

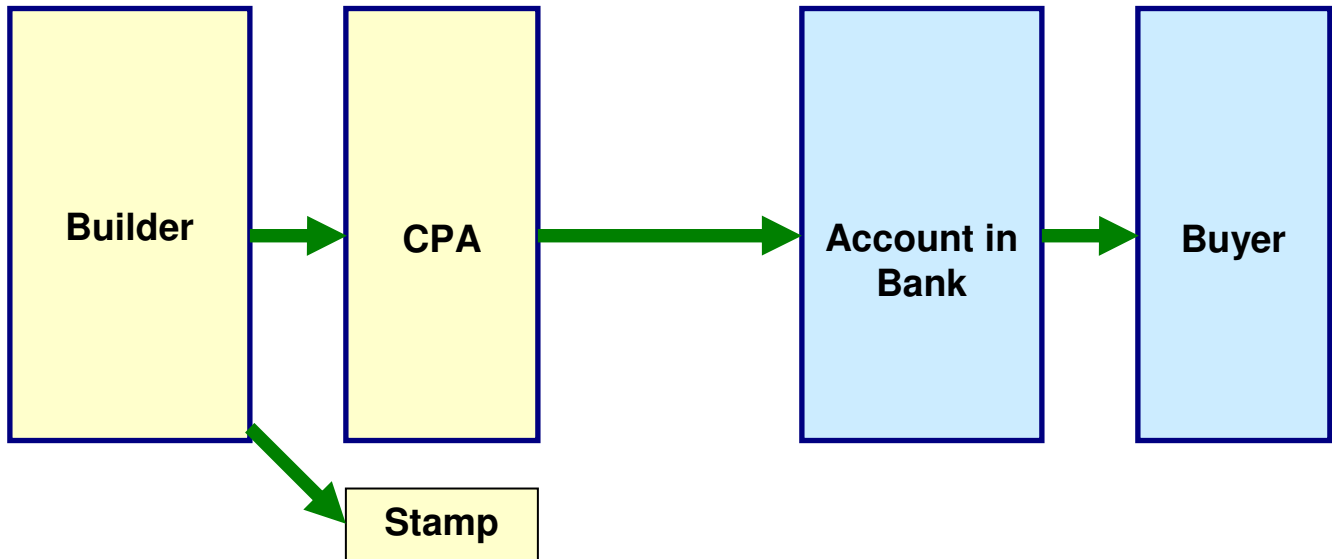
## **How to be a home builder without borrowing money!**

**Insights for builders, developers, and bankers.**

**By Edsel Charles**

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## CONSTRUCTION LENDING



**AGREEMENT OF SALE**

This AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between \_\_\_\_\_ (Builder), (hereinafter referred to as "SELLER/BUILDER", and \_\_\_\_\_ who reside(s) at \_\_\_\_\_ (hereinafter referred to as "BUYER").

WITNESSETH: FOR AND IN CONSIDERATION of the sum of \_\_\_\_\_ (\$\_\_\_\_\_) DOLLARS, earnest money, to be held subject to the terms herein, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller the hereinafter described home with the following terms and considerations:

1. **PROPERTY DESCRIPTION:** Home No. \_\_\_\_\_, to be built on a lot to be closed into Buyers name in \_\_\_\_\_ Subdivision, Section \_\_\_\_\_, in \_\_\_\_\_ County, \_\_\_\_\_. Home Elevation type is \_\_\_\_\_, Plan Name and/or Number is \_\_\_\_\_. Street Address or street name of home, if available, is: \_\_\_\_\_.

2. **PURCHASE PRICE:** The purchase price for the home is the sum of: \$\_\_\_\_\_ (\$\_\_\_\_\_) DOLLARS as further defined in the details of purchase price agreement attached hereto as Exhibit A. (The price **includes** the Lot [ ] or \_\_\_\_\_ **Does not include** the Lot [ ]). Prior to the start of the home, the Buyer and Seller shall complete and execute the Payment Schedule Agreement, the form of the Payment Schedule Agreement has also been reviewed and approved by Buyer and attached hereto as Exhibit E.

3. **CONTINGENCIES:** Buyer's agreement to purchase the home is contingent upon the following: (Check Appropriate box and fill in the blank).

( ) **A.** Sale of Buyer's existing property located at: \_\_\_\_\_  
\_\_\_\_\_.

( ) **B.** The Buyer obtaining financing under the following terms and conditions:  
\_\_\_\_\_.

( ) **C.** Other (specify): \_\_\_\_\_.

( ) **D.** The Buyer purchasing a lot or contracting to purchase a lot.

(X) **E.** The Builder reviewing the lot to accept the lot able to be built upon and must do this within fourteen (14) days of this signed Agreement or this Agreement will be void and earnest money returned to Buyer.

( ) F. This Agreement can be voided at Seller's option within sixty (60) days if: 1) Written preliminary notice of Buyer's financial approval is not received within twenty (20) days of the date of this Agreement and/or 2) Final approval of the financing is not received in writing.

NOTE: In the event Buyer designates this sale to be subject to any of the above listed contingencies, the terms and conditions of the Contingency Agreement, which is attached herein as Exhibit C, shall become a part of this Agreement and shall be incorporated herein by this reference.

4. **ACCEPTANCE BY SELLER:** Seller shall accept this contract within ten (10) days of the date the Buyer signed this contract or this contract shall become void and the Buyer's earnest money will be returned. Acceptance by Seller shall occur only when this contract is signed by or on behalf of Seller by an authorized representative of Seller in the place and manner prescribed in this agreement.

5. **CONSTRUCTION OF THE HOME:**

**A. Plans and Specifications:** Seller shall complete the home construction in reasonable conformity with the approved specifications, a copy of which is attached hereto as Exhibit B. However, Seller reserves the right to substitute materials of reasonable equivalent quality and performance in the event materials or other items set forth in the specifications are not available or Seller desires to change suppliers or subcontractors. Seller reserves the right to make minor changes to the plan, even after plans and contracts have been finalized, to aid construction and/or placing of the house on the lot to accommodate slopes, utilities, easements, etc., as Seller deems necessary.

**B. Homeowner's Warranty:** As Seller's sole and exclusive warranty, Seller shall furnish the Buyer a 2/10 Year Buyer's Warranty. The summary details of which are set forth in a brochure which is attached to this contract and incorporated herein by reference as Exhibit H. Seller makes no other warranties other than those contained in the said Buyer's Warranty and Buyer agrees to be limited to the warranties and remedies provided for therein. Seller further disclaims and Buyer waives, unless otherwise expressly provided for in Seller's limited warranty, all warranties, express or implied, including but not limited to the warranties of good workmanship, habitability, and merchantability, and fitness for purpose, and including any warranties that could be construed to cover mold or the presence of radon or other environmental pollutants. The only warranties Seller provides to the Buyer are those contained in the limited warranty.

**NOTICE:** Whether or not a home experiences mold growth depends largely on how homeowners maintain the home. Responsibility as a homebuilder is limited to things that the Builder can control. As explained in the written warranty, provided by separate instrument, the Builder will repair or replace defects in construction (defects defined as a failure to comply with reasonable standards of residential construction) for the warranty period. The Builder is not responsible however for any damages caused by mold, or by some other agent, that may be associated with construction issues, to include but not be limited to property damage, personal injury, loss of income, emotional distress, death, loss of use, loss of value, and adverse health effects, or any other effects. Again, as related also to mold and associated things any implied warranties, including an implied warranty of workmanlike construction, an implied warranty of habitability, or an implied warranty of fitness for a particular use, are hereby waived and disclaimed.

This notice, disclosure and disclaimer are part of this contract of sale. Should a court of competent jurisdiction rule any term or provision of this agreement invalid or unenforceable, the remainder of this agreement shall nonetheless stand in full force and effect. No other statement or action of Seller, including the sales Agent, shall in any way enlarge or alter the warranties given. The aforementioned Home Buyer's Warranty shall warrant only the items furnished by Seller from one of its suppliers or specifically recommended by Seller in writing. However, warranties on appliances such as range, range hood, microwave, dishwasher, trash compactor, disposal, and refrigerator (if any of these are included), as well as any intercom or security system (if any) are only furnished for the Buyer by the manufacturer of those products. At the time of closing, the Buyer shall receive from the Seller a signed authorized warranty with specific details set forth in substantial conformity to the brochure which is attached to this agreement, or the information that is attached to this agreement. It is further understood that all correspondence whether verbal or written, between Seller and Buyer will take place exclusively between the Seller and Buyer. The representative assigned by Buyer, or any real estate agent that may have participated in the signing of this contract or was a party to the sale as an agent, is hereby excluded from any warranty conversations or process, and specifically has been informed not to participate. At the time of completion the Buyer will do a Home Review (as detailed in this Agreement), then after the home is completed any items requested to be handled under warranty, will be turned in to the Seller. All items will be accumulated from date of completion to the end of the first sixty (60) days, (except in the unlikely event of an emergency), then turned in. This process will then be repeated six months from contract date if desired by Buyer and between the eleventh and twelfth month if desired.

**C. Inspection by Buyer:** Buyers agree that they or any member of their family, their guests and agents when on the Property during construction does agree to indemnify and hold and save Seller harmless from any and all liability damage or costs, including reasonable attorney's fees which might result from Buyer or members of Buyer's family or friends going on the property.

**D. Subcontractors:** Buyer shall refrain from interfering with any of the subcontractors and from direct contact with said subcontractors concerning their work or materials but rather to only work directly with the Builder.

**E. Selections:** Once the Payment Schedule Agreement has been signed, the selections process needs to be started. The Buyer agrees to make all selections required or allowed within thirty (30) days of the date the Payment Schedule Agreement is signed by Seller; however, within five (5) days of that Agreement being signed by all parties, part 1 of Selections will be finished. If at the end of the specified period of time for selections they are not made, Seller is given the right to complete selections and continue with the house.

**F. Change Orders:** The Buyer agrees to not only make all selections within thirty (30) days, but also any and all changes shall be made and only by written Change Order on a form to be supplied by Seller and which shall be signed by both Buyer and Seller. Buyer shall be responsible for any charge cost associated with a Change Order; payable at the time the Change Order is submitted and is nonrefundable. It is further agreed that no Change Orders will be considered or processed after thirty (30) days from the date of the signing of the Payment Schedule Agreement. It is further agreed that changes are limited to the list below:

- 1) Cabinets, vanities, vinyl and carpet flooring, cabinet tops, vanity tops, and other optional items the Builder may offer from time to time.
- 2) Any options the Seller normally offers that are not past a reasonable Production Time.
- 3) Once the brick and roofing are selected there can be no changes made on these.
- 4) Seller reserves the right to deny any changes as set out in this paragraph.
- 5) The allowed changes apply to homes not started as of the date of this contract.

**G. Home Review Agreement plus the Payment Schedule Agreement:** Upon

Notification by Seller that the home is substantially complete and is ready for review, Buyer agrees to review the premises with Seller's authorized representative and upon review, the parties shall complete and execute the Home Review Agreement, the form of which has been acknowledged and approved by Buyer and attached hereto as Exhibit F.

**H. Rock and Unusual Soils:** Prior to the lot closing and during the 14 day Builder review time, detailed under Paragraph 3 E herein, the Builder will review the lot for rock and unusual soils. All actual costs to be incurred by Seller due to blasting of rock, as determined to be reasonably necessary by Seller, and/or due to unusual soils being on the Property shall be an extra and paid by Buyer, and such costs shall be in addition to the contract price in the event Buyer still wants to proceed with the lot selected. **The Buyer reserves the right to select another lot.**

**I. Models:** It is hereby understood that any similar home or model built by Seller are for the purpose of displaying decorating and general floor plan possibilities or are built for others. The Buyer's home is being built under this Contract may vary as to plan, elevation, size, equipment, location of moldings, product brand and type, as well as many other factors. It is hereby stated, therefore, that the models or other homes do not necessarily represent the exact home contracted by Buyer, but rather, this Contract with its specifications and Exhibits represent the actual home to be built. (Please see any model summary page of changes.)

**J. Landscaping:**

- 1) **By Seller** with part by Buyer unless it states in Exhibit A differently.
  
- 2) In an attempt to have landscaping for the home protected from part of the summer heat and to give the lawn an opportunity to root better, the following is agreed upon: The finish grading will be substantially complete at home completion, but tractor work and lawn preparation will be first done when the lawn is installed. Yards or shrubs might not be put in after May 31 or prior to September 1. Seller, however, reserves the right to delay in winter months when planting will not be practical because of the weather. During those times when planting is practical, Seller will try to hold off putting in everything until the home completion is relatively close so the Buyer can give the necessary care to the newly installed plants and seed that it will require. The Buyer reserves the right to make written requests to have any contract shrubs and landscaping completed during the summer months. The Seller will then schedule the contract work to be put in within normal schedules. Notwithstanding the above,

the Seller may install contract landscaping between May 31 and September 1 without request. Seller makes no warranty on any landscaping item from date installed.

At time of final payment and landscaping not being completed because of above reasons, Lender agrees to accept a Letter of Certification from Seller indicating Seller will put in contracted landscaping within the parameters of the understanding. Should Lender attempt to not make final payment, (thus stopping the Buyer from moving in), funds will then not be escrowed in lieu of a Letter of Certification. It is agreed, landscaping will be scheduled to be put in as soon as reasonable on behalf of Buyer, but final payment process will proceed. Landscaping is defined in the specifications. The front is sodded, (not over 40' deep x 85' wide), and 15 shrubs are installed. The sides and back are rough graded by the Builder but seeded by the Buyer. However, the front part is only to lot width and from street to house, not over above. See Exhibit B for precise sod limits.

**K. Completion Date:** The Policy of the Seller is not to raise the expectations of the Buyer regarding a move-in date. The objective is to start the house in ten (10) to twenty (20) days of all parties signing the Payment Schedule Agreement. It is agreed the mortgage application will be taken out with a Lender within four (4) days of the date of all parties signing this contract. The Builder generally completes a house in 120 to 180 days. We are not able to guarantee this time frame. When the house has been dry walled and textured, we will be able to give a closer estimated move-in date. At this time, the Seller will notify the Buyer of the progress of the home. It is also our objective to build a quality home as quickly as possible. Once the Home is substantially complete the Seller shall give a notice to review the House with Seller as mentioned in 5-G above.

6. **CLOSING:** (This is the meeting between the Builder, Lender, and Buyer to sign the Payment Schedule Agreement) and then subsequently close the loan before house is started.

**A. Time and Place:** The closing hereunder shall occur at Lender's office unless another place is mutually agreed upon by the parties no later than ten (10) days after Seller gives notice to Buyer that the home is ready for start and the mortgage is approved or funds are in place.

**B. Possession:** Possession shall be given immediately after but not before the date the final payment is made in full and the final payment release agreement is signed by Seller to Buyer. (A blank copy of this agreement is attached herein as Exhibit G). (Until final payment is made,



no part of the home is owned for the purpose of being occupied notwithstanding prior payments).

**C. Taxes:** Taxes and insurance for the land and improvements are the responsibility of the Buyer.

**D. Purchase Price – Payment:** At completion notice, Buyer shall pay to Seller by certified check, or other means acceptable to Seller, the balance of purchase price with any adjustments required hereunder. This is done in exchange for a validly executed release acknowledging payment in full of purchase price & adjustments. All payments shall be made, as house progresses without Buyer releases and paid directly from the Bank to solely the Seller throughout construction and at final payment.

**E. Earnest Money:** At the signing of the Payment Schedule Agreement, Buyer shall apply earnest money towards purchase price, then released at closing to Builder. Buyer acknowledges he has been advised that, and hereby agrees that, earnest money has been or will be deposited by Seller in a non interest bearing account at a financial institution of Seller's choice and all interest earned on such earnest money shall be paid to Seller free and clear of any claim by Buyer. Escrow funds will be held at \_\_\_\_\_. Escrow information is available upon request from the Escrow Company.

**F. Regular House Mortgage Closing Costs and Prepaid Items:** Buyer shall be responsible for payment of all closing costs and prepaid items associated with the permanent or refinanced loan, if any, obtained by Buyer to finance purchase of the Property, including the cost of recording the Deed(s) of Trust, and State transfer and indebtedness taxed associated therewith. Builder will contribute 100% to Buyer closing cost for all lending. Charges will be reflected on the Closing Detail Form. **Builder on behalf of Buyer will pay the construction loan interest during construction.**

**G. Risk of Loss and Insurance:** Seller/Builder will carry insurance needed to cover construction labor. Buyer is responsible for obtaining a homeowners insurance policy and any and all insurance needed for all work on the lot to the date of Final Payment as well as all work done on site from start. A copy of the insurance policy, naming Builder and Lender as payee until final payment is made from Lender to Builder and payment release is signed by Builder, will be sent to the Lender within five (5) days of the payment agreement date when all is

signed. This is also reaffirmed at closing and processed by the closing company direct to the Insurance Company, direct to Seller and Buyer.

**H. Delay of Final Payment Release:** Upon Builder (Seller) determining completion, a ten, (10) day notice for Final Payment will be sent. After an additional ten, (10) days or a total of twenty days has passed from date of first notice, and if Final Payment is not paid to Seller, the home interest shall then be paid from that date by Buyer to Lender with Seller having no further obligation regarding interest payment(s). **No occupancy of the home will take place until full and final payment is made.** A \$4,000.00 penalty is hereby assessed for every month the final payment is not paid to Seller, starting on the 21<sup>st</sup> day from the 10-Day Notice being sent. **Simple interest, (not principle payment) during construction is paid by the Seller on the amount actually paid out on the loan and the Seller shall cease paying interest beyond the 21<sup>st</sup> day but not over 11 days after the 10-Day Notice as mentioned above.**

**I. Title Insurance – Survey – Appraisal:** It is understood by and between the Seller and Buyer that all Lenders require a borrower to furnish the Lender with evidence of clear title to the Property, a current survey and appraisal of the property. The Buyer shall furnish the Lender a mortgage title insurance policy as evidence of such clear title to the property, a current survey and an appraisal before construction of the home is started. At the time of closing, the Buyer agrees to furnish these to the Lender with a copy to Seller. These items may be updated when the permanent loan is closed.

7. **DEFAULT:** Should Buyer default in the terms and conditions of this Agreement or in the performance thereof, earnest money and any other sum deposited hereunder may, at Builder's option be forfeited as partial liquidated damages; provided, however, that such forfeiture shall not prevent suit for specific performance of this Agreement or for the collection of additional damages by reason of Buyer's default. In the event of default in the terms of this Agreement by Seller, Buyer shall be entitled to a refund of earnest money given at the time of execution of this Agreement less interest thereon. In the event Seller institutes any legal action to enforce any terms or provisions of this Agreement, Buyer shall pay for the Seller all court costs and attorney fees incidental thereto.

8. **MORTGAGE BUY DOWN, IF ANY:** The Seller will pay the Lender to buy the 30 year mortgage rate down ¼ of 1% if Lender will allow this. If not, the Builder will rebate 1% of home not lot sale price. Then the Builder will (if allowed) furnish Buyer a 2% rate reduction in the first year and 1% the second year. If there is not a 2/1 rate reduction the Builder will rebate the Buyer another 1% lower house cost.

9. **MERGER:** None of the terms, conditions, plans and specifications of the Agreement shall survive the final payment, except that all provisions hereof relating to warranties and all provisions contained in other documents hereafter executed relating to warranties shall survive the final payment and be binding on the parties hereto. This Agreement signed by all parties constitutes a final written expression of all the terms of this Agreement, and is a complete and exclusive statement of those terms. Any and all representations, promises, warranties, or statements by Seller or by Seller's agent that differ in any way from the terms of this written Agreement shall be given no force or effect.

10. **ASSIGNABILITY:** This Agreement is not assignable by Buyer.

11. **CHOICE OF LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. (Also this form being Copyright in no way is an expression of the Legal Acceptability of this Contract Form).

12. **MULTIPLE BUYERS:** If more than one person shall execute this Agreement as Buyers, the term Buyer shall include all parties executing this agreement as a Buyer. Any reference to the masculine gender shall include the feminine and neuter genders.

13. **SALES COMMISSIONS (IF ANY):** Upon final payment of this contract, the amount that any co-op real estate firm shall receive after the adjusted sales price, which is calculated after all, debits and credits have been considered on Exhibit A which is \_\_\_\_% to be paid by Builder, upon the Final Payment being received by Seller from Buyer.

14. **ACKNOWLEDGEMENT OF CONTRACT:** Buyer acknowledges that he has read the foregoing Agreement, all Exhibits hereto and any Collateral Agreements called for herein; and that he understands and agrees to all of the terms and conditions.

**NO OCCUPANCY OF THE HOME WILL BE ALLOWED UNTIL FULL FINAL PAYMENT IS MADE.**

15. IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written.

Seller accepts this Contract this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
BUYER

\_\_\_\_\_  
SELLER (BY)

\_\_\_\_\_  
BUYER

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
BUYER'S Current Address

\_\_\_\_\_  
BUYER'S Current Home Phone No.

\_\_\_\_\_  
SALES REP. (Signing by the Sales Rep. does not constitute acceptance of this Contract by Seller).

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

INDICATE EXHIBITS ATTACHED:

- \_\_\_\_\_ **Exhibit A** (Details of purchase price)
- \_\_\_\_\_ **Exhibit B** (Specifications)
- \_\_\_\_\_ **Exhibit C** (Contingency Agreement and possible right of first refusal)
- \_\_\_\_\_ **Exhibit D** (Promissory Note)
- \_\_\_\_\_ **Exhibit E** (Payment Schedule Agreement)
- \_\_\_\_\_ **Change of order to agreement of sale**
- \_\_\_\_\_ **Ten day notice for final payment to Lender or Buyer**
- \_\_\_\_\_ **Exhibit F** (Home Review Agreement)
- \_\_\_\_\_ **Exhibit G** (Final Payment and Release Agreement)
- \_\_\_\_\_ **Exhibit H** (Warranty Explanation Brochure)

**EXHIBIT A**

**Details of Purchase Price**

Page 1 of 3

This Exhibit A is part of the contract between Purchaser(s) \_\_\_\_\_, and  
\_\_\_\_\_ (Builder), Dated, \_\_\_\_\_ 20\_\_\_\_.  
(All closing costs, procedures, fees, etc., are to be determined between Purchaser(s) and Lender).

Buyer is to make all selections and changes per the terms of the contract. See information  
handout regarding selection procedures.

Any items not purchased from the Builder or his approved suppliers, are not warranted by the  
Builder and are not to be installed until after the Final Payment Release is signed.

Plan Name: \_\_\_\_\_

Elevation #: \_\_\_\_\_

Approx. Square Foot: \_\_\_\_\_

Base Price: \_\_\_\_\_

Home Buyer Signature: \_\_\_\_\_

Home Buyer Signature: \_\_\_\_\_

**EXHIBIT A**

**Details of Purchase Price**

Page 2 of 3

**EXTRAS - Description in Detail of Item:**

	<b>Type:</b>	<b>ID Number: (if any)</b>	<b>Location: (if any)</b>	<b>Description:</b>	<b>Price:</b>
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____
6.	_____	_____	_____	_____	_____
7.	_____	_____	_____	_____	_____
8.	_____	_____	_____	_____	_____
9.	_____	_____	_____	_____	_____
10.	_____	_____	_____	_____	_____
11.	_____	_____	_____	_____	_____
12.	_____	_____	_____	_____	_____
13.	_____	_____	_____	_____	_____
14.	_____	_____	_____	_____	_____
15.	_____	_____	_____	_____	_____
16.	_____	_____	_____	_____	_____
17.	_____	_____	_____	_____	_____
18.	_____	_____	_____	_____	_____
19.	_____	_____	_____	_____	_____
20.	_____	_____	_____	_____	_____

Total Extras \$ \_\_\_\_\_

Total Revised Price \$ \_\_\_\_\_

**EXHIBIT A**

**Details of Purchase Price**  
Page 3 of 3

**CREDITS OFF BASE PRICE:**

<b>Type:</b>	<b>Credit:</b>
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

Total Credits \$ \_\_\_\_\_

Total Final Adjusted Contract Price \$ \_\_\_\_\_

\_\_\_\_\_  
BUILDER (SELLER)

\_\_\_\_\_  
BUYER'S SIGNATURE

\_\_\_\_\_  
DATE SIGNED (SELLER)

\_\_\_\_\_  
BUYERS SIGNATURE

\_\_\_\_\_  
DATE SIGNED (Buyer('s))

**NOTE:** House square foot numbers are estimates only.

## **EXHIBIT B**

### **SPECIFICATIONS**

Page 1 of 5

#### **EXTERIOR**

1. **FRAMING** - All framing is to code. Using spruce, pine or fir. Sub floor is 3/4" T&G glued and nailed or equal.
2. **BRICK** – Brickwork, if any, is according to plan. Brick selections will vary dependent on its availability from the supplier at time of ordering.
3. **EXTERIOR TRIM** – Painted white. vinyl, aluminum, paint grade decorative trim board, poly fiberglass or equal (if any). All exterior trim as shown per plan selection including overhangs, eaves, decorative vents, windows and crossheads, any pediments or surround.
4. **SIDING** – vinyl & aluminum. Also, no matter how plans are drawn each home has siding on sides and back unless Exhibit A states differently.
5. **COLUMNS** – 9' columns or smaller are poly (fiberglass) – classic tapered round with cap & base or equal. 10' columns or larger are white metal fluted columns with cap and base. Size and dimension are offered per plan selection.
6. **WINDOW SHUTTERS** – As offered per plan selection. Vinyl shutters.
7. **EXTERIOR PAINT**- Standard is (2) two coats of paint. The front door color is selected from the selections sheet. Any other exterior painting is of the color white.
8. **ROOFING** - OSB plywood or standard sheathing or equal covered by seal down shingles to be nailed or stapled.
9. **GUTTERS** – Aluminum or equal in the color white.
10. **SPLASH BLOCKS** – Where required in front. (Buyer does landscaping for side yards and back yard so Buyer furnishes splash blocks there.)
11. **WINDOWS** - The style and design varies according to plan. White, vinyl, metal insulated with window screens glass, single hung.
12. **WINDOW PLANTER BOX** – As offered per plan selection on some plans; in the color white. Flowers and decorations not included.
13. **WINDOW CROSS HEADS** – 5 ½" Decorative style cross heads over the exterior window in the color white. As offered if on plan selection.
14. **STANDING SEAM METAL ROOF** – The decorative metal roof is an optional extra and offered as per plan selection on some plans. A painted metal roof in either a white or penny color. If a house plan selected already shows a metal roof then it is already in the selling price of that house elevation.



## **EXHIBIT B**

### **SPECIFICATIONS**

Page 2 of 5

15. **FRONT DOOR** - Insulated metal, painted door as per plan.
16. **GARAGE EXTERIOR DOORS** - Metal-painted white as per plan.
17. **DOUBLE GLASS REAR DOOR** – Insulated metal painted white with a full glass stationary door per plan, if any.
18. **EXTERIOR DOOR LOCKS AND DEADBOLT** – Knobs, deadbolt and hinges on exterior doors are in a brass color finish. Warranty on the finish for exterior door locks through the manufacture.
19. **OVERHEAD GARAGE DOOR** - Metal non-insulated sectional door pre-finished white.
20. **ELECTRIC OVERHEAD GARAGE DOOR OPENER** – Includes two remote controls.
21. **OUTDOOR ELECTRICAL OUTLETS** - Two (2) waterproof electrical outlets are included.
22. **HOSE BIBS** - Two (2) frost proof hydrants are included.
23. **WALKS AND STEPS** – Exposed aggregate. Walkways are a maximum of 3-foot wide. The walkways are to the front door and to the garage side service door. The Builder will determine the design and layout of the walks and steps.
24. **PORCH** – Exposed aggregate. The back porch will be twelve (12') feet by twelve (12') feet. The front porch is per plan design chosen. Because of elevation changes the design and layout will be addressed by the Builder to work with elevation.
25. **DRIVEWAY** – Exposed aggregate 16-foot x 40-foot **maximum** size. The Builder will determine the design and layout of the driveway.
26. **MAILBOX** - By Buyer including installation.
27. **EXTERIOR LIGHT FIXTURES** – Standard light package includes 2 front porch lights, 1 garage entry and 1 patio light, if any. Exterior fixtures and location are per plan selection.
28. **LANDSCAPING** - Front lawn is sodded. Approximately fifteen (15) shrubs and surrounding mulch is installed in the front yard. The front yard is only sodded not to exceed the first forty (40) feet in front of the house. Forty (40) foot is measured from the furthest distance off set of the house. The sod extends ten (10) foot to the left and right of the house. The balance (if any) in front and the house sides and back are paid for and installed by the Buyer separate from this contract. The Builder basically furnishes and installs not to exceed three hundred and eighty (380) square yards of sod. The seeding and straw on the sides and back including miscellaneous grading and picking up stones, etc., is by the Buyer, including straw. The Builder will **rough** grade the sides and the back.

## **EXHIBIT B**

### **SPECIFICATIONS**

Page 3 of 5

#### **INTERIOR**

1. **INSULATION** - insulation will be installed in the home as follows:
  - a. Ceilings over living area (excluding garage) will be insulated with blown loose fill glass fiber, which according to the manufacturer will yield an R-value of 30. Note: Some areas, which have vaulted ceilings, will have batt insulation only with thickness not to exceed the ceiling joist or roof rafter size. R-value in these areas will be less.
  - b. Exterior walls of living area will be insulated with glass fiber batts to a thickness of 3 5/8", which according to the manufacturer will yield an R-value of 13. Polyethylene materials will not be applied to cover the inside of exterior walls unless required by codes.
2. **DRYWALL** - 1/2" drywall, taped, filled and textured ceilings. The garage walls are not painted but drywall, taped and filled. The garage ceiling will be finished with textured white ceilings.
3. **INTERIOR DOORS** - paint grade panel doors with a 2 1/4" MDF primed casing.
4. **INTERIOR DOOR HARDWARE** – Knobs and hinges with a brass color finish.
5. **KITCHEN CABINETS** – Flat panel Oak, in the color of Brown or White. All counter tops and bathroom tops are laminated, see selection person for the many color varieties. The kitchen wall cabinets are a height at 30" except over the refrigerator and stove.
6. **BATHROOM CABINETS** – Flat panel Oak, in the color of Brown or White.
7. **INTERIOR PAINTING** - Standard is one (1) coat of paint on primed woodwork and two (2) coats of paint on all walls.
8. **WALLPAPER** - None. (Can be put on by Buyer first after final payment to Seller).
9. **FIREPLACE, MANTAL AND SURROUND** – Fireplaces, mantels and surround are an optional extra unless specifically written into exhibit A of the contract. (This is even if a fireplace is showing on the plans or in the model). The fireplace option is a direct vent fireplace box with gas logs and mantel with surround.
10. **LIGHT FIXTURES** – Traditional package included (the selection is limited to our selection packages).
11. **DOOR TRIM** – 2 1/4" primed MDF casing, painted one coat white trim paint.
12. **BASE BOARD** – 3 1/4" primed MDF, painted one coat white trim paint.
13. **ATTIC STAIRS** – Pull down folding stairs 22" x 54". Painted trim color white.
14. **STAIR RAIL** – Stained oak wall rail and wall rail bracket with brass color finish.

## **EXHIBIT B**

### **SPECIFICATIONS**

Page 4 of 5

15. **SHOE MOULD** – ¾" shoe mould around base of cabinets. Trim color white standard.
16. **CASED OPENING** – 4½" inside jamb finished with a 2 ¼" MDF primed cased opening. As may be offered only through plan selection.
17. **APPLIANCES** - Appliances in the color white include: Electrical stove and hood, dishwasher, counter top microwave and a garbage disposal unless the house is on a septic system.
18. **INTERIOR WINDOW TRIM** – 2 ¼" primed MDF stool and apron, one coat painted trim white. Drywall return on window corners.
19. **MASTER BATH GARDEN TUB** – White pre-formed garden tub with apron. A pre-formed shower with glass door. Including chrome colored wall mount tub faucet.
16. **MASTER BATH SHOWER** – White pre-formed shower with glass door. Including chrome colored shower faucet.
17. **BATHROOM SINKS** – self-rimming vitreous china with concealed front overflow. Including lavatory faucets in the chrome color.
18. **KITCHEN SINK** – Stainless steel double basin with kitchen faucet in the chrome color.
19. **COMMODOE / SEATS** – Three white round front commodes and seats.
20. **BATHROOM** - A pre-formed tub / shower combination is standard. Including chrome colored tub / shower faucet.
21. **BATH ACCESSORIES** - One chrome colored towel bar per tub. One chrome colored towel ring for each vanity bowl and one chrome colored paper holder for each water closet.
22. **LINOLEUM** – The standard linoleum selection will be three separate selections, one for the kitchen, one for all bathrooms and one for the front entry. The same color can be selected for each.
23. **FLOORING** – Carpet as standard in the remainder of the heated living space where the linoleum is not. One carpet color selection for all carpeted area unless option is chosen. Color to be selected in selections.
24. **BATHROOM MIRRORS** – Plate glass mirrors are located over each vanity. The Hillcarter house and the Yorktown plans have an additional 2'6" by 6' full-length mirror facing from inside the Master Bath closet.

**EXHIBIT B**

**SPECIFICATIONS**

Page 5 of 5

- 25. **TELEPHONE OUTLETS** – Four (4) locations, per Builder layout.
- 26. **CABLE TV OUTLETS** – Four (4) locations, per Builder layout.
- 27. **SECURITY** - Security system is an available optional extra if specified at time of contract on Exhibit A.
- 28. **INTERCOM** - Intercom system is an available optional extra if specified at time of contract on Exhibit A.
- 29. **WATER / SEWER** - Because of building in so many different subdivisions and different counties an "**allowance**" of \$3000 is included in the lot purchase price is hereby given to Buyer as an allowance for water/sewer hook ups to cover cost from road to house foundation unless further increased in Exhibit A it is also used to cover Government fees. This means if the cost is less there is a rebate to Buyer. If more than \$3000 then, a charge to Buyer is made. This \$3000 is not in the house portion of the price but is already in the lot price. If Buyer furnishes a lot on their own, then there is no \$3000 in the contract or the Exhibit A or C. In addition, the lot price has added to it \$2000 more to cover miscellaneous expenses to set the house. After the contract is signed the Builder will within fourteen (14) days check the lot selected to see if part or this entire amount must be used to set the house. If the amount is more than \$5000 **the Buyer can reject the extra** to this contract and attempt to select another lot. At closing the \$3000 and \$2000 will be paid to the Builder.
- 30. **HEATING AND AIR CONDITIONING** - "Gas" heat and electric air system sized per plan if gas is available otherwise electric heat pump.
- 31. **ELECTRIC WIRING** - per plan and codes. (Underground service **is not included** unless stated in Exhibit A). Builder handles electric hook up for overhead line up to for the first 40 feet only. (Light fixtures from Builder's selection).
- 32. **WATER HEATER** – 50-gallon water heater. To be insulated if not in a heated area. (If Natural Gas is not to the lot than electric water heater will be supplied).
- 33. **TERMITES** - Pre-treat process included.

\_\_\_\_\_  
Builder

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

**EXHIBIT C**

**CONTINGENCY AGREEMENT AND POSSIBLE RIGHT OF FIRST REFUSAL**

THIS AGREEMENT executed simultaneously with and as Exhibit C to that certain Agreement of Sale dated \_\_\_\_\_, by and between \_\_\_\_\_, (Hereinafter "Builder") and \_\_\_\_\_, (hereinafter "Buyer").

WITNESSETH

WHEREAS, Buyer's obligation to purchase the home described in the aforementioned Agreement of Sale is subject to the contingency designated in Paragraph 3 of said Agreement.

WHEREAS, the parties desire to make said Agreement of Sale subject to the terms and conditions hereof.

NOW, THEREFORE, in consideration of the earnest money paid with the execution of the Agreement of Sale, the parties agree as follows:

1. Builder shall hold the home price designated in the Agreement of Sale for a period of sixty (60) days from the date hereof. If the contingency designated in the Agreement of Sale is not satisfied by Buyer within said sixty (60) day period, Seller has the right, but not the obligation, to extend the agreement by written notice for another sixty (60) days. In the event the contingency is not satisfied within four (4) months from the date hereof, the Agreement of Sale shall expire and Builder shall refund Buyer's earnest money.
2. If the sale is contingent upon Buyer selling other property, Buyer agrees to place such other property on the market with a real estate firm within seven (7) days from the date hereof. This contingency shall be satisfied upon Buyer receiving a firm contract to purchase Buyer's other property, together with the approval of financing, if any, for said property, and a tentative closing date set; (this is subject to Paragraph 1 above).
3. Buyer shall apply for financing within four (4) working days of this contingency agreement.
4. In the event the Lender declines financing to the Buyer and in the sole opinion of the Builder, Buyer is unable to purchase the home from Builder, then the Builder reserves the right to terminate the contract or request another Lender be used in which event the Buyer shall again apply for financing within four (4) days of notice thereof by Builder.

IN WITNESS WHEREOF, the parties have executed this Agreement simultaneously with Agreement of Sale to which it is attached as an exhibit.

BUYER: \_\_\_\_\_

BUYER: \_\_\_\_\_

SELLER: \_\_\_\_\_

DATE: \_\_\_\_\_

**EXHIBIT D**

**PROMISSORY NOTE**

\_\_\_\_\_, 20 \_\_\_\_\_ as part of Earnest Money to Agreement of Sale.  
FOR VALUE RECEIVED, the undersigned hereby promise(s) to pay \_\_\_\_\_  
(Seller), the principal sum of \$ \_\_\_\_\_ on demand, without interest. If not paid in full  
upon demand, the principal shall bear interest at the prevailing prime rate from the date of demand.

All payments made pursuant to this note are payable at par and in lawful money of the United States of America at the address of the holder hereof.

Demand, notice and protest are expressly waived, and if not paid in full at the time and in the manner above specified, then all principal and accrued interest shall, at the option of the legal holder hereof, become at once due and payable without notice and, in the event of such default, the undersigned will apply all expenses and costs, including reasonable attorney's fee incident to collection.

This note represents a portion of the earnest money paid to the Builder under an Agreement of Sale of even date between the parties mentioned in this note for the purchase of the home in the agreement between the parties, dated \_\_\_\_\_. Breach of the Agreement of Sale by the undersigned shall constitute breach of default of this note. In the Event the Agreement of Sale is voided by action allowed in said agreement then this note shall be void.

\_\_\_\_\_  
BUYER

\_\_\_\_\_  
BUYER

**EXHIBIT E**

**PAYMENT SCHEDULE AGREEMENT**

This Agreement is executed in conjunction with the purchase of the home described in the Agreement of Sale heretofore executed by the parties pursuant to Paragraph 5G thereof. In conformance to that Agreement the parties do hereby agree as follows:

1. The Lender is: \_\_\_\_\_  
Address: \_\_\_\_\_
2. All items listed in the Agreement of Sale will be completed according to the terms and provisions of said Agreement.
3. Builder agrees and acknowledges that upon completion there shall be no person or organization that holds any lawful claim against the home because of the furnishing of any material, supplies or labor to the premises and Builder shall hold Buyer harmless from any such claims upon final payment being made.
4. Buyer acknowledges he will receive upon Final Payment made, the Buyers Warranty described in the Agreement of Sale, and it is agreed and acknowledged that Builder makes no warranties, either expressed or implied, regarding the property other than those specifically set out in the Buyers Warranty, and Buyer agrees and acknowledges that Buyers exclusive remedy regarding items covered in the Buyers Warranty shall be limited to the procedures set forth therein and in the Contract.
5. The loan has been approved for Buyer by the Lender for the home. The earnest money is hereby given to the Lender along with the full balance of the down payment from Buyer at closing the earnest money will be released to Seller.
6. The Lender will release funds direct to only the Seller in accordance with the bank's normal Draw Schedule, and per the contract.
7. Draws against production are only handled between the Lender and the Builder.
8. The balance of the funds are to be released the date of completion as defined in the Agreement of Sale. Notwithstanding the Home Review Agreement this payment shall be diligently pursued to a final payment within twenty (20) days of the walk through, or Buyer review, time being of the essence.
9. The Buyer is hereby authorizing the Lender to follow the process detailed in the Contract as well as this agreement with no recourse against the Lender or Home Process Administrator.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Builder: \_\_\_\_\_

Buyer: \_\_\_\_\_

By: \_\_\_\_\_

Buyer: \_\_\_\_\_

## CHANGE ORDER TO AGREEMENT OF SALE

Change Orders can only be accepted if they are within the terms of the Sales Agreement. No changes can be accepted after thirty (30) days from the date designated in the contract.

Buyers: \_\_\_\_\_ Lot Number: \_\_\_\_\_

Subdivision: \_\_\_\_\_ Builder: \_\_\_\_\_

Contract Change Order Number: \_\_\_\_\_ Date: \_\_\_\_\_

If two (2) days elapse before all signatures are obtained, this change order will become void. The homebuyers request the following specific extras and/or changes be made in the house they have purchased. This Change Order is an addendum to the contract previously signed by: \_\_\_\_\_ Buyer, and the Builder.

**Please complete all applicable items.**

Item: \_\_\_\_\_ Location: \_\_\_\_\_  
Model No: \_\_\_\_\_ Brand Name: \_\_\_\_\_  
Type: \_\_\_\_\_ Color: \_\_\_\_\_  
Dimensions: \_\_\_\_\_  
Description of Change or Product (include product, deletes or adds): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All the cost of this Change Order will be paid, including tax, per the Agreement of Sale before the extra work or change will be made. Construction of the house will proceed at a normal pace. In the event construction of the house has proceeded to a point this Change Order can't be done, in the opinion of the Builder, then this Change Order is Void.

Sketch:
---------

Total Charge: \$ \_\_\_\_\_ Amount Paid with Change Order: \$ \_\_\_\_\_

Received by: \_\_\_\_\_

**Signatures:**

Builder & Date: \_\_\_\_\_

Homebuyer(s) & Date: \_\_\_\_\_



**TEN-DAY NOTICE FOR FINAL PAYMENT TO LENDER AND BUYER**

TO: \_\_\_\_\_ (Buyer)

TO: \_\_\_\_\_ (Lender)

This notice is being sent per Agreement of sale that the home built on Lot \_\_\_\_\_ No. at \_\_\_\_\_ location or subdivision, is ready for final payment.

This notice conforms to the Agreement date \_\_\_\_\_, 20 \_\_\_\_\_, by and between \_\_\_\_\_ and \_\_\_\_\_.

It refers to Paragraph 6H under Closing and also references the Payment Schedule Agreement (5E, 5G, 6E) that was signed.

Sincerely,

\_\_\_\_\_  
BUILDER

P.S. If you have any questions regarding this contractual notice, please feel free to call \_\_\_\_\_ at our office. Phone No: \_\_\_\_\_

**EXHIBIT F**

**HOME REVIEW AGREEMENT**

BUYER (S) \_\_\_\_\_

LOT NUMBER: \_\_\_\_\_ SUBDIVISION: \_\_\_\_\_

This agreement executed pursuant to Paragraph 5G of the Agreement of Sale heretofore executed by the parties.

Buyer and Builders, authorized Seller representative, have inspected the property described in the Agreement of Sale and agree as follows:

- ( ) The house and grounds are completed according to the contract in every respect; or
- ( ) The following items are to be completed either prior to move in or within thirty (30) days of move in. In the event Buyer and Seller fail to agree at any time that items to be completed have been completed, Seller retains the right to have the Home Builders Association arbitrate. Seller shall diligently pursue completion of the following items: however, (Seller shall not be considered in violation of the agreement of sale if delays are caused by weather or other matters, beyond Seller's control). Buyer shall not move in per contract terms, under any circumstances until Seller is paid in full. (Per 6H of Agreement of Sale). (Internet payments per contract apply)

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_

The Homeowners Warranty becomes effective at the time of final payment and will only cover warranty work.

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by and between:

BY: \_\_\_\_\_

\_\_\_\_\_  
BUYER

\_\_\_\_\_  
BUYER

\_\_\_\_\_  
BUILDER'S REPRESENTATIVE

ORIGINAL TO BUILDER  
COPY TO PURCHASER  
COPY TO PRODUCTION  
COPY TO HOME REVIEW MANAGER

**EXHIBIT G**

**FINAL PAYMENT AND RELEASE AGREEMENT**

Per the Agreement by and between \_\_\_\_\_ (Buyer) and  
Builder (Seller) dated \_\_\_\_\_, 20\_\_\_\_ regarding the purchase of a home having since  
been built at: \_\_\_\_\_.

NOW THEREFORE, both Buyer and Seller agree to the following:

1. That full and final payment is hereby acknowledged as being paid from the Buyer to the Seller.
2. That all items are complete or the remaining items to be completed are attached as Exhibit I to this Final Payment and Release Agreement. ( ) No list attached: ( ) List is attached and signed by both parties and dated. (If a list is attached the Seller (Builder) hereby agrees to pursue the Completion of all items diligently).
3. That the Buyer and Seller individually acknowledge and agree that the Lender requires no liens be placed on the home either prior to this Agreement or after it is signed, and both Buyer and Seller separately agree and certify there are none and anticipate none. Also they will not allow any to remain should any be filed from their individual separate actions and individually indemnify Lender against such.
4. The Home Warranty to Buyer from Seller is hereby acknowledged as having been given to Buyer.
5. The Seller hereby acknowledges Buyer owes him no remaining monies on the contract or for any changes or extras.
6. Buyer agrees to follow the warranty process as detailed in the Agreement, and that any work done or handled by the Buyer is not warranted by Seller.
7. Only the warranty and disclaimers part of the original contractual Agreement will survive the Agreement and Release. The rest of the original Agreement of Sale or subsequent agreements and exhibits do not survive this Agreement and Release.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
By

\_\_\_\_\_  
Buyer

**EXHIBIT H**

This page is inserted as a reminder to attach a Buyers Warranty Explanation Brochure, and to label it Exhibit H.