

NORTH CAROLINA
MECKLENBURG COUNTY

HOME PURCHASE AGREEMENT

In consideration of the reciprocal covenants stated herein, **36th St Holdings LLC**, a North Carolina limited liability company, (“Seller”) and _____ (collectively, “Purchaser”) agree as follows:

1. CONVEYANCE. Seller shall sell to Purchaser and Purchaser shall purchase from Seller home located in Mecklenburg County, North Carolina, with a street address of **1207 E 36th St, Charlotte, NC 28205** **Unit #** _____. The interests to be conveyed pursuant to this Agreement are hereinafter collectively referred to as the “Property.”

The legal description of the Property is as follows: _____

2. PURCHASE PRICE AND METHOD OF PAYMENT.

Subject to adjustment as may be provided herein, the Purchase Price for the Property shall be:

_____ **Dollars \$** _____ to be paid in cash as provided herein. A breakdown of the Purchase Price as of the Effective Date (defined in Section 19 below) is set forth in Addendum 2 attached hereto and incorporated herein. The terms of the subsection (a or b) checked below shall also apply. Purchaser shall pay to Seller the Purchase Price in cash at Closing. Within ten (10) business days of the Effective Date, Purchaser shall provide documentation to Seller that will verify to Seller’s reasonable satisfaction that Purchaser has the available funds necessary to purchase the Property according to the terms of this Agreement. If Purchaser does not provide such documentation to Seller within that time period, then Seller may at its option terminate this Agreement by providing written notice to Purchaser of termination, in which event Seller shall be entitled to retain the Earnest Money and neither party shall have any further obligation or liability to the other hereunder.

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Square Footage Disclosure: Buyer acknowledges that Seller makes no warranties as to the precise square footage of the subject property, and that total square footage is not a material element of the purchase price agreed to by the parties. Buyer further acknowledges that it is Buyer's responsibility to verify precise square footage in the event Buyer wishes to confirm same. Any statement of total square footage contained in materials provided by Seller to Buyer, including without limitation plans, drawings, specifications, marketing brochures, and/diagrams, should be deemed reliable but not guaranteed and Buyer acknowledges that actual square footage may vary from the amount shown in such materials.

3. FINANCIAL INFORMATION. Purchaser acknowledges that Purchaser's financial situation may affect Purchaser's ability to obtain a loan and/or purchase this Property. Purchaser further acknowledges that it is important for the Seller to know Purchaser's financial situation and Purchaser's ability to obtain financing. Purchaser hereby grants permission for the Seller to contact any mortgage company or financial institution to which Purchaser may apply for a loan and to discuss Purchaser's financial situation and prospects of obtaining a loan. Purchaser hereby authorizes any mortgage company or financial institution from which Purchaser may seek a loan to discuss Purchaser's financial status with the Seller and to provide the Seller with any documentation or information regarding said financial status, including but not limited to Purchaser's credit score.

4. EARNEST MONEY.

- a. **Deposit.** Purchaser will pay to Seller \$ [redacted] via [redacted] to **36th St Holdings LLC**, receipt of which is acknowledged by Seller (hereinafter, the "Deposit"). Wiring instructions to follow if needed.

- b. **Disbursement.** The Initial Deposit is hereinafter referred to as the "Earnest Money," both individually and collectively. The Earnest Money shall be retained by Seller except as otherwise expressly stated in this Agreement. At Closing, the Earnest Money shall be credited to Purchaser against the Purchase Price; otherwise, the Earnest Money shall be released to Seller or returned to Purchaser as provided herein.

5. SURVEY. INTENTIONALLY DELETED.

6. WARRANTY OF TITLE. Seller shall convey insurable fee simple title of the Property to Purchaser at Closing by special warranty deed, subject to: (a) zoning ordinances affecting the Property; (b) utility, drainage and other

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easements of record upon which the residence does not encroach; (c) subdivision covenants, conditions and restrictions; (d) all matters shown on the final plat for the subdivision where the Property is located; and (e) any matters that would be shown or revealed by a current survey of the Property. "Insurable title" shall mean title which a title insurance company licensed to do business in North Carolina will insure at its regular rates, subject only to its standard exceptions and those exceptions listed in subsections (a) through (e) above.

7. TITLE EXAMINATION. No later than ten (10) days prior to the Closing Date, Purchaser shall furnish Seller with a list of any title exceptions (other than those listed in Paragraph 6, above) which Purchaser contends should be removed in order for Seller to meet its obligations under Paragraph 6 of this contract. If Purchaser does not serve Seller with notice of exception to insurable title prior to that date, Purchaser shall have waived any objection to title to the Property as it existed as of the Effective Date. If Purchaser does serve such notice on Seller prior to that date, and Seller does not remove any exceptions to insurable title within a reasonable time, Purchaser shall have the right to terminate this Agreement and to receive a refund of the Earnest Money. Under no circumstances shall Seller be obligated or required to remove or cure any exception to title to the Property that is not a valid exception to insurable title as defined in Section 6 above.

8. DESTRUCTION. If the home built is either totally destroyed or substantially damaged (as determined by Seller in its sole discretion) before Closing, either party may terminate this Agreement by written notice to the other within ten (10) days of the date of such destruction. After Closing, all risk of loss to the Property shall be upon Purchaser.

9. INSPECTION.

a. Procedure. Prior to Closing, Seller shall have the right to deny access to the Property to any person at any time, as Seller determines in its sole discretion. However, Purchaser or a professional home inspector contracted by Purchaser shall have the right to enter upon the Property at reasonable times during normal business hours for the purpose of inspecting, examining, testing and surveying the Property, solely at Purchaser's expense, provided that any such inspection must meet the following requirements and conditions:

(1) Inspections by Purchaser:

(a) All Inspections by Purchaser must be scheduled through the on-site superintendent. These inspections must be scheduled at least two (2) days in advance, must take place during normal working hours (Mon. – Fri. 8:00AM to 3:00PM) and must be in accordance with the on-site superintendent's production schedule.

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(b) Seller or its appointed representative shall have the right to accompany Purchaser during the inspection.

(2) Inspections by an independent professional home inspector:

(a) All Inspections by a professional home inspector must be scheduled through the on-site superintendent. These inspections must be scheduled at least seven (7) days in advance, must take place during normal working hours (Mon. – Fri. 8:00AM to 3:00PM) and must be in accordance with the on-site superintendent’s production schedule. IF AN INSPECTOR DOES NOT HAVE AN APPOINTMENT ONE WEEK PRIOR TO THE PROPOSED INSPECTION, THE INSPECTOR WILL NOT BE ALLOWED TO PERFORM THE INSPECTION AND WILL BE INSTRUCTED TO RESCHEDULE. SELLER WILL NOT DELAY CONSTRUCTION OR CLOSING TO ACCOMMODATE INSPECTION APPOINTMENTS.

(b) Seller or its appointed representative shall accompany the home inspector during the inspection.

(c) The home inspector must be licensed to do business by the State of North Carolina and must furnish to Seller a copy of the home inspector’s State License Certificate prior to the inspection.

b. Purchaser’s Indemnity. Purchaser assumes all responsibility for the acts or omissions of Purchaser, Purchaser’s agents, contractors or representatives in exercising Purchaser’s rights under this Section, and shall indemnify and hold Seller harmless from any loss or expense Seller may suffer as a result of any claim or damage which arises directly or indirectly out of Purchaser’s exercise of its rights under this Section. Notwithstanding any other provision herein, Purchaser’s indemnity of Seller pursuant to this Section shall survive Closing and the termination of this Agreement for any reason.

c. Inspection Results. In the event, any inspection by Purchaser or its agents or contractors reveals a purported defect in the Property, Purchaser shall provide Seller with written notice of the claim of defect and, if a professional home inspection was performed, a true and complete copy of any report produced by the home inspector. If Seller determines the claim of defect is valid, Seller shall correct or repair the defect. If Seller determines the claim of defect is not valid, Seller shall notify the Purchaser of that determination within thirty (30) days of receipt of the written notice of claim of defect. Notwithstanding any other provision herein, Seller shall not be required to correct or repair any defect in construction that does not constitute a violation of: (1) the building code of the governing jurisdiction in which the Property is located, or (2) the building guidelines and standards of the provider of the Structural Warranty pursuant to subsection a of Section 14 below.

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d. **Radon.** Current EPA guidelines (January 2009) recommend remediation if a radon level within a residence is 4.0 pico curies per liter of air or higher. Purchaser shall have the option, at Purchaser's expense, to have the Property tested for radon by following the procedures set forth in subsection a above. The radon test shall be an electronic test administered by an official radon testing laboratory. The test result shall be deemed satisfactory to the Purchaser if it indicates a radon level of less than 4.0 pico curies per liter of air. If the test result indicates a radon level of 4.0 pico curies per liter of air or more, Seller shall have the option of: (1) completing necessary corrective measures to bring the radon level within the satisfactory range; or (2) refusing to complete any corrective measures. Upon the completion of corrective measures, Purchaser may have a radon test performed at Seller's expense, and if the test result indicates a radon level of less than 4.0 pico curies per liter of air, it shall be deemed satisfactory to the Purchaser. If Seller elects not to complete necessary corrective measures, or if corrective measures are attempted but fail to bring the radon level within the satisfactory range, Purchaser shall have the option of: (a) accepting the Property with its then current radon level; or (b) terminating the contract, in which case all Earnest Money shall be refunded to Purchaser.

10. REAL ESTATE BROKER AND COMMISSION. Seller represents to Purchaser that except for Andi Zage and Chris Ramsey, agents of Realty One Group Properties, Seller has not discussed this Agreement or the subject matter thereof with any real estate broker, agent, or salesperson, so as to create any legal right in any such broker, agent or salesperson to claim a real estate commission, finder's fee, or similar compensation from Purchaser with respect to the sale and/or conveyance of the Property contemplated in this Agreement. Seller hereby indemnifies and holds Purchaser harmless from and against any and all liabilities, losses, costs, damages and expenses, including reasonable attorneys' fees and costs of litigation, Purchaser shall ever suffer or incur because of any claim by any broker, agent or salesperson, whether or not meritorious, for any fee, commission or other compensation with regard to this Agreement or the sale and purchase of the Property contemplated hereby, and arising out of any acts or agreements of Seller.

Purchaser represents to Seller that Purchaser has not employed any real estate broker, agent or finder in connection with this Agreement, other than _____, an agent of _____ ("Co-Broker"), who represents Purchaser. Purchaser shall indemnify and hold Seller harmless from and against any and all liabilities, losses, costs, damages and expenses (including attorneys' fees and expenses and costs of litigation) that Seller may suffer or incur because of any claim by any broker, agent or finder, whether or not meritorious, for any compensation with regard to this transaction arising out of any acts or contracts of Purchaser, other than the Co-Broker named above. Notwithstanding any other provision herein, the provisions of this Section shall survive Closing or termination of this Agreement for any reason. Purchaser acknowledges receipt of a copy of the Agency Disclosure Brochure.

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Seller typically pays a commission ("Broker Commission") upon home closing to licensed brokers who introduce buyers to Seller's communities. Such a commission may be paid in connection with your home purchase.

11. NO RELIANCE. Purchaser acknowledges that it has not relied upon the advice or representations, if any, of Seller, Broker or Seller's salespersons or other agents with regard to the legal and tax consequences of this Agreement or the terms and conditions of any proposed financing of the purchase of the Property. Purchaser acknowledges that if such matters are of concern to Purchaser, Purchaser must obtain independent, professional advice regarding them.

12. WOOD INFESTATION REPORT. At the time of Closing, Seller shall provide Purchaser with a letter or a soil treatment report from a pest-control company licensed in North Carolina certifying that the home has been treated within one (1) year of the date of Closing for subterranean termite infestation. If required by Purchaser's lender, Purchaser may obtain at Purchaser's expense a North Carolina Wood Infestation Report performed by a pest-inspection company licensed in North Carolina.

13. HAZARDOUS SUBSTANCES. Purchaser acknowledges that Seller makes no representation or warranty with respect to the presence or absence of toxic waste, radon, hazardous materials or other undesirable substances on the Property. SELLER HEREBY DISCLAIMS ANY LIABILITY OR RESPONSIBILITY FOR THE PRESENCE OF ANY SUCH SUBSTANCES IN, ON, UNDER OR ABOUT THE PROPERTY.

14. WARRANTIES AND DISCLAIMER.

a. NWP Warranty; Manufacturers' Warranties. At Closing, Seller shall execute and deliver to Purchaser at no additional cost to Purchaser a structural warranty (the "Structural Warranty") by and from Quality Builders Warranty Corporation or such other National Warranty Provider as Seller may reasonably select (the "NWP"). The Structural Warranty will provide, at a minimum, a ten (10) year structural warranty for the residence located or to be located on the Property. In addition, at Closing, Seller shall provide purchaser with a brochure or handbook from the NWP that states the terms of the Structural Warranty. Also at Closing, Seller shall assign to Purchaser all warranties, expressed or implied, which are given by the manufacturer of any appliance or product installed in the home built or to be built on the Property.

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b. One-Year Warranty. In addition, if within one year after the date of Closing any material feature of the construction of the home on the Property is found to be not in accordance with the requirements of this Agreement, then Seller shall correct such defect in construction promptly after receipt of written request from Purchaser to do so, unless Purchaser has previously accepted or approved such defect or condition in writing. Requests for warranty service must be in writing and faxed, mailed or hand-delivered to Seller at Seller's address as indicated below Seller's signature on this Agreement. **Oral or email requests to Seller's staff are not acceptable.** If Purchaser fails to notify Seller of the defect within the 1-year warranty period, or if Purchaser does not allow Seller any and all access to the Property needed to correct the defect during reasonable business hours, then Purchaser shall be deemed to have waived any claim against Seller for failure to correct such defect or condition. Notwithstanding any other provision herein, all of Seller's obligations and responsibilities pursuant to this subsection shall automatically expire one year from the date of Closing. Also, the following matters are excluded from Seller's Warranty:

(1) Landscaping, including trees, shrubs, grass and flowers are not covered by any warranty.

(2) Grading and drainage are not covered by any warranty, nor will they be maintained or modified by Seller after closing in any way whatsoever UNLESS the grading or drainage is found to be in violation of the applicable provision of the North Carolina Residential Construction Standards. Purchaser's closing of the sale constitutes an acceptance of the existing drainage and erosion controls of the Property, except for matters noted on a Punch List as provided in Section 21 below.

(3) As of the date and time of the Closing, Seller shall have no further responsibility for soil erosion, soil conditions or the growth or death of grass, trees or shrubbery. Seller shall not be liable for trees or shrubs, or damage or destruction to same. Seller makes no warranty whatsoever as to the type, location or amount of trees which will exist on the Property after construction. Seller will plant grass seed or install sod, as the case may be, in certain locations at Seller's discretion; however, as part of its construction many areas will be left in their natural state and will not be landscaped in any way. Because the growth of grass seed and the health of sod are dependent on Purchaser's care and maintenance, Seller makes no warranty regarding the presence, absence, growth or death of grass. Because prevention of erosion is dependent on Purchaser's care and maintenance of the grass and sod, Seller makes no warranty regarding erosion.

(4) Seller shall not be responsible for the correction of any leakage or seepage caused by: (a) damaged water pipes or mains, (b) alteration of the landscaping by a party other than Seller (specifically

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including, without limitation, any changes which cause water to flow toward the dwelling), or (c) prolonged direction of water against the outside foundation wall from a spigot, sprinkler, hose or improperly maintained gutters or downspouts.

(5) Seller will not correct any cosmetic defect after Closing unless the defect is listed on the Punch List prior to Closing. Examples of “cosmetic defects” include sheetrock dings, dimples and nail pops, paint discoloration, chips or irregularities in granite, marble, laminate or tile. Unless a defect is noted on the Punch List, Seller does not warrant the installation or the quality of any carpet or flooring product.

c. Disclaimer and Limitation on Seller’s Liability. THE WARRANTY MADE BY SELLER PURSUANT TO SUBSECTION b ABOVE IS TO THE EXCLUSION OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, AND SELLER HEREBY DISCLAIMS ANY AND ALL SUCH OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF HABITABILITY, WARRANTY OF WORKMANLIKE CONSTRUCTION (ALSO KNOWN AS WORKMANLIKE QUALITY OF CONSTRUCTION), AND WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN ADDITION, SELLER MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER REGARDING THE PAST, PRESENT OR FUTURE CONDITION OR USE OF ANY LANDS OR AREAS SURROUNDING THE PROPERTY OR IN THE VICINITY OF THE PROPERTY. AFTER CLOSING, SELLER SHALL HAVE NO LIABILITY OR OBLIGATION TO PURCHASER OF ANY NATURE WHATSOEVER EXCEPT AS PROVIDED IN THIS SECTION 14 OF THIS AGREEMENT, IN SECTION 21 BELOW AND IN SELLER’S SPECIAL WARRANTY DEED TO PURCHASER. SELLER SHALL NOT BE LIABLE FOR ANY REASON UNDER ANY CIRCUMSTANCES TO PURCHASER OR ANYONE CLAIMING THROUGH PURCHASER FOR MONETARY DAMAGES OF ANY KIND, INCLUDING SECONDARY, CONSEQUENTIAL, PUNITIVE, GENERAL, SPECIAL OR INDIRECT DAMAGES.

15. MANDATORY BINDING ARBITRATION. PURCHASER AND SELLER SHALL SUBMIT TO BINDING ARBITRATION ANY AND ALL DISPUTES WHICH MAY ARISE BETWEEN THEM REGARDING THIS CONTRACT AND/OR THE PROPERTY, INCLUDING BUT NOT LIMITED TO ANY DISPUTES REGARDING: (A) SELLER’S CONSTRUCTION AND DELIVERY OF THE HOME; (B) SELLER’S PERFORMANCE UNDER ANY PUNCH LIST OR INSPECTION AGREEMENT; AND (C) SELLER’S WARRANTY PURSUANT TO SECTION 14 ABOVE. THE ARBITRATION SHALL BE CONDUCTED IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED. THE PROCEEDING SHALL BE CONDUCTED PURSUANT TO THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION (THE “AAA”), AND TO THE EXTENT POSSIBLE, UNDER RULES WHICH PROVIDE FOR AN EXPEDITED HEARING. THE FILING FEE FOR THE ARBITRATION SHALL BE PAID BY THE PARTY FILING THE ARBITRATION DEMAND, BUT THE ARBITRATOR SHALL HAVE THE RIGHT TO ASSESS OR ALLOCATE THE FILING FEES AND ANY OTHER COSTS OF THE ARBITRATION, INCLUDING REASONABLE ATTORNEY’S FEES, AS A PART OF THE ARBITRATOR’S FINAL ORDER. THE ARBITRATION SHALL BE

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BINDING AND FINAL, AND EITHER PARTY SHALL HAVE THE RIGHT TO SEEK JUDICIAL ENFORCEMENT OF THE ARBITRATION AWARD. NOTWITHSTANDING ANY OTHER PROVISION HEREIN, ANY DISPUTES ARISING UNDER THE STRUCTURAL WARRANTY PROVIDED TO PURCHASER BY THE NWP SHALL BE MEDIATED, ARBITRATED AND/OR JUDICIALLY RESOLVED PURSUANT TO THE TERMS, CONDITIONS, PROCEDURES AND RULES OF THAT WARRANTY PROGRAM. NOTWITHSTANDING THE FOREGOING, SELLER SHALL HAVE THE RIGHT TO INTERPLEAD ALL OR ANY PART OF THE EARNEST MONEY INTO A COURT OF COMPETENT JURISDICTION AS PROVIDED FOR IN SECTION 4 HEREIN.

BY AFFIXING THEIR INITIALS HERETO, PURCHASER(S) ACKNOWLEDGE THAT THEY HAVE READ, UNDERSTAND, AND AGREE TO THE ARBITRATION PROVISION:

16. CLOSING. The actual exchange of the Purchase Price for the Special Warranty Deed and possession of the Property is referred to herein as the “Closing.” The date on which the exchange occurs is referred to herein as the “Closing Date.” Closing shall not be complete until Seller has received full payment of the Purchase Price. Closing shall be scheduled and conducted as follow:

a. Closing Date. Seller shall notify Purchaser of a tentative date for Closing at least thirty (30) days in advance. Not less than ten (10) days prior to the tentative date set by Seller, Seller shall notify Purchaser by telephone and/or email of the final date and time for Closing, which shall be no earlier than, but may be later than, the tentative date previously set by Seller. Subject only to the provisions of Section 20 below, Closing shall occur no later than that date which is two (2) years after the Effective Date of this Agreement.

b. Exchange at Closing. At Closing, Seller shall deliver to Purchaser the Special Warranty Deed for the Property, a certificate of occupancy for the house located on the Property issued by the applicable governmental authority, and, if applicable, a certificate of final approval by FHA or VA. At Closing, Purchaser shall pay to Seller the Purchase Price in full. Purchaser agrees that Purchaser shall not take possession of the Property, and that Seller shall not provide keys to the Property to Purchaser, until such time as the appropriate Deed has been recorded with the Register of Deeds in the county where the Property is located.

c. Place of Closing. Closing shall take place at the office of Purchaser’s attorney **Southern Law Group** in **Mecklenburg County**, North Carolina, or at such other place as the parties may agree in advance.

d. Purchaser’s Failure to Close. Purchaser’s failure to close on the final closing date set by Seller shall

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constitute a material breach of this Agreement by Purchaser. In such event, in addition to and without waiving any rights and remedies which Seller shall have pursuant to Section 18 below, Seller, at Seller's option, may extend the Closing Date until Purchaser tenders full payment of the Purchase Price; provided that Seller shall retain the right to terminate this Agreement and to retain Purchaser's Earnest Money at any time prior to actual Closing. The parties to this Contract acknowledge that the exact damages to Seller that the parties might reasonably anticipate if Purchaser fails to close on the final closing date set by Seller are difficult to ascertain with precise certainty. Therefore, if Seller does extend the Closing Date pursuant to this subsection, then at Closing Purchaser shall pay to Seller, in addition to the Purchase Price, liquidated damages in the amount of One Hundred Fifty Dollars (\$150.00) per day, calculated from the final date for Closing set by Seller until the date on which Purchaser pays to Seller the full Purchase Price plus all liquidated damages due to Seller pursuant to this subsection. In no event, shall the total liquidated damages assessed under this section exceed Seven Thousand Five Hundred Dollars (\$7,500.00). Purchaser further agrees that the liquidated damages specified herein are not merely a penalty, but instead are a reasonable estimate of the damages that Seller would probably sustain from Purchaser's delay in closing.

e. Closing Costs. Seller shall pay for the preparation of the deed, Seller's attorney's fees and any property transfer tax (deed stamps) imposed by the State of North Carolina. Purchaser shall pay for all other costs related to the Closing. Real estate taxes on the Property for the calendar year in which the sale is closed shall be prorated as of the Closing Date. In the event the property is part of a homeowners association, any prepaid owners' association dues, fees or assessments shall be prorated at Closing.

17. UTILITIES AND PERSONAL PROPERTY. Purchaser shall transfer all utilities into Purchaser's name within three (3) business days after Closing. Purchaser shall not move any personal property onto the Property prior to Closing.

18. DEFAULT; REMEDIES. The remedies specified below shall be the sole and exclusive remedies available to the parties in the event of breach of this Agreement, and shall be to the exclusion of all other remedies at law or in equity.

a. Purchaser's Default. If Purchaser defaults on any of its obligations hereunder prior to Closing, Seller's sole and exclusive remedy shall be to terminate this Agreement by written notice to Purchaser; whereupon, Seller shall retain all Earnest Money and Option Money (if any) paid by Purchaser to Seller as liquidated damages and Seller may recover from Purchaser any liquidated damages due to Seller as the date

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of termination pursuant to subsection e of Section 16 above. Thereafter, neither party shall have any further liability or obligation to the other hereunder.

b. Seller's Default. If Seller defaults on any of its obligations hereunder prior to Closing, Purchaser's sole and exclusive remedy shall be either: (a) to terminate this Agreement by written notice to Seller, whereupon Purchaser shall be entitled to recover all Earnest Money and Option Money (if any) paid to Seller; or (b) to seek specific performance of this Agreement by serving written notice of default on Seller and by instituting mandatory binding arbitration of Purchaser's claim of default and demand for specific performance. Notwithstanding the foregoing, subject to the provisions of Section 20 below and provided that Seller has not terminated this Agreement as a result of breach by Purchaser, if Seller is obligated by this Agreement to build a single-family residence on the Lot and Seller fails to complete construction of the residence within two (2) years of the date Purchaser signs this Agreement, then Purchaser may pursue whatever remedies it may have against Seller at law or in equity.

19. TIME/DATE. The Effective Date of this Agreement shall be the date of signing of this Agreement by the last of the parties to sign. **Time is of the essence** as to the occurrence of all events, the satisfaction of all conditions and the performance of all obligations hereunder.

20. EXCUSED DELAYS. Notwithstanding any other provision herein, if Seller is delayed in performing any of its obligations hereunder or meeting any specified completion dates by labor disputes, fire, delays in deliveries, adverse weather conditions, unanticipated damage to or destruction of the Property, changes requested by Purchaser, governmental controls or moratoria, acts of Nature or any other causes beyond Seller's reasonable control, then the time-period specified herein for performance of such obligation and/or meeting such completion date shall be extended a sufficient number of working days to enable and allow Seller to perform and/or complete the obligation.

21. MANDATORY WALK-THROUGH. Not more than ten (10) days prior to Closing, Purchaser and Seller shall conduct a mutual examination of the Property, commonly referred to as a "walk-through." Seller shall schedule the walk-through during normal working hours (Mon. – Fri., 8:00AM to 3:00PM) and shall give Purchaser at least twenty-four (24) hours prior notice of the scheduled time by telephone. If Purchaser is unable to meet during normal working hours, then the Purchaser will be required to pay a \$250 fee prior to walk-through in order to meet during evening or weekend hours. Immediately after the walk-through, Purchaser and Seller shall prepare a written list of items on the Property that the parties agree should be corrected, repaired or replaced (hereinafter, the "Punch List"). Seller shall thereafter correct, repair or

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replace the items listed on the Punch List. Under no circumstances shall Seller be required to correct, repair or replace any items on or of the Property that are not listed on a written Punch List that has been signed by Seller. Seller's obligation to correct, repair or replace any items that are listed on a written Punch List that has been signed by Seller shall survive Closing. UNDER NO CIRCUMSTANCES SHALL CLOSING BE DELAYED DUE TO SELLER'S FAILURE TO COMMENCE OR COMPLETE CORRECTION, REPAIR OR REPLACEMENT OF ANY ITEMS ON A PUNCH LIST. UNDER NO CIRCUMSTANCES SHALL FUNDS BE ESCROWED AT CLOSING TO COVER THE COST OF CORRECTION, REPAIR OR REPLACEMENT OF ANY ITEMS ON A PUNCH LIST. IN THE EVENT THAT PURCHASER IS UNABLE TO MEET WITH SELLER TO CONDUCT A MUTUAL EXAMINATION OF THE PROPERTY PRIOR TO THE DATE SCHEDULED FOR CLOSING ESTABLISHED BY PARAGRAPH 16(a) OF THIS AGREEMENT, THEN PURCHASER AGREES THAT SELLER MAY AT ITS SOLE OPTION POSTPONE CLOSING UNTIL SUCH TIME AS A WALK-THROUGH HAS BEEN COMPLETED AND ANY RESULTING DELAYS SHALL NOT CONSTITUTE A BREACH OF THIS AGREEMENT BY SELLER.

22. RESTRICTIVE COVENANTS; HOMEOWNERS ASSOCIATION. Purchaser acknowledges that the Property is subject to the Declaration and that upon purchase of the Property, Purchaser shall personally be subject to all the provisions of the Declaration, including but not limited to provisions requiring membership in and payment of assessments to Barry Townhome Association, Inc. (the "Association"). Purchaser acknowledges that in addition to the regular assessment, Purchaser shall be required to pay an initial fee or assessment to the Association at Closing as provided by the Declaration. PURCHASER FURTHER ACKNOWLEDGES THAT THE DECLARATION MAY BE AMENDED FROM TIME TO TIME AS PROVIDED THEREIN, AND THAT THE AMOUNTS TO BE PAID BY PURCHASER TO THE ASSOCIATION MAY CHANGE ACCORDINGLY.

23. SUCCESSORS AND ASSIGNS; INTERPRETATION. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their heirs, successors, administrators, executors and assigns. Purchaser shall not have the right to assign Purchaser's interest in this Agreement. As required by context herein, the singular shall include the plural, and the neuter shall include the masculine and the feminine.

24. ENTIRE AGREEMENT; AMENDMENT. This document contains the sole and entire agreement between the parties hereto with regard to the Property. All prior discussions have been merged into this Agreement. No representation, statement, promise or inducement shall be binding upon either party hereto unless specifically stated in this Agreement. This Agreement may not be modified except by a writing signed by both parties.

25. SEVERABILITY. If any provision of this Agreement shall be declared invalid or unenforceable by laws applicable thereto, or unenforceable as to certain parties, then the performance of such provision shall be

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excused by the parties hereto and the remaining provisions of this Agreement shall remain in full force and effect.

26. NO-WAIVER. Any failure or delay of Purchaser or Seller to enforce any term of this Agreement shall not constitute a waiver of such term, it being explicitly agreed that such a waiver must be specifically stated in a writing delivered to the other party in compliance with Section 28 below. Any such waiver by Purchaser or Seller shall not be deemed to be a waiver of any other breach or of a subsequent breach of the same or any other term.

27. EXHIBITS.

- a. **Exhibits.** The following Exhibits are attached hereto and incorporated herein (Check if to be included):
 - (1) Exhibit A, The Terraces at 36th St Included Features
 - (2) Exhibit B, Quality Builder Warranty
 - (3) Exhibit C, Marketing Floor Plan
 - (4) Exhibit D, Design Selections

28. NOTICE. Except when specifically provided otherwise herein, any notices required to be given hereunder must be in writing. Notice shall be deemed delivered upon receipt or refusal if deposited in the United States Mail, Certified Mail, Return Receipt Requested, postage prepaid, properly addressed to the party to be served. Notice shall also be deemed given if delivered to the address for service of notice shown below by Federal Express, UPS or other nationally recognized overnight carrier service, with no signature or receipt required. Notice shall also be deemed given if delivered to the electronic mail address for service of notice shown below or by facsimile transmission to the facsimile number shown below. Each party warrants that its correct mailing address for service of notice is shown below. Purchaser warrants that its correct telephone number and email address are shown below. A party may change its address for service of notice by giving the other party written notice of the change of address.

29. ELECTRONIC SIGNATURES AND TRANSMISSIONS. This Agreement may be executed by electronic means, including, without limitation by electronic signature and/or facsimile signature. Such signatures shall be deemed to constitute originals for all purposes hereunder. In addition, if either party uses facsimile-transmitted executed documents, or executed documents which have been used electronic signatures or which have been electronically scanned and transmitted by email, then the other party may rely upon such documents as if they were executed originals.

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30. OFFER. This instrument shall be regarded as an offer by the first party to sign until fully executed by both parties, at which time it shall become binding on both parties.

31. FEATURES. Seller reserves the right, at their sole discretion, to make product specification changes equal to or better without notice or prior obligation to the customer. Any product samples may vary in color, texture and size upon installation. Pricing and availability change on a daily basis without notice. Any pricing discussed with sales consultants are for planning purposes only and are subject to change. It is common for additional feature offerings and pricing to change during the transition of initial contract execution and completion of the home.

WHEN SIGNED BY BOTH PARTIES, THIS DOCUMENT WILL BECOME A BINDING CONTRACT IMPOSING LEGALLY ENFORCEABLE OBLIGATIONS UPON YOU. IF YOU DO NOT FULLY UNDERSTAND THIS DOCUMENT OR IF YOU DO NOT FEEL IT MEETS YOUR NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE SIGNING IT.

IN WITNESS, WHEREOF, the parties hereto have executed this Home Purchase Agreement on the dates indicated below.

Initials:

Purchaser:		Seller: 36th St Holdings LLC
		a North Carolina Limited Liability Company
Purchaser's Signature _____		By:
Print Name: _____		Print Name: Jason Javer
Date: _____		Date: _____
Purchaser's Signature _____		Seller's Address:
Print Name: _____		2301 W Morehead Street, Ste A
Date: _____		Charlotte, NC 28208
Purchaser's Current Mailing Address:		

Purchaser's Home Phone:	_____	
Mobile:	_____	
Work:	_____	
Purchaser's Email:	_____	

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ADDENDUM 1

NEW CONSTRUCTION ADDENDUM

This Addendum is attached to and made a part of that Home Purchase Agreement (the "Agreement") between _____ as Purchaser and 36th St Holdings LLC, as Seller, regarding that parcel of land located in Mecklenburg County, North Carolina, briefly described as Lot _____ Charlotte, NC 28205 - The Terraces at 36th St (36th Street Townhome Association, Inc.), and referred to in the Agreement as the "Lot." All terms defined in the main text of the Agreement shall have the same meanings when used in this Addendum. Purchaser and Seller further agree as follows:

1. CONSTRUCTION OF HOUSE. Prior to Closing, Seller shall construct a townhouse residence (the "House") on the Lot. Seller shall not be required to commence construction of the House unless and until: (a) the Loan has been approved by Purchaser's lender to Seller's satisfaction; (b) Purchaser has paid all amounts then due to Purchaser's lender and to Seller; (c) all contingencies to Purchaser's performance hereunder have been satisfied or removed to Seller's satisfaction; and (d) Purchaser has completed its selection of all colors and options for the House.

2. HOUSE PLAN. Seller shall construct the House according to the features listed on that Included Features List attached hereto as **Exhibit A** and incorporated herein, on a (X) slab () basement () crawlspace (collectively, the "Base Plan"). Seller's obligation to construct the House shall be contingent on Seller's ability: (a) to place the House on the Lot without obtaining variances from any set-backs or other dimensional requirements, and (b) to construct the House on the Lot without incurring abnormal costs for foundation, slab or structural support walls. If Seller determines that either of these contingencies cannot be satisfied to Seller's satisfaction, then Seller may terminate this Agreement upon written notice to Purchaser, in which event the Earnest Money and the Option Money (if any) shall be refunded to Purchaser. Seller shall determine the placement and orientation of the House on the Lot in Seller's sole discretion. Purchaser acknowledges that the House shall be handmade and unique, and that although the House shall be based on the Base Plan, variations from the Base Plan will occur. Seller shall not be responsible for such variations from the Base Plan. Purchaser also acknowledges that brochures, models and displays used by Seller's sales agents are for general illustrative purposes only, and are not to be relied upon as representations of actual locations, dimensions, specifications or finished products. Subject only to the provisions of Sections 14 and 21 of this Agreement, Closing shall constitute acceptance of the House by Purchaser AS BUILT, and Purchaser hereby waives any right to object to any variation in construction from the Base Plan after Closing.

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3. HEATING AND AIR CONDITIONING. The House shall be adequately and efficiently heated and air-conditioned with equipment having at least the minimum specifications for the House as established by Load Calculations, Manual J, of the Air-Conditioning Contractors of America, current edition. The clothes dryer shall vent to the outside.

4. INSULATION. Insulation shall be installed in the House to at least the following minimum standards: (a) exterior walls, excluding exterior garage walls, to be insulated with BATT insulation to a thickness of 3 1/2 inches which will, according to the manufacturer, yield an R-value of 15; (b) ceilings below attic areas to be insulated with BLOWN insulation to a thickness of 13 inches which will, according to the manufacturer, yield an R-value of 38; (c) vaulted ceilings to be insulated with BATT insulation to a thickness of 12 inches which will, according to the manufacturer, yield an R-value of 38; and (d) floor overhangs to be insulated with BATT insulation to a thickness of 6 1/4 inches which will, according to the manufacturer, yield an R-value of 19.

5. PURCHASE PRICE. The base price for the House, constructed on a lot in The Terraces at 36th St (36th Street Townhome Association, Inc.) according to the Base Plan, is \$ _____ (the "Base Price").

The Purchase Price is subject to adjustment by amendment to this Agreement, as provided herein.

6. MANDATORY SELECTION MEETING; OPTION MONEY.

a. Within 21 working days of the Effective Date of this Agreement, Purchaser and Seller's representative will meet at Seller's Design Center, located at Seller's office at 2301 W Morehead St, Ste A in Charlotte, NC 28208 to select and confirm all options to be used in the construction of the House, including all colors and finishes. Seller shall schedule this meeting (the "Selection Meeting") during normal working hours and shall give Purchaser at least twenty-four (24) hours prior notice of the scheduled date and time by telephone and/or email. If Purchaser fails to attend the Selection Meeting and complete selection of all options at the Selection Meeting, then Seller may terminate this Agreement upon written notice to Purchaser, in which event Seller shall retain all Earnest Money. At the conclusion of the Selection Meeting, Seller and Purchaser shall execute a First Amendment to this Agreement which shall specify all options chosen by Purchaser and any additional amounts payable as part of the Purchase Price (the "Option Money").

b. Any Option Money paid to Seller at any time shall not be held in escrow, and shall be nonrefundable to Purchaser except in the event of: (1) breach of this Agreement by Seller, or (2) termination of this Agreement by Seller pursuant to Section 2 above. Upon Closing, all Option Money previously paid to Seller shall be credited to Purchaser against the Purchase Price. If Seller omits any option from the construction of the House, Purchaser shall be entitled to an additional credit at Closing against the Purchase Price in the amount of the specified price of the omitted option. Failure by Seller to install an option, including any of the options on **Exhibit A**, shall not

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constitute a breach of this Agreement by Seller, and Purchaser shall have no rights or remedies resulting from such failure except the right to a credit at Closing.

7. CHANGES. Seller shall not be required to allow any changes to Purchaser’s selection of options after the execution of the First Amendment to this Agreement. If Purchaser requests a change in options and Seller agrees to the change, Purchaser shall pay to Seller a Change Fee in the amount of Two Hundred Fifty Dollars (\$250.00) for each such change at the time the request is approved by Seller. Any Change Fee paid shall be nonrefundable and shall not be credited against the Purchase Price. Any changes to options shall not be effective unless evidenced by a written amendment to this Agreement. At the time of execution of that amendment, Purchaser shall pay to the Seller the total increase in the Purchase Price resulting from the change in options as additional Option Money.

8. COMPLETION. Subject to the contingencies stated herein, Seller shall complete construction of the House prior to Closing. Seller shall construct the House according to all applicable governmental codes and regulations. Seller reserves the right to substitute materials or items to be used in the construction of the House with materials or items of equal or comparable value. Construction of the House shall be deemed complete when a certificate of occupancy is issued for the House by the applicable governmental authority. Seller shall deliver the completed House to Purchaser at Closing in “broom-clean” condition, ready to occupy. The House and Lot shall be free of all trash and debris.

9. PURCHASER’S INQUIRIES. Purchaser shall direct all inquiries and questions to Seller’s on-site associate. The on-site associate will provide Purchaser with timely responses; however, the associate does not and shall not have authority to change the terms of this Agreement in any manner. This Agreement may be changed or modified only by a written amendment duly executed by both Purchaser and Seller. Purchaser acknowledges that Seller’s sales associates, superintendents, closing staff, warranty staff and other employees **do not** have authority to modify this Agreement. Only an authorized corporate officer of Seller may modify this Agreement on Seller’s behalf.

Purchaser: _____ Date: _____ _____ Date: _____	Seller: By: _____ Date: _____
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