. Neither Purchaser or Seller should send personal information such as Social Security numbers, bank account numbers, and credit card numbers except through secured email or personal delivery to the intended recipient.
- 18) ELECTRONIC SIGNATURES:** _____ / _____ If this paragraph is initialed by both parties, then in accordance with the Uniform Electronic Transactions Act (UETA) and the Electronic Signatures in Global and National Commerce Act, or E-Sign, regarding electronic signatures and transactions, the parties do hereby expressly authorize and agree to the use of electronic signatures as an additional method of signing and/or initialing this Contract. The parties hereby agree that either party may sign electronically by utilizing an electronic signature service.
- 19) INSPECTION OF PREMISES PRIOR TO SETTLEMENT:** Purchaser () does or () does not desire to have the Property inspected by a professional home inspector prior to settlement (an "Inspection"). If Purchaser indicates a desire to have an Inspection, Seller will contact Buyer to schedule such Inspection once the construction is near completion. Prior to settlement, Seller and Purchaser shall conduct a "walk through" to inspect said dwelling to determine the good working condition of all plumbing, electric, heating and air conditioning systems, equipment, and appliances, and for compliance with the terms of this Agreement and the Contract Documents. All discrepancies, cosmetic and otherwise, will be written on walk-through forms (the "punch-out list") and signed by Purchaser and Seller. All cosmetic discrepancies must be identified and agreed upon prior to occupancy. Seller will not return to perform cosmetic work after occupancy unless noted and agreed to on walk-thru forms. Items on the punch-out list shall be addressed / remedied by Seller before or after settlement, depending upon the nature of the items, availability of materials, and the like. The Inspection and Walk Through will be conducted in accordance with Seller's standard written Inspection and Walk Through Procedures in effect as of the date of the Inspection and Walk Through. Seller's current Inspection and Walk Through Procedures are attached as addendum 3.
- 20) NOTICE TO PURCHASER REGARDING SETTLEMENT AGENT AND SETTLEMENT SERVICES:**
- a. **CHOICE OF SETTLEMENT AGENT:** Chapter 10 (§ 55.1 1-1000 et seq.) of Title 55.1 of the Code of Virginia provides that the Purchaser or Borrower has the right to select the settlement agent to handle the closing of this transaction. The settlement agent's role in closing this transaction involves the coordination of numerous administrative and clerical functions relating to the collection of documents and the collection and disbursement of funds required to carry out the terms of the contract between the parties. If part of the purchase price is financed, the lender for the Purchaser will instruct the settlement agent as to the signing and recording of loan documents and the disbursement of loan proceeds. No settlement agent can provide legal advice to any party to the transaction except a settlement agent who is engaged in the private practice of law in Virginia and who has been retained or engaged by a party to the transaction for the purpose of providing legal services to that party. Seller and Purchaser acknowledge and agree that Purchaser can chose the closing agent of its choice; provided, however, that if Purchaser elects to use Pender & Coward, P.C. as its closing agent, Seller agrees to pay closing attorney's fee of up to \$750 on behalf of Purchaser.
 - b. **VARIATION BY AGREEMENT:** The provisions of Chapter 10 (§ 55.1 1-1000 et seq.) of Title 55.1 of the Code of Virginia may not be varied by agreement, and rights conferred by this chapter may not be waived. The Seller may not require the use of a particular settlement agent as a condition of the sale of the Property.

- c. **ESCROW, CLOSING AND SETTLEMENT SERVICES:** The Virginia State Bar issues guidelines to help Settlement Agents avoid and prevent the unauthorized practice of law in connection with furnishing escrow, settlement or closing services. As a party to a real estate transaction, Purchaser or Borrower is entitled to receive a copy of these guidelines from the Settlement Agent, upon request, in accordance with the provisions of Chapter 10 (§ 55.1 1-1000 et seq.) of Title 55.1 of the Code of Virginia. To facilitate the Settlement Agent's preparation of various closing documents, including any HUD-1 or Closing Disclosure, Purchaser hereby authorizes the Settlement Agent to send such Closing Disclosure to Purchaser by electronic means and agrees to provide the Settlement Agent with Purchaser's electronic mail address for that purpose only.

WITNESS the following duly authorized signatures:

PURCHASER

SELLER:

DATE PURCHASER

DATE SELLER

DATE PURCHASER

DATE SELLER

Receipt of Deposit per paragraph 3 above is hereby acknowledged.

For information purposes only:

Selling Company's Name and Address:

Listing Company's Name and Address:

Office Phone: _____ Fax: _____
MLS Broker Code: _____ Office ID No. _____
Agent Name: _____
Agent ID No.: _____
Agent E-mail address: _____

Office Phone: _____ Fax: _____
MLS Broker Code: _____ Office ID No. _____
Agent Name: _____
Agent ID No.: _____
Agent E-mail address: _____

**This Contract has been ratified by Purchaser and Seller as of _____
("Date of Ratification").**

Acknowledgement that Contract is ratified as of the date above.

Selling Company _____
(Signature)

Listing Company _____
(Signature)

Exhibit A
SPECIFICATIONS AND STANDARD FEATURES

GENERAL CONSTRUCTION

- All conventional framing shall be on maximum 16" centers.
- Engineered wood product (truss joists and/or trusses) may be up to maximum 24" centers.
- Roof system will be trusses.
- Ceiling heights are 9' +/- on 1st floor.
- Great Room & Dining Area ceiling heights are 12' +/-.
- Master Bedroom with tray ceiling.
- Walk up attic. Finished & conditioned stairwell, with finished landing at top of stairs.
- 150 square feet of "floored" (3/4" subfloor) open storage area in unfinished attic space.
- ZipWall system exterior wall sheathing.
- Radiant barrier roof sheathing.
- Soil/Termite pre-treatment to be provided by Seller; Seller shall cause certification letter to be provided to Homeowner at project completion.

FOUNDATION, CONCRETE, AND PATIO

- Slab foundation.
- Driveway and entry walk concrete, broom finish.
- Front Porch concrete, broom finish.
- Rear Patio (outside screened porch) concrete, broom finish.
- Garage slab concrete, smooth finish.
- Rear Screened Porch concrete, broom finish.
- Finished floor height of residence shall be +8" +/- above highest adjacent exterior grade, typical.

WINDOWS AND DOORS

- Windows: Plygem, single hung, white, vinyl, Low E glass, with screens. Grills between glass. White hardware.
- Exterior sliding door in Great Room: 12' wide, 3-panel, bypass, white, vinyl, Low E glass. No grills. White hardware.
- Front entry door: Fiberglass with glass and simulated divided light grills, painted.
- Front entry door hardware, Schlage Plymouth handle set with deadbolt, nickel or bronze finish.
- Interior doors 6'-8" tall, pre-hung, hollow core, 2-panel style.
- Interior door hardware, Dexter Stratus by Schlage. Chrome.
- Garage door: steel insulated vinyl back 16' wide, 8' tall overhead door with belt drive operator, 2 remotes, and keyless entry.
- Glass inserts ("windows") and decorative black hinges and handles.
- Master Bath shower enclosure with 3/8" clear glass hinged door / in-line fixed panel.

PLUMBING, GAS SYSTEM, AND FIREPLACE

- Two (2) exterior hose faucets, one located on exterior rear side of residence and one on exterior front side.
- One (1) 50-gallon electric hot water heater, located in garage, on pedestal or platform.
- Waste, drain, and vent piping to be PVC.
- Water lines to be Pex.
- Plumbing fixtures, water closets, and tub/shower units per style shown in Selections Guide.
- Kitchen sink: choice of style shown in Selections Guide in anthracite color or stainless steel.
- Garage Utility Sink.
- Water filtration system as is typically utilized in the Cape Charles area, located in Garage.
- Two (2) propane gas outlets as follows: One (1) at range, One (1) at fireplace.
- Underground propane tank.
- Novus direct vent fireplace with tempered glass front and ceramic fiber logs.
- Fireplace tile surround with 1-piece mantel.

HVAC AND INSULATION

- HVAC system: Bryant 3-ton 14 seer heat pump.
- Programmable thermostat.
- Insulation Values to meet or exceed minimum as required per building code. Garage is not insulated.
- Sound attenuation / batt insulation at interior walls between shared Bedroom walls and Great Room, Dining, and/or Kitchen.

ELECTRICAL SYSTEM

- 200 AMP service, meter location on side of residence, panel location in Garage.
- Ten (10) 6" LED recessed lights with white trim, (integral lens and lamp type).
- Three (3) under cabinet LED "task" lights under Kitchen wall cabinets on wall switch.
- Five (5) fan/light fixtures installed in Bedrooms, Great Room, and rear Covered Porch.
- Two (2) dimmer switches.
- Three (3) receptacles in Garage.
- Receptacles located as required per code.
- All switches and receptacles standard NEC type, white.
- Electrical Fixtures per style shown in Selections Guide, nickel finish.
- Three (3) smoke detectors
- One (1) carbon monoxide detector
- Doorbell & doorbell chime

STRUCTURED WIRING, AUDIO SYSTEM, AND SECURITY

- Structured wiring for telephone, cable TV, high speed internet, networking, etc. Four (4) outlet locations with 1-phone jack, 1-cable jack, and 1-data jack (all at same outlet location).
- Central distribution hub with all structured wiring "home runs." Service stub out on side of residence.
- Pre-wire for 5.1 home theatre / surround sound in Great Room.
- Setup for future wall mount TV over fireplace mantel: includes wall receptacle and conduit.
- No TV, audio equipment, speakers, or routers installation is included. Pre-wiring only.
- Complete security system with exterior doors contacted. One (1) motion detector, One (1) siren, and One (1) keypad. Wired for future third party monitoring of system capability.
- Buyer shall be responsible for contracting for cable, internet, phone service directly with provider as desired.

FLOORING

- Baths and Laundry to receive tile. "Level #1" per Selections Guide.
- Master Bath shower to receive tile walls to 7'6" AFF minimum, with corner seat and corner soap shelf.
- Master bath tile shower installation utilizing Schluter system.
- Tile backsplash in Kitchen.
- Wood flooring at Entry, Main Hall, Bedroom Hall, Kitchen, Mudroom, Dining, and Great Room. Timarron Series by Impressions, 5" wide birch engineered plank. White shoe molding.
- Carpet flooring in balance of floor space (Bedrooms and upholstered stairs). Cape Cod by Dreamweaver with 8 lb. pad.

CABINETRY, CABINET TOPS, AND APPLIANCES

- Kitchen and vanity cabinets Merillat Marlin Maple, traditional overlay, shaker door style, soft close drawers, white, layouts in substantial conformance with Selections Guide.
- Kitchen counter tops, granite. Choice of colors available.
- Hall bath: vanity top, granite. Choice of colors available. Undermount white china lavatory sink, square style.
- Note: granite colors subject to availability and color variation from time of "preliminary" selections.
- GE profile Kitchen appliances, stainless steel: gas range, dishwasher, microwave drawer, chimney hood, and french-door refrigerator per Selections Guide.
- GE Laundry washer and dryer, white, per Selections Guide.

OTHER INTERIOR FINISHES

- All interior walls and ceilings to receive smooth drywall finish.
- Garage walls and ceiling finished and painted.
- Walls painted one color throughout, flat, Homeowner's choice from light colors.
- Ceilings painted white.
- Trim & interior doors painted white semi-gloss.
- Craftsman interior trim package.
- Interior trim: 7½" 1x baseboard, 3¼" 1x casing, 5½" cove molding - all pine & painted white semi-gloss.
- Windows cased with 3-pc. headers above, stool and apron. Doors cased with 3-pc. headers above.
- Cove molding in open areas – Entry Hall, Kitchen, Great Room, Dining, and Mudroom.
- Cove molding in Master Bedroom tray ceiling.
- Fireplace (face and sides) to receive painted ship-lap wall accent, floor to ceiling, with tile surround.
- Kitchen isle knee wall front to receive painted ship-lap.
- Stairs: 1st 3 +/- treads red oak stained to approximate match (or compliment) to adjacent wood flooring with painted white risers. Balance of stairs upholstered carpet. Painted 2x2 pickets and red oak over-the-post style handrail.
- Master Bedroom closet to receive built-in place wood/MDF shelving, face-frame type construction, painted trim color. To include typical mix of single and double hanging & one stack of built-in shelves.
- All other closets, linen, and Pantry to receive ventilated wire type shelving. Shall be free-slide type where hanging. All single hanging.
- Bath accessories: Typical One (1) towel bar and One (1) Tissue holder in each Bath.
- Baths to receive 40" tall sheet mirrors width of vanity, fixed / adhered to wall.

OTHER EXTERIOR

- Roof 30-year architectural shingle.
- Metal roofing accent.
- Hardie Lap (simulated grain), Hardie Shake, and/or Hardie Board & Batten pre-finished fiber cement siding.
- Rear Screened Porch.
- 5" gutters with 3" x 4" downspouts, and box gutter at front valley between gables.
- Foundation to receive Stucco or similar finish.
- Irrigation system.
- Landscaped front and rear yard with sod, plantings, mulch.

SELECTIONS AND/OR OPTIONS

- Options and/or upgrades are not included in the Scope of Work or Contract Price unless added by formal documentation in writing.

Addendum 1

EXPRESS WARRANTY AS TO IMPROVEMENTS

Seller agrees that for a period of one (1) year from the date of issuance of a certificate of occupancy, Seller will, at its expense, repair or correct any defects in the Property resulting from defective building materials or poor workmanship, or work not found to be in substantial conformance with the Plans and Specifications. It is specifically understood, however, that Seller shall not be responsible for items of maintenance or damage done to the dwelling by Purchaser or others after completion of the residence and acceptance by Purchaser. Seller does not warrant against cracking of concrete work, as some cracking is unavoidable and expected. Seller does not guarantee quality of water from wells drilled for purposes other than drinking water. Seller's one-year warranty will not apply to any items that are covered by a manufacturer's warranty, as the manufacturer's warranty will be the Purchaser's exclusive remedy for such items.

Seller does not warrant or guarantee the exact duplication or match of any interior or exterior finish item or color selected by Purchaser.

Purchaser acknowledges and agrees that Seller is not responsible for any consequential damages that Purchaser may incur due to a breach of this one-year warranty. In addition, Purchaser's remedy for a breach of this warranty is limited to the cost of labor and any materials needed to correct the warranty item. Seller is not responsible for any damage to property or injury to persons caused by defective construction.

Seller has advised Purchaser that a Virginia statute - Virginia Code Ann. § 55-70.1 - imposes an implied warranty in every contract for the sale of a new dwelling. This state statute implied warranty provides that the dwelling, when complete, will be free from structural defects so as to pass without objection in the trade, is constructed in a workmanlike manner, and is fit for habitation. The statute also provides that a contract for the sale of a new dwelling may waive, modify, or exclude any or all express and implied warranties and sell the new house "as is".

Accordingly:

PURCHASER ACKNOWLEDGES THAT SELLER IS EXCLUDING AND DISCLAIMING THE IMPLIED WARRANTY ON NEW HOMES AS CONTAINED IN VIRGINIA CODE ANN. §55-70.1 FROM THIS CONTRACT WITH THE EXCEPTION OF THE ONE YEAR WARRANTY SET FORTH PREVIOUSLY IN THIS ADDENDUM. SELLER IS CONSTRUCTING THIS PROJECT AND SELLING THE RESIDENTIAL DWELLING TO PURCHASER "AS IS".

Addendum 2

NEW CONSTRUCTION SELECTIONS, OPTIONS AND UPGRADES

Presented as a separate attachment

