CARVER LOT PURCHASE STANDARD TERMS

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These Carver Lot Purchase Standard Terms (these "**Terms**") are the standard terms on which BM Guilderland, LLC and other affiliates of Carver Companies sell approved residential building lots to homebuilders. They apply to, and form part of, each Lot Purchase Agreement that incorporates them by reference. A Lot Purchase Agreement that incorporates these Terms is referred to below as the "**Agreement**," the Carver entity named as seller in the Agreement is the "**Seller**," and the party named as buyer is the "**Buyer**." Seller and Buyer are each a "**Party**."

1. APPLICATION, PRECEDENCE AND INTERPRETATION

1.1 **Incorporation.** These Terms are incorporated into and form part of the Agreement as if set out in full in it. References in these Terms to "this Agreement" are to the Agreement together with these Terms, the Schedules and Exhibits to the Agreement, and the Exhibits to these Terms.

1.2 **Version.** The version of these Terms that governs the Agreement is the version identified by number and date in the Agreement. Seller may publish later versions of these Terms from time to time, but no later version applies to the Agreement unless the Parties agree in a written amendment signed by both of them. Seller will keep a dated copy of each published version. Buyer acknowledges that it received a complete copy of the governing version of these Terms before it signed the Agreement, that it has read them, and that it has had the opportunity to take legal advice on them.

1.3 **Precedence.** If there is a conflict between the body of the Agreement and these Terms, the body of the Agreement prevails. If there is a conflict between these Terms and any Schedule or Exhibit, these Terms prevail, except that Schedule 1 to the Agreement (Seller Site Work and Development Cost Allocation) prevails over Section 5 and Section 10 of these Terms as to the scope of the Seller Site Work and the allocation of Development Costs. A provision that is more specific prevails over a provision that is more general. A provision of the Agreement that expands a right of Seller or an obligation of Buyer is not a conflict with these Terms.

1.4 **Interpretation.** In this Agreement: (a) headings are for convenience only and do not affect interpretation; (b) "including" and "includes" mean "including without limitation"; (c) "sole discretion" means a Party's sole and absolute discretion, exercisable for any reason or no reason, and not subject to any implied standard of reasonableness or good faith; (d) references to a Section, Schedule or Exhibit are to the Section, Schedule or Exhibit of the document in which the reference appears unless stated otherwise; (e) the singular includes the plural and vice versa; (f) a reference to a law includes that law as amended and any regulation or ordinance under it; (g) "days" means calendar days unless "Business Days" is stated; (h) a period that ends on a day that is not a Business Day runs to the next Business Day; (i) this Agreement was negotiated by both Parties with the benefit of counsel and no rule of construction against the drafter applies; (j) "Seller's determination" and similar expressions mean a determination made by Seller that is conclusive and binding on Buyer absent manifest error; and (k) an obligation of Buyer to do something includes an obligation

to cause its contractors, agents, employees, invitees, End-Users and persons claiming through it to do it.

1.5 **Definitions.** In this Agreement the following terms have the following meanings, and the terms defined in the body of the Agreement (including Lots, Project, Final Site Plan, Per-Lot Purchase Price, Deposit, Lot Payment Trigger, Outside Closing Date and Takedown Effective Date) have the meanings given there:

"**Affiliate**" means as to any person, any other person that directly or indirectly controls, is controlled by or is under common control with that person, and, as to Seller, includes Carver Companies and each entity under common ownership or control with it.

"**Approvals**" means all federal, state, county and municipal approvals, permits, consents, dedications, easements, agreements and conditions governing the Project, including the Final Subdivision Approval and any SEQRA findings, as the same may be amended or field-adjusted with municipal consent.

"**Building Permit**" means a permit issued by the municipality having jurisdiction authorizing vertical construction of a single-family dwelling on a Lot.

"**Business Day**" means any day other than a Saturday, Sunday or day on which commercial banks in Albany County, New York are authorized or required to close.

"**Buyer Default**" means has the meaning given in Section 17.1.

"**Buyer Parties**" means Buyer, its Affiliates, and their respective members, shareholders, managers, directors, officers, employees, contractors, subcontractors, suppliers, agents, lenders, invitees and End-Users, and any person claiming by, through or under any of them.

"**Construction License**" means has the meaning given in Section 6.1.

"**Contract Effective Date**" means the date on which the Agreement has been signed and delivered by both Parties, as stated on its signature page.

"**Declaration**" means has the meaning given in Section 5.9.

"**Development Costs**" means the costs described in Section 10 and Schedule 1 to the Agreement.

"**End-User**" means a bona fide purchaser for value, unaffiliated with Buyer, of a completed single-family home constructed by Buyer on a Lot, who intends to occupy the home as a residence.

"**End-User Closing**" means the closing of the conveyance of a Lot, with the completed home on it, to an End-User.

"**End-User Contract**" means a signed written contract between Buyer and an End-User for the purchase of a home to be constructed or under construction on a Lot, whether or not subject to conditions, contingencies or attorney review.

"**Environmental Law**" means any federal, state or local law, regulation, ordinance, order, permit or common-law doctrine relating to pollution, the

protection of the environment, natural resources, wetlands, or human health and safety as affected by exposure to Hazardous Materials, including CERCLA, RCRA, the Clean Water Act, the Toxic Substances Control Act, the New York Environmental Conservation Law, the New York Navigation Law, and any analogous law.

"**Hazardous Materials**" means any substance, material or waste that is regulated, listed or defined as hazardous, toxic, a pollutant or a contaminant under any Environmental Law, and includes petroleum and petroleum products, asbestos, polychlorinated biphenyls, lead, radon, mold, urea formaldehyde, per- and polyfluoroalkyl substances, and solid waste or fill of any kind.

"**Improvements**" means all buildings, structures, foundations, slabs, utilities, paving, landscaping, materials, equipment, fixtures and other work of any kind placed on or affixed to a Lot by or for Buyer before the Lot Closing for that Lot.

"**Lot Closing**" means the conveyance of fee title to a Lot by Seller under Section 7.

"**Lot Payments**" means as to any Lot, all sums paid by Buyer on account of the Per-Lot Purchase Price for that Lot, other than the Deposit.

"**Permit-Ready**" means as to any Lot, that the Seller Site Work required for the issuance of a Building Permit for that Lot has been completed in all material respects, as determined by Seller and notified to Buyer under Section 5.4.

"**Permit-Ready Notice**" means has the meaning given in Section 5.4.

"**Permitted Encumbrances**" means has the meaning given in Section 8.1.

"**Released Lot**" means has the meaning given in Section 9.3.

"**Seller Materials**" means any plans, surveys, reports, studies, title information, Approvals or other documents or information relating to the Property or the Project that Seller or anyone on its behalf makes available to Buyer, whether before or after the Contract Effective Date.

"**Seller Parties**" means Seller, its Affiliates (including Carver Companies and each of its subsidiaries), and their respective members, managers, shareholders, directors, officers, employees, agents, lenders, successors and assigns.

"**Seller Site Work**" means the work described in Schedule 1 to the Agreement, as qualified by Section 5.

"**SWPPP**" means the stormwater pollution prevention plan for the Project under the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activity, and any successor permit.

2. PURCHASE PRICE AND PAYMENTS

2.1 **Manner of Payment.** Every payment by Buyer under this Agreement shall be made in United States dollars by wire transfer of immediately available funds to the account

Seller designates in writing, without set-off, counterclaim, deduction, abatement or withholding of any kind, whether or not Buyer asserts any claim against Seller. A payment is made when the funds are credited to Seller's account.

2.2 **Lot Payment Trigger.** Buyer shall give Seller written notice of each Lot Payment Trigger within two (2) Business Days after it occurs, identifying the Lot and the triggering event, and with a copy of any End-User Contract or Building Permit. Seller may also determine that a Lot Payment Trigger has occurred from public records, from observation of the Lot, or from any other reliable information, and Seller's written notice to Buyer of that determination is conclusive unless Buyer demonstrates manifest error within five (5) Business Days. Buyer's failure to give notice of a Lot Payment Trigger does not delay the date on which the first-half payment for the Lot is due, and is a Buyer Default. Buyer shall not take any step designed to defer a Lot Payment Trigger, including by starting work on a Lot through an Affiliate or by structuring an End-User arrangement so as not to constitute an End-User Contract.

2.3 **First-Half Payment.** The first-half payment for a Lot is earned by Seller when paid, and is not refundable, except as expressly provided in Sections 8.3, 8.4, 15.3 and 17.3. Buyer shall not enter upon a Lot to commence construction, and shall not permit any contractor to do so, until Seller has received the first-half payment for that Lot and the other conditions in Section 6.1 are satisfied.

2.4 **Second-Half Payment; Outside Closing Date.** The second-half payment for a Lot is due at the Lot Closing for that Lot, and in all events on the Outside Closing Date for that Lot whether or not a Lot Closing has occurred, unless the Lot Closing has been prevented by a Seller default under Section 17.3. Buyer's obligation to pay the second-half payment on the Outside Closing Date is absolute and is not conditioned on the sale of the home on the Lot, the issuance of a certificate of occupancy, the availability of financing, market conditions, or any other matter.

2.5 **Late Charges; Collection Costs.** Any sum not paid when due bears interest from the due date until paid in full at the lesser of eighteen percent (18%) per annum and the maximum rate permitted by law, compounded monthly. Buyer shall also pay on demand all costs of collection incurred by Seller, including reasonable attorneys' fees, whether or not an action is commenced. Acceptance of a late payment or of interest is not a waiver of the default or of Seller's other remedies.

2.6 **Application of Payments.** Seller may apply any payment received from Buyer to any sum then due from Buyer under this Agreement in such order as Seller determines, regardless of any designation by Buyer.

2.7 **No Participation.** Unless the Agreement expressly provides for a participation payment, Seller has no participation in, and Buyer has no obligation to account to Seller for, the sale price of any home constructed on a Lot.

2.8 **Transfer and Other Taxes.** Seller pays the New York State real estate transfer tax under Tax Law Article 31 attributable to the Per-Lot Purchase Price of a Lot. Buyer pays any transfer tax, mansion tax or similar tax attributable to the value of the Improvements or to an End-User Closing, any mortgage recording tax, and all taxes, fees and charges of any kind imposed on or in connection with Buyer's construction, marketing or sale of homes. If a taxing authority treats the consideration for a Lot as

including the value of Improvements built by Buyer, Buyer shall pay the resulting tax and indemnify Seller against it.

3. DEPOSIT

3.1 **Payment to Seller; No Escrow.** The Deposit is paid directly to Seller and is not held in escrow or in trust. Seller may commingle the Deposit with its other funds and may apply any part of it toward Development Costs, the Seller Site Work or any other purpose, without notice to or consent of Buyer and without any obligation to account for its use. No interest accrues on the Deposit for the benefit of Buyer. Seller's use of the Deposit does not affect Seller's obligation to credit or refund the Deposit to the extent, and only to the extent, expressly required by this Agreement. Buyer waives any vendee's lien or other lien or equitable interest in the Property or any Lot on account of the Deposit or any Lot Payment.

3.2 **Independent Consideration.** One Thousand Dollars ($1,000.00) of the Deposit is independent consideration for Seller's execution of this Agreement and for the rights granted to Buyer under it. The independent consideration is earned by Seller on the Contract Effective Date and is not refundable in any circumstance, but shall be credited against the second-half payment at the last Lot Closing under this Agreement if, and only if, a Lot Closing of every Lot then subject to this Agreement has occurred.

3.3 **Application.** The Deposit is applied against the second-half payments at the Lot Closings specified in the Agreement. If fewer Lots remain subject to this Agreement than the number of Lot Closings over which the Agreement spreads the Deposit, the unapplied Deposit is applied in equal shares against the second-half payments for the remaining Lots. Any part of the Deposit not applied by the last Lot Closing is refunded to Buyer within thirty (30) days after the last Lot Closing, less any sums then owed by Buyer to Seller or any Seller Party under this Agreement or any other agreement.

3.4 **Non-Refundable.** The Deposit is non-refundable from the Contract Effective Date except as expressly provided in Sections 3.3, 15.3 and 17.3. Buyer acknowledges that Seller is relying on the Deposit, that Seller has taken the Lots off the market in reliance on this Agreement, and that the non-refundability of the Deposit is a material inducement to Seller.

3.5 **Liquidated Damages.** The Parties acknowledge that Seller's damages on a Buyer Default would be difficult or impossible to ascertain, having regard to the loss of other buyers, carrying costs, market movement, the cost of completing or removing partly built Improvements and the disruption to the Project. The Parties agree that, on a Buyer Default, Seller may terminate this Agreement and retain the Deposit, all Lot Payments and all Improvements as liquidated damages, that the amount so retained is a reasonable estimate of Seller's damages and not a penalty, and that Buyer shall not contest the retention on the ground that it is a penalty or disproportionate. Seller's retention of liquidated damages is in addition to, and not in substitution for, Buyer's indemnities, Buyer's obligations under Section 6, Buyer's obligation to pay sums already due, and every other obligation that survives termination.

3.6 **Time of the Essence.** Time is of the essence as to the payment of each installment of the Deposit. Buyer's failure to pay any installment of the Deposit when due is a Buyer Default without any requirement of notice or opportunity to cure.

4. NO CONTINGENCY; BUYER'S INVESTIGATION; ACCESS

4.1 **No Due Diligence Contingency.** Unless the Agreement expressly provides a due diligence period, Buyer acknowledges that before the Contract Effective Date it inspected the Property and the Lots, reviewed the Final Site Plan, the Approvals and such Seller Materials as it requested, and completed every investigation of title, survey, soils, geotechnical conditions, wetlands, drainage, flood zone, utilities, environmental conditions, zoning, Approvals, market conditions and all other matters that Buyer considers relevant. Buyer's obligations under this Agreement are not conditioned on the outcome of any investigation, and Buyer has no right to terminate this Agreement on account of any matter discovered or discoverable by investigation.

4.2 **Seller Materials; No Reliance.** Seller Materials are furnished for Buyer's information only. Seller does not represent or warrant the accuracy, completeness, currency or sufficiency of any Seller Materials, has no obligation to create, procure, update or deliver any document or information, and has no liability to Buyer arising from Buyer's use of or reliance on any Seller Materials, whether prepared by Seller or by a third party. Buyer is not relying on any Seller Materials, or on any statement, estimate, projection, marketing material or representation of Seller or its agents, in entering into or performing this Agreement.

4.3 **Buyer's Reports.** Buyer shall deliver to Seller, within five (5) Business Days after receipt and at no cost to Seller, a complete copy of every third-party report, study, test result, survey and assessment relating to the Property or any Lot obtained by or for Buyer at any time. Buyer shall keep all such materials, and all Seller Materials, confidential, shall use them solely for the purposes of this Agreement, and shall not disclose them to any governmental authority except as required by law and then only after not less than ten (10) Business Days' prior written notice to Seller (or such shorter notice as the law allows). Buyer shall not conduct any boring, sampling, excavation or other invasive testing on any Lot before the Lot Payment Trigger for that Lot without Seller's prior written consent, which Seller may withhold in its sole discretion and may condition on the scope, the consultant, the protocol and the delivery of results.

4.4 **Access Before Trigger.** Before the Lot Payment Trigger for a Lot, Buyer and its agents may enter that Lot only at reasonable times, on not less than two (2) Business Days' prior notice to Seller, for non-invasive inspection, subject to the insurance requirements of Exhibit A to these Terms and to Seller's reasonable safety requirements. Buyer shall not interfere with the Seller Site Work, shall promptly restore any disturbance, shall keep the Property free of liens arising from its entry, and shall indemnify, defend and hold harmless the Seller Parties from and against all claims, liabilities, damages, costs and expenses (including reasonable attorneys' fees) arising out of any entry on the Property by any Buyer Party.

5. SELLER SITE WORK AND LOT DELIVERY

5.1 **Scope.** The Seller Site Work is limited to the work described in Schedule 1 to the Agreement. Seller has no obligation to perform any other work, to provide any other improvement, amenity, utility, service or facility, to construct or improve any lot other than the Lots, or to achieve any result not expressly stated in Schedule 1.

5.2 **Standard of Performance; Seller's Control.** Seller shall perform the Seller Site Work using commercially reasonable efforts and in material conformity with the Approvals. The phasing, sequencing, timing, means, methods, materials, specifications, contractors and suppliers for the Seller Site Work are in Seller's sole discretion. Seller may perform the Seller Site Work in phases and may deliver Lots in any order. Seller may substitute materials, methods and specifications that are, in Seller's determination, substantially equivalent to or better than those shown on the Approvals, and may make any change required or permitted by the municipality or any utility provider, without liability to Buyer.

5.3 **No Date Guarantee; Delay Not a Default.** Seller does not represent, warrant or guarantee that any Lot will be Permit-Ready, or that any part of the Seller Site Work will be complete, by any particular date. Delay in the Seller Site Work, for any reason and of any duration, is not a Seller default, does not entitle Buyer to terminate this Agreement or to any damages, abatement, credit or other relief, and does not excuse any obligation of Buyer other than an obligation that by its terms cannot be performed until the affected Lot is Permit-Ready. Buyer's sole remedy for delay is the day-for-day extension of the period in Section 9.1 of these Terms to the extent provided there.

5.4 **Permit-Ready Notice; Punch List; Acceptance.** When Seller determines that a Lot is Permit-Ready, Seller shall give Buyer written notice (a "**Permit-Ready Notice**"). Within ten (10) Business Days after a Permit-Ready Notice, Buyer may inspect the Lot and deliver to Seller a single written list of items of Seller Site Work that are required for the issuance of a Building Permit for that Lot and that have not been completed in all material respects, in reasonable detail with supporting photographs (a "**Punch List**"). If Buyer does not deliver a Punch List within that period, Buyer has accepted the Lot and the Seller Site Work for that Lot as complete and in compliance with this Agreement, and waives any claim in respect of them. Seller shall address Punch List items using commercially reasonable efforts, and Seller's determination that a Punch List item has been addressed, or is not properly on the Punch List, is conclusive. Items that are not required for the issuance of a Building Permit, cosmetic or minor items, items shown on the Approvals as the responsibility of Buyer or of a utility provider, and items relating to any lot other than the subject Lot shall not be included on a Punch List and shall not delay or excuse any Lot Payment Trigger, any payment or any Lot Closing. Buyer accepts each Lot in its as-is condition as of the Permit-Ready Notice, subject only to completion of a timely and proper Punch List.

5.5 **Field Adjustment; Lot Changes.** Seller may, with municipal consent, field-adjust Lot lines, grades, easements, drainage and utility locations and the Final Site Plan. If the municipality or any governmental authority requires a change that reduces the number of Lots or renders a Lot unbuildable, Seller may remove the affected Lot from this Agreement by notice, in which event Seller shall refund the Lot Payments (if any) made for that Lot, the Deposit shall be applied to the remaining Lots under Section 3.3, and Buyer shall have no other claim or remedy.

5.6 **Dedication.** Seller controls the timing and manner of the offer of dedication of roads, utilities and other public improvements and of their acceptance by the municipality. Buyer shall cooperate with Seller in obtaining acceptance, shall not take any position with the municipality inconsistent with acceptance, and shall at Buyer's cost promptly repair any damage to roads, curbs, sidewalks, drainage structures, utilities, lawns or

other improvements caused by any Buyer Party before acceptance, to the standard required by the municipality. If Buyer fails to repair within ten (10) days after notice (or immediately in an emergency), Seller may repair and Buyer shall reimburse Seller on demand, with interest under Section 2.5. Buyer is responsible for any extension of Seller's dedication bond or maintenance period caused by damage attributable to a Buyer Party.

5.7 **Maintenance.** Until dedication is accepted, Seller shall maintain the Project roads and common infrastructure to a commercially reasonable standard, except for damage attributable to a Buyer Party. From and after the Lot Payment Trigger for a Lot, Buyer is solely responsible for the maintenance, snow and ice removal, erosion control, security, safety and appearance of that Lot and the adjoining right-of-way frontage, and for keeping the Lot free of debris, hazards and nuisance.

5.8 **SWPPP.** Seller maintains SWPPP coverage for the Project until the Lot Payment Trigger for each Lot. From the Lot Payment Trigger for a Lot, Buyer is responsible for all stormwater, erosion and sediment control requirements applicable to that Lot, shall obtain its own SPDES coverage or become a co-permittee or shall otherwise comply with the SWPPP as Seller directs, shall install and maintain all Lot-specific controls, shall keep all required inspection logs, and shall indemnify the Seller Parties against all notices of violation, penalties, remediation costs and other liabilities arising from stormwater or erosion conditions on or from that Lot.

5.9 **Declaration; Homeowners' Association.** Seller may, at any time before the last Lot Closing, record against the Project a declaration of covenants, conditions, restrictions, easements, architectural and design standards and assessments, and may form a homeowners' association, in each case on terms customary for residential subdivisions in Albany County and as Seller determines (the "**Declaration**"), and may amend the Declaration from time to time before the first Lot Closing and thereafter as the Declaration permits. Each Lot is conveyed subject to the Declaration, which is a Permitted Encumbrance. Buyer shall comply with the Declaration, shall submit its plans for architectural review where the Declaration requires, shall pay all assessments attributable to a Lot from the Lot Payment Trigger, and shall cause each End-User Contract to disclose the Declaration and the association.

5.10 **Seller's Continuing Work; Reserved Easements.** Buyer acknowledges that Seller and its Affiliates will continue construction, development and sales activities on the Project, on lots that are not Lots, and on adjacent lands during and after Buyer's construction, and that those activities may involve noise, dust, vibration, traffic, temporary interruption of access and utilities, and other inconveniences. Buyer waives, and shall cause each End-User Contract to include a waiver of, all claims against the Seller Parties arising from those activities. Seller reserves, and each deed shall reserve, easements over each Lot until the Project is complete for utilities, drainage, grading, access, construction staging and the completion of the Seller Site Work, provided they do not prevent construction of a home within the building envelope of the Lot.

6. CONSTRUCTION LICENSE BEFORE LOT CLOSING

6.1 **Grant; Conditions.** Subject to the satisfaction of the following conditions as to a Lot, Seller grants Buyer a license to enter that Lot and construct a single-family home and

related improvements on it in accordance with the Building Permit, the Approvals and the Declaration (the "**Construction License**"): (a) Seller has received the first-half payment for the Lot; (b) a Building Permit has been issued for the Lot; (c) Buyer has delivered the insurance certificates and endorsements required by Exhibit A; (d) Buyer has delivered the contractor acknowledgments required by Section 6.9; and (e) no Buyer Default exists. The Construction License for a Lot ends automatically on the earlier of the Lot Closing for that Lot and termination under Section 6.13.

6.2 **Nature of License.** The Construction License is a personal, non-exclusive, non-assignable license that creates no estate or interest in land, no landlord-and-tenant relationship, no partnership or joint venture, and no right of possession as against Seller. Buyer is a licensee only. Buyer waives, and agrees that it shall not assert, any claim of equitable title, equitable conversion, constructive or resulting trust, vendee's lien, mechanic's lien, adverse possession, prescriptive right, or any other right in or to any Lot or the Property other than the contractual right to acquire a Lot on full payment under this Agreement. Nothing in this Agreement obliges Seller to give Buyer any notice, or to take any proceeding, before exercising its rights on termination of the Construction License, and Buyer waives any right to notice to quit or to any proceeding under Article 7 of the New York Real Property Actions and Proceedings Law or otherwise.

6.3 **Title to Improvements.** Title to each Lot, and to all Improvements, remains in Seller until the Lot Closing for that Lot. All materials, equipment and fixtures incorporated into or affixed to a Lot become part of the realty and the property of Seller on affixation, free of any claim of Buyer or any Buyer Party, subject only to Buyer's contractual right to acquire the Lot on full payment. Buyer shall not grant, and shall not permit any contractor or supplier to retain, any security interest, title retention or purchase-money interest in any Improvement, and shall ensure that no fixture filing is made against any Lot.

6.4 **No Encumbrance; Buyer's Financing.** Buyer shall not, and has no power to, mortgage, pledge, grant a security interest in, or otherwise encumber Seller's title to any Lot or the Property, and any purported mortgage or encumbrance is void. Buyer may finance its construction only on the security of Buyer's own assets and of Buyer's contractual rights under this Agreement, and any assignment or pledge of those rights to a lender requires Seller's prior written consent, which Seller may withhold in its sole discretion or condition on the lender's written acknowledgment, in form satisfactory to Seller, that Seller holds title, that the lender has no interest in any Lot or Improvement, that the lender's rights are subject to this Agreement and to termination of the Construction License, and that the lender will not record any instrument against the Property.

6.5 **Buyer's Construction Obligations.** While the Construction License is in effect Buyer shall, at its cost: (a) construct the home in a good and workmanlike manner, with new materials, in compliance with the Building Permit, the Approvals, the Declaration, all applicable codes and laws, and prevailing standards for new residential construction in Albany County; (b) use only contractors that are properly licensed, insured and in compliance with workers' compensation and disability benefits requirements; (c) comply with all Lot-specific SWPPP and stormwater requirements under Section 5.8; (d) keep the Lot and adjoining rights-of-way clean, orderly and free of debris, with no

burning, burial of waste or stockpiling of fill or spoils except as Seller approves; (e) confine construction activity, parking, staging and storage to the Lot and such other areas as Seller designates; (f) not bring onto, release or generate any Hazardous Materials on the Property other than customary construction materials used and disposed of in compliance with Environmental Law; (g) not disturb, damage or interfere with any Seller Site Work, any other lot, any easement, any monument or any drainage or utility facility; (h) observe such hours of work and such rules as Seller or the Declaration prescribes; (i) obtain all certificates of occupancy; and (j) pay all costs of construction when due.

6.6 **Taxes, Assessments and Utilities.** Buyer shall reimburse Seller within ten (10) days after invoice for all real estate taxes, assessments, water and sewer charges and association assessments attributable to a Lot for the period from the Lot Payment Trigger for that Lot, apportioned on a daily basis, and shall pay directly all utility charges for service to the Lot during construction. Sums not reimbursed when due bear interest under Section 2.5 and are secured by Seller's rights under Section 17.2.

6.7 **Marketing; Model Homes; Signage.** Buyer shall not construct or operate a model home, sales office or sales trailer, or erect any sign, flag, banner or display, on any Lot or elsewhere in the Project without Seller's prior written consent, which may be given subject to conditions. All Buyer marketing shall comply with the Declaration, applicable law, and any brand standards Seller issues for the Project. Buyer shall not use the names "Barth Meadows," "Carver," "Carver Companies," or any name, mark or logo of any Seller Party in any marketing, signage, website or communication without Seller's prior written consent, which Seller shall not unreasonably withhold for the marketing of homes on the Lots, and any permitted use is under license from Seller, inures to Seller's benefit and ends on the last Lot Closing. Buyer shall not state or imply that any Seller Party is the builder, sponsor, developer or warrantor of any home, or that any Seller Party has approved, inspected or endorsed any home.

6.8 **Seller's Right of Entry.** Seller and its agents may enter any Lot at any time to inspect the Improvements and Buyer's compliance with this Agreement, to perform or complete the Seller Site Work, to exercise any reserved easement, and to show the Project to prospective purchasers, lenders and governmental authorities. Seller has no obligation to inspect, and no inspection or failure to inspect is an approval of Buyer's work or a waiver of any requirement.

6.9 **Liens; Lien Law.** Buyer shall keep the Property and every Lot free of mechanic's, materialmen's and similar liens arising through any Buyer Party. If any such lien is filed, Buyer shall cause it to be discharged of record, or bonded in the manner provided by the New York Lien Law, within ten (10) Business Days after notice from Seller. If Buyer fails to do so, Seller may discharge the lien by payment, bonding or otherwise, without inquiry into its validity, and Buyer shall reimburse Seller on demand for all amounts paid, with interest under Section 2.5 and Seller's costs and reasonable attorneys' fees. Before any contractor enters a Lot, Buyer shall deliver to Seller a written acknowledgment signed by that contractor, in the form Seller provides, confirming that Seller is the owner of the Lot, that the contractor is engaged by Buyer and not by Seller, that Seller has not consented to the work for purposes of Lien Law Section 3, and that the contractor will look solely to Buyer for payment. Buyer shall include the same acknowledgment in each construction contract and shall obtain lien

waivers from its contractors and suppliers as work progresses. Nothing in this Agreement is a consent by Seller to the performance of any work for purposes of the Lien Law.

6.10 **Risk of Loss.** From Buyer's first entry on a Lot, all risk of loss of or damage to the Improvements, materials, equipment and property of any Buyer Party on the Lot, and all risk of injury to persons on the Lot, is borne by Buyer. Seller is not a bailee or custodian of anything on a Lot and has no duty to secure, protect or insure it. Loss of or damage to any Improvement does not excuse, delay or reduce any payment or obligation of Buyer.

6.11 **Hazardous Materials Introduced by Buyer.** If any Hazardous Materials are brought onto, released on or migrate from any Lot or the Property by or through any Buyer Party, Buyer shall promptly notify Seller, shall at its sole cost investigate and remediate the condition to the satisfaction of Seller and of every governmental authority having jurisdiction, and shall indemnify, defend and hold harmless the Seller Parties from and against all resulting claims, liabilities, damages, penalties, costs and expenses, including the costs of investigation, remediation, monitoring and reasonable attorneys' and consultants' fees, and any diminution in value of the Property.

6.12 **End-User Contracts; Home Warranties.** Each End-User Contract shall: (a) disclose that Seller holds title to the Lot until closing and will convey it at closing; (b) state that no Seller Party is a party to the End-User Contract, is the builder, sponsor or developer of the home, or has any obligation or liability to the End-User; (c) disclose the Declaration, the association, Seller's continuing construction and the reserved easements; (d) contain the waiver required by Section 5.10; and (e) be subject and subordinate to this Agreement. Buyer is solely responsible for all obligations of a builder and seller of a new home, including the housing merchant implied warranty under Article 36-B of the New York General Business Law, any limited warranty Buyer offers, all consumer-protection, disclosure and fair-housing requirements, and all claims of End-Users and their successors of any kind. Buyer shall indemnify, defend and hold harmless the Seller Parties from and against all such claims. Buyer shall deliver to Seller a copy of each End-User Contract with the notice required by Section 2.2, and on request a copy of Buyer's standard form of End-User Contract and limited warranty.

6.13 **Termination of License on Default.** On a Buyer Default, Seller may, in addition to its other remedies, terminate the Construction License for any or all Lots by written notice, effective immediately. On termination: (a) Buyer and all Buyer Parties shall immediately cease work and vacate the affected Lots, leaving them in a safe, secure and weather-tight condition, and shall remove their equipment and unincorporated materials within ten (10) days, failing which Seller may remove and dispose of them at Buyer's cost; (b) all Improvements on the affected Lots belong to Seller without compensation, and Seller may complete, demolish, sell or otherwise deal with them free of any claim of any Buyer Party; (c) Buyer shall, on request and without compensation, assign to Seller all plans, specifications, permits, warranties, construction contracts and End-User Contracts relating to the affected Lots, to the extent assignable, and shall deliver all related records; (d) Buyer waives any claim for unjust enrichment, quantum meruit, restitution, reimbursement or similar relief in respect of any Improvement; and (e) Buyer remains liable under this Section 6 for all

matters arising before it vacates. Buyer shall indemnify the Seller Parties against all claims of any contractor, supplier, lender or End-User arising from the termination.

6.14 **Buyer's Contractors.** Buyer is responsible for the acts and omissions of its contractors, subcontractors, suppliers and agents as if they were Buyer's own. No contractor, subcontractor, supplier, lender or End-User has any right against any Seller Party, and nothing in this Agreement makes any Seller Party liable for any obligation of Buyer to any of them.

7. LOT CLOSINGS

7.1 **Timing.** The Lot Closing for each Lot occurs at the time provided in the Agreement. Time is of the essence as to each Lot Closing and each Outside Closing Date.

7.2 **Manner; Direct Deed.** Each Lot Closing takes place by mail or electronic delivery through Buyer's title company acting as closing agent, or at such other place as the Parties agree. Where a Lot Closing coincides with an End-User Closing, Seller shall, at Buyer's written direction given not less than ten (10) Business Days in advance, convey the Lot either to Buyer or directly to the End-User. A direct conveyance to an End-User is made solely as an accommodation to Buyer, does not create any contractual or other relationship between Seller and the End-User, does not make Seller a seller or sponsor of the home, and does not relieve Buyer of any obligation under this Agreement, including Sections 6.5, 6.12 and 12.

7.3 **Seller Deliveries.** At each Lot Closing Seller shall deliver: (a) a bargain and sale deed with covenant against grantor's acts, in New York statutory form, conveying the Lot subject to the Permitted Encumbrances and reserving the easements under Section 5.10; (b) Form TP-584 and Form RP-5217 executed by Seller; (c) a title affidavit in the form customarily required by title insurers in Albany County, limited to matters within Seller's actual knowledge and without expansion of Seller's obligations under this Agreement; (d) a FIRPTA certification; (e) evidence of Seller's authority reasonably required by the title company; and (f) releases or payoff letters for any mortgage or lien created by Seller encumbering the Lot. Seller has no obligation to deliver any survey, certificate of occupancy, estoppel, indemnity, gap indemnity, mechanic's lien affidavit covering Buyer's work, or any other document.

7.4 **Buyer Deliveries.** At each Lot Closing Buyer shall deliver: (a) the second-half payment and the Deposit application under Section 3.3; (b) all other sums then due to Seller under this Agreement; (c) Form RP-5217 executed by Buyer or the End-User; (d) evidence of Buyer's authority reasonably required by the title company; (e) a certificate that Buyer's representations in Section 11.2 are true as of the Lot Closing and that no Buyer Default exists; and (f) such other documents as the title company may reasonably require that do not expand Buyer's obligations.

7.5 **Costs.** Seller pays the New York State real estate transfer tax attributable to the Per-Lot Purchase Price. Buyer pays all title examination, title insurance, survey, recording, closing agent and escrow charges, all mortgage recording tax, and all taxes under Section 2.8. Each Party pays its own attorneys' fees. Real estate taxes and assessments on a Lot are apportioned as of the Lot Payment Trigger for that Lot under Section 6.6, and there is no further apportionment at the Lot Closing. There are no other adjustments, credits or prorations.

7.6 **Possession; No Merger.** Possession of a Lot passes at the Lot Closing subject to the Permitted Encumbrances and to any rights of Buyer previously exercised under the Construction License. Acceptance of the deed does not merge or extinguish any obligation, indemnity, release, waiver or covenant in this Agreement, all of which survive the Lot Closing and the delivery of the deed.

7.7 **Buyer's Failure to Close.** If Buyer fails to close on a Lot on the date required, that failure is a Buyer Default. In addition to its other remedies, Seller may elect, by notice to Buyer, to treat the second-half payment for that Lot as a liquidated debt then due and to recover it by action, together with interest under Section 2.5 and Seller's costs and attorneys' fees, and to require Buyer to accept the deed, and Buyer waives any defense based on the adequacy of Seller's remedy at law.

7.8 **Reporting.** Buyer's closing agent is the "real estate reporting person" for purposes of Section 6045(e) of the Internal Revenue Code and shall file all required returns. Seller may report the transaction in any manner required by law.

8. TITLE

8.1 **Title Conveyed; Permitted Encumbrances.** At each Lot Closing Seller shall convey fee simple title to the Lot, insurable at regular rates by a reputable title insurer licensed in New York, subject only to the following (the "**Permitted Encumbrances**"): (a) the Final Site Plan and all notes, easements, setbacks and matters shown on it or on any filed subdivision map; (b) the Approvals and all conditions, covenants and restrictions imposed by them; (c) the Declaration; (d) dedications, easements, rights-of-way, licenses and agreements with governmental authorities or utility providers, whether existing or hereafter granted by Seller, that are consistent with the Approvals and do not prevent construction of a single-family home within the building envelope of the Lot; (e) the easements reserved under Section 5.10; (f) the lien of real estate taxes, assessments and water and sewer charges not yet due and payable; (g) zoning, building, environmental and other laws, ordinances and regulations affecting the Lot; (h) matters that an accurate survey or a physical inspection of the Lot would disclose; (i) all covenants, restrictions, easements, agreements and other matters of record as of the Contract Effective Date, all of which Buyer has reviewed and accepts; (j) any matter not objected to in accordance with Section 8.3; (k) rights of utility companies to maintain lines and facilities in the rights-of-way; and (l) any matter caused by, arising through or consented to by any Buyer Party.

8.2 **Acceptance of Record Title.** Buyer acknowledges that it has examined title to the Property as of the Contract Effective Date and accepts all matters of record as of that date as Permitted Encumbrances, whether or not listed above.

8.3 **Later Matters.** If any matter not within Section 8.1 first appears of record after the Contract Effective Date and before a Lot Closing, Buyer shall deliver written objection to Seller within ten (10) days after the matter first appears on a continuation of Buyer's title commitment, failing which the matter is a Permitted Encumbrance. Seller shall discharge at or before the Lot Closing any mortgage, judgment, tax lien or other monetary lien created by or against Seller that is dischargeable by the payment of a liquidated sum (a "**Mandatory Cure Item**"), which Seller may do from the second-half payment. As to any other objection, Seller may elect, by notice within ten (10) Business Days after the objection, to cure or not to cure, and Seller has no obligation

to cure, to commence any action, or to incur any expense. No attempt by Seller to cure is an admission of any obligation. If Seller elects not to cure, or elects to cure and fails to do so within sixty (60) days (which period Seller may extend by up to a further sixty (60) days by notice), Buyer may, as its sole and exclusive remedy, either waive the objection and close, or terminate this Agreement as to the affected Lot only by notice within five (5) Business Days, in which event Seller shall refund the Lot Payments made for that Lot and the Deposit shall be applied to the remaining Lots under Section 3.3. If Buyer does not deliver a termination notice within that period, Buyer has waived the objection.

8.4 **Contract Vendee Parcels.** To the extent any Lot lies within a parcel of which Seller is contract vendee rather than owner on the Contract Effective Date, Seller shall use commercially reasonable efforts to acquire that parcel before the Lot Closing for any affected Lot, but Seller does not guarantee that it will do so. If Seller is unable, or in its determination unable on acceptable terms, to acquire the parcel, Seller may by notice remove the affected Lots from this Agreement, in which event Seller shall refund any Lot Payments made for the removed Lots, the Deposit shall be applied to the remaining Lots under Section 3.3, and Buyer shall have no other claim or remedy. Buyer acknowledges that the contract vendor of any such parcel is not a party to this Agreement and that Buyer has no rights against the contract vendor or under Seller's contract with it.

8.5 **Title Insurance and Survey.** Buyer shall obtain, at its cost, any title commitment, title insurance and survey it requires. Seller has no obligation to provide a survey, to pay any title premium, or to execute any document that would expand its obligations or liability.

9. SALES PACE AND RELEASE OF LOTS

9.1 **Pace Mechanism.** The Agreement sets out the period during which Buyer has no minimum takedown obligation, the circumstances in which Seller may give a Pace Notice, the negotiation of a Takedown Schedule, and Seller's right to release Lots. This Section 9 supplements that mechanism. The period in the Agreement during which Buyer has no minimum takedown obligation is extended day-for-day for any period during which no Lot is Permit-Ready by reason of delay in the Seller Site Work, but is not otherwise extended.

9.2 **Reporting.** Buyer shall deliver to Seller, within ten (10) days after the end of each calendar quarter, a written report in reasonable detail of End-User Contracts signed, Building Permits obtained, homes started, homes completed, End-User Closings completed, homes under contract and unsold, Buyer's pricing, and Buyer's projected starts and closings for the next two quarters, together with such other information about Buyer's sales program as Seller reasonably requests. Seller may rely on these reports and on any other information in determining whether to give a Pace Notice, and Seller's dissatisfaction with pace is in its sole discretion and is not subject to challenge.

9.3 **Release Notice; Released Lots.** A release notice under the Agreement is effective on delivery. On delivery of a release notice as to any Lot (a "**Released Lot**"): (a) all rights of Buyer in respect of the Released Lot, including any exclusivity, terminate; (b) Seller may market, sell, develop, build on or otherwise deal with the Released Lot free

of any claim of any Buyer Party; (c) this Agreement continues in full force as to every Lot that is not a Released Lot; (d) the Deposit is applied to the Lots remaining subject to this Agreement under Section 3.3, and if no Lots remain the unapplied Deposit is refunded under Section 3.3 as if the last Lot Closing had occurred on the date of the release notice; (e) Seller has no liability to Buyer in respect of the Released Lot; and (f) Buyer shall, within five (5) Business Days after request, execute and deliver a recordable release, quitclaim or other instrument confirming that Buyer has no interest in the Released Lot. Seller may give more than one release notice. Buyer acknowledges that the release mechanism is a negotiated allocation of market risk, is not a penalty or forfeiture, and is a material inducement to Seller's agreement not to require a fixed takedown schedule from the outset.

9.4 **Takedown Schedule.** A Takedown Schedule is effective only if set out in a written amendment signed by both Parties. Once agreed, Buyer's failure to meet a Takedown Schedule for any measuring period is a Buyer Default unless, within fifteen (15) Business Days after notice from Seller, Buyer pays the first-half payment for the shortfall number of Lots, which Lots are then subject to the Agreement as if a Lot Payment Trigger had occurred on the date of payment.

10. DEVELOPMENT COSTS

10.1 **Allocation.** Development Costs are allocated between the Parties as set out in Schedule 1 to the Agreement. Any cost not expressly allocated to Seller in Schedule 1 is Buyer's cost. Without limiting Schedule 1, Buyer is responsible for all costs of or relating to the Building Permit for each Lot, the design, construction, marketing and sale of homes, Lot-specific curb cuts, driveways, aprons, sidewalks within the Lot, connections from the Lot line to the home, construction layout and as-built surveys, all per-Lot or per-dwelling fees charged by any governmental authority or utility provider (including public benefit, recreation, water and sewer connection, tap, meter, impact and school fees), all bonds, letters of credit and insurance required for Buyer's construction, post-construction grading, landscaping and stormwater measures within the Lot, and all costs of Buyer's title, survey, financing and End-User Closings.

10.2 **Seller's Use of Deposit.** Seller may draw on the Deposit for Development Costs under Section 3.1 without any statement, itemization or supporting documentation to Buyer and without any right of objection by Buyer.

10.3 **No Reimbursement.** Neither Party is entitled to reimbursement from the other for any cost it incurs except as expressly provided in this Agreement.

11. REPRESENTATIONS AND WARRANTIES

11.1 **Seller.** Seller represents to Buyer, as of the Contract Effective Date only, that: (a) Seller is a limited liability company duly organized and in good standing under the laws of the State of New York; (b) Seller has the power and authority to enter into and perform this Agreement; and (c) Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code. These representations survive each Lot Closing for six (6) months and then expire. Seller makes no other representation or warranty of any kind, express or implied, and no employee, agent, broker or representative of any Seller Party has authority to make any.

11.2 **Buyer.** Buyer represents and warrants to Seller, as of the Contract Effective Date and again as of each Lot Payment Trigger and each Lot Closing, that: (a) Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of New York, and is qualified to do business in every jurisdiction where required; (b) Buyer has the power and authority to enter into and perform this Agreement, has taken all corporate action required, and this Agreement is its valid and binding obligation; (c) the execution and performance of this Agreement do not violate Buyer's organizational documents, any agreement to which Buyer is a party, or any law or order binding on Buyer; (d) Buyer has, and will maintain throughout the term of this Agreement, the financial capacity and liquidity to pay the Deposit, the Per-Lot Purchase Price for every Lot and all other sums due under this Agreement and to construct homes on the Lots; (e) Buyer is an experienced residential homebuilder familiar with the construction and sale of homes in Albany County, and holds all licenses and registrations required for that business; (f) Buyer has investigated the Lots and the Project to its satisfaction and is relying on no representation, warranty, statement or information of any Seller Party other than Section 11.1; (g) there is no litigation, proceeding or investigation pending or, to Buyer's knowledge, threatened against Buyer that could impair its ability to perform; (h) Buyer is not insolvent, has not made an assignment for the benefit of creditors, and is not the subject of any bankruptcy, receivership or similar proceeding; (i) neither Buyer nor any person owning or controlling Buyer is a person with whom United States persons are prohibited from transacting under the regulations of the Office of Foreign Assets Control, and Buyer is in compliance with all anti-money-laundering and anti-corruption laws; (j) Buyer has dealt with no broker, finder or agent in connection with this Agreement; and (k) all information furnished by Buyer to Seller in connection with this Agreement is true, complete and not misleading. The representations in this Section 11.2 survive each Lot Closing and the termination of this Agreement without limit of time.

12. AS-IS SALE; DISCLAIMER; ENVIRONMENTAL RELEASE

12.1 **As-Is, Where-Is, With All Faults.** BUYER ACKNOWLEDGES AND AGREES THAT IT IS ACQUIRING EACH LOT, AND ACCEPTING THE SELLER SITE WORK, IN ITS "AS IS, WHERE IS, WITH ALL FAULTS" CONDITION AS OF THE PERMIT-READY NOTICE FOR THAT LOT, BASED SOLELY ON BUYER'S OWN INVESTIGATION, AND THAT SELLER HAS NO OBLIGATION TO REPAIR, REMEDIATE, IMPROVE OR CHANGE ANY LOT OR THE PROPERTY EXCEPT FOR THE SELLER SITE WORK. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 11.1, SELLER DISCLAIMS, AND BUYER WAIVES AND RELEASES, ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING AS TO THE PHYSICAL CONDITION, SOILS, GEOLOGY, GEOTECHNICAL CONDITIONS, BEARING CAPACITY, ROCK, LEDGE, FILL, GROUNDWATER, DRAINAGE, WETLANDS, FLOOD ZONE, UTILITY AVAILABILITY OR CAPACITY, BUILDABILITY, SQUARE FOOTAGE OR DIMENSIONS, ZONING, SUBDIVISION, COMPLIANCE WITH LAW OR WITH THE APPROVALS, ENVIRONMENTAL CONDITION, VALUE, MARKETABILITY, MERCHANTABILITY, HABITABILITY OR FITNESS FOR ANY PURPOSE OF ANY LOT OR THE PROPERTY, THE ACCURACY OR COMPLETENESS OF ANY SELLER MATERIALS, THE STATUS OF ANY APPROVAL, OR ANY OTHER MATTER. NO SELLER PARTY IS LIABLE FOR ANY STATEMENT, ESTIMATE, PROJECTION OR INFORMATION OF ANY KIND, WHETHER MADE BEFORE OR AFTER THE CONTRACT EFFECTIVE DATE.

12.2 **Environmental Disclaimer.** WITHOUT LIMITING SECTION 12.1, SELLER MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, REGARDING THE ENVIRONMENTAL CONDITION OF THE PROPERTY, ANY LOT OR ANY ADJOINING LAND; THE PRESENCE, ABSENCE, QUANTITY, LOCATION OR MIGRATION OF ANY HAZARDOUS MATERIALS; THE PRESENCE OR ABSENCE OF WETLANDS, WATERCOURSES, PROTECTED SPECIES OR HABITAT, ARCHAEOLOGICAL OR CULTURAL RESOURCES, UNDERGROUND STORAGE TANKS, WELLS, SEPTIC SYSTEMS, DRAINS, FILL OR BURIED DEBRIS; THE HISTORICAL USE OF THE PROPERTY; THE EXISTENCE, CONTENT, ACCURACY OR CONCLUSIONS OF ANY ENVIRONMENTAL STUDY, ASSESSMENT, REPORT, DATA OR CORRESPONDENCE, WHETHER OR NOT IN SELLER'S POSSESSION AND WHETHER OR NOT DELIVERED TO BUYER; OR THE COMPLIANCE OF THE PROPERTY OR ANY LOT WITH ANY ENVIRONMENTAL LAW. ANY ENVIRONMENTAL REPORT OR INFORMATION THAT MAY BE DELIVERED OR MADE AVAILABLE TO BUYER IS DELIVERED FOR INFORMATION ONLY, WITHOUT REPRESENTATION OR WARRANTY, AND BUYER HAS NO RIGHT TO RELY ON IT AS AGAINST ANY SELLER PARTY. BUYER HAS HAD THE OPPORTUNITY TO CONDUCT SUCH ENVIRONMENTAL INVESTIGATION OF THE LOTS AS BUYER DEEMED NECESSARY AND HAS ELECTED TO PROCEED ON THE BASIS OF ITS OWN INVESTIGATION.

12.3 **Release and Covenant Not to Sue.** Effective on the Contract Effective Date, Buyer, for itself and for the Buyer Parties and all persons claiming by, through or under any of them, releases, acquits, discharges and forever waives, and covenants not to sue or to assert against, the Seller Parties in respect of any claim, demand, cause of action, obligation, loss, damage, cost, liability or expense of any kind, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, fixed or contingent, in law or in equity, arising out of or relating to the physical, geotechnical or environmental condition of the Property, any Lot or any adjoining land, the presence, release, migration or remediation of any Hazardous Materials, any wetlands or other natural resource, any violation of Environmental Law, or any condition that would have been disclosed by any investigation, including any claim under CERCLA, RCRA, the Clean Water Act, the New York Navigation Law, the New York Environmental Conservation Law or any other Environmental Law, any claim in nuisance, trespass, negligence, strict liability, breach of warranty or misrepresentation, and any claim for contribution, indemnity, cost recovery, diminution in value or stigma. Buyer acknowledges that this release extends to claims that Buyer does not know or suspect to exist, that Buyer may discover facts different from or in addition to those it now knows or believes to be true, and that Buyer nevertheless intends this release to be full and final. Buyer acknowledges that this release is a material part of the consideration for Seller's agreement to sell the Lots at the Per-Lot Purchase Price and that Seller would not have entered into this Agreement without it.

12.4 **Buyer's Environmental Indemnity.** Buyer shall indemnify, defend and hold harmless the Seller Parties from and against all claims, demands, causes of action, liabilities, losses, damages, penalties, fines, costs and expenses (including reasonable attorneys', consultants' and experts' fees, and the costs of investigation, remediation and monitoring) arising out of or relating to (a) any claim by any Buyer Party, any End-User, any successor owner or occupant of a Lot, or any person claiming through any of them, in respect of any matter released under Section 12.3; (b) any Hazardous Materials brought onto, released on, generated at or migrating from any Lot or the

Property by or through any Buyer Party; (c) any disturbance, excavation, grading, dewatering or construction activity of any Buyer Party that exposes, disturbs, exacerbates or spreads any pre-existing condition; and (d) any violation of Environmental Law by any Buyer Party.

12.5 **Survival; No Merger.** This Section 12 survives each Lot Closing, the delivery of each deed, and any termination of this Agreement, without limit of time, and does not merge into any deed.

13. BUYER'S COVENANTS

13.1 **Transfer Restrictions.** Buyer shall not sell, convey, lease, license, option, encumber or otherwise transfer any Lot or any home, or any interest in either, except by the sale of a completed home to an End-User at or after the Lot Closing for that Lot. Buyer shall not sell, assign, option or otherwise transfer any unimproved Lot, any Lot with an incomplete home, or any right to purchase a Lot, to any person. Any purported transfer in violation of this Section is void and a Buyer Default.

13.2 **No Recording.** Buyer shall not record or file this Agreement, any memorandum, notice or summary of it, any End-User Contract, or any lis pendens, notice of pendency or other instrument against the Property or any Lot, except a notice of pendency in a properly commenced action for specific performance expressly permitted by Section 17.3. Any recording in violation of this Section is a Buyer Default, and Buyer irrevocably appoints Seller as its attorney-in-fact, coupled with an interest, to execute and record any instrument necessary to release or discharge the recorded instrument, at Buyer's cost.

13.3 **Non-Interference; Non-Objection.** Buyer shall not, and shall cause the Buyer Parties not to, directly or indirectly: (a) object to, oppose, appeal, challenge or seek to delay or condition any Approval, any amendment to any Approval, any dedication, or any application by any Seller Party relating to the Project, to lots that are not Lots, to adjacent lands or to any other project of any Seller Party; (b) make any complaint to or communication with any governmental authority concerning any Seller Party or the Project other than as required by law or in the ordinary course of obtaining Building Permits and certificates of occupancy; (c) interfere with Seller's marketing, sale or development of any lot that is not a Lot or of any other property; or (d) solicit or encourage any End-User or other person to do any of the foregoing. Buyer shall, at Seller's request and without cost to Seller, execute consents, letters of support and similar documents in connection with any Seller application relating to the Project.

13.4 **Estoppel Certificates.** Within ten (10) days after request from Seller or any actual or prospective lender, purchaser or investor of Seller, Buyer shall execute and deliver a certificate, in the form requested, confirming that this Agreement is in full force, the Lots then subject to it, the payments made and due, the absence (or particulars) of any default or claim, and such other matters as are reasonably requested. Buyer's failure to deliver a certificate within that period is a Buyer Default and is conclusive confirmation of the matters stated in the requested form.

13.5 **Financial Information.** Within thirty (30) days after request, not more than twice in any calendar year, Buyer shall deliver to Seller its most recent annual financial statements and such other evidence of its financial capacity as Seller reasonably

requests, which Seller shall keep confidential and may share with its lenders and advisors.

13.6 **Cooperation with Seller's Lenders.** Within five (5) Business Days after request, Buyer shall execute and deliver any subordination, recognition, estoppel or similar agreement reasonably required by any lender to Seller, confirming the subordination of Buyer's rights under this Agreement to the lender's lien, provided the lender agrees to recognize Buyer's right to acquire each Lot on payment of the Per-Lot Purchase Price and the other sums due under this Agreement.

13.7 **Compliance with Law.** Buyer shall comply with all laws applicable to its construction, marketing and sale of homes, including building, fire, energy, accessibility, environmental, fair-housing, consumer-protection, advertising and licensing laws, and shall obtain and maintain all licenses, registrations and permits required for its business.

13.8 **Insurance.** Buyer shall maintain, and shall cause its contractors to maintain, the insurance required by Exhibit A to these Terms at all times from Buyer's first entry on the Property until the last Lot Closing and, as to completed-operations coverage, for three (3) years after. Buyer's failure to maintain required insurance, or to deliver certificates and endorsements on request, is a Buyer Default without any requirement of notice or opportunity to cure.

13.9 **No Disparagement; Publicity.** Buyer shall not, and shall cause the Buyer Parties not to, make any statement, publicly or to any governmental authority, End-User or other third party, that disparages any Seller Party or the Project. Buyer shall not issue any press release, advertisement or public statement referring to any Seller Party or this Agreement without Seller's prior written consent. Seller may publicize the sale of Lots to Buyer and the Project in any manner it determines.

13.10 **Cross-Default.** A default by Buyer or any Affiliate of Buyer under any other agreement with Seller or any Affiliate of Seller, after any applicable notice and cure period under that agreement, is a Buyer Default under this Agreement, and a Buyer Default under this Agreement is a default under each such other agreement to the extent that agreement so provides.

13.11 **Further Assurances.** Buyer shall, at Seller's request and without cost to Seller, execute and deliver such further documents and take such further actions as are reasonably necessary to give effect to this Agreement, including documents required by the municipality, any utility provider, any title insurer or any lender to Seller.

14. SELLER'S RIGHTS

14.1 **Financing and Encumbrances.** Seller may at any time mortgage, pledge or otherwise encumber the Property and the Lots to secure development, construction, acquisition or other financing, may refinance, modify or replace any such financing, and may grant easements, licenses, rights-of-way and dedications and record the Declaration, in each case without Buyer's consent, provided that any mortgage or monetary lien created by Seller is released as to a Lot at the Lot Closing for that Lot. Buyer's rights under this Agreement are subject and subordinate to every such mortgage and encumbrance.

14.2 **Exclusivity Limited.** So long as no Buyer Default has occurred and subject to Sections 5.5, 8.4 and 9, Seller shall not sell any Lot (other than a Released Lot) to any person other than Buyer. That is the full extent of Buyer's exclusivity. Nothing in this Agreement restricts any Seller Party in any way with respect to any lot that is not a Lot, any adjacent or other land, or any other project, and Buyer has no right of first refusal, right of first offer, option, preference or other right with respect to any property of any Seller Party other than the Lots.

14.3 **Changes to the Project.** Seller may change the design, layout, lot count, housing type, phasing, amenities and marketing of any part of the Project that does not consist of the Lots, and may develop adjacent lands in any manner, without Buyer's consent and without liability to Buyer.

14.4 **Seller's Assignment.** Seller may assign this Agreement, in whole or in part, to any Affiliate of Seller, to any successor owner of the Property or any part of it, or to any lender as collateral, without Buyer's consent. On an assignee's written assumption of Seller's obligations arising after the assignment, Seller is released from those obligations.

14.5 **Consents and Approvals.** Wherever this Agreement requires Seller's consent, approval, election or determination, Seller may give or withhold it in its sole discretion unless this Agreement expressly states that it shall not be unreasonably withheld, and Seller's consent to one matter is not a consent to any other matter or a waiver of the requirement of consent. Seller may charge Buyer a reasonable fee for the review of any request for consent that requires the involvement of Seller's counsel or consultants.

15. CASUALTY AND CONDEMNATION

15.1 **Seller Site Work.** If any Seller Site Work required for a Building Permit is damaged or destroyed before the Lot Payment Trigger for a Lot, Seller shall repair it using commercially reasonable efforts, and the period in Section 9.1 is extended day-for-day for the period of repair. Seller has no other liability for the damage and Buyer has no right to terminate.

15.2 **Buyer's Improvements.** All Improvements are at Buyer's sole risk under Section 6.10. Damage to or destruction of any Improvement, from any cause, does not excuse, delay or reduce any payment or obligation of Buyer, and Buyer shall restore or remove the damaged Improvement as Seller directs.

15.3 **Condemnation.** If any Lot is taken by eminent domain before its Lot Closing so that a single-family home can no longer be constructed on it in compliance with the Approvals, that Lot is removed from this Agreement, Seller shall refund the Lot Payments made for that Lot, the Deposit shall be applied to the remaining Lots under Section 3.3, and Seller is entitled to the entire award for the Lot, Buyer being entitled only to any separate award expressly made for Improvements constructed by Buyer. A taking that does not prevent construction of a home on the Lot does not affect this Agreement and the entire award belongs to Seller.

16. ASSIGNMENT; CHANGE OF CONTROL; GUARANTY

16.1 **No Assignment by Buyer.** Buyer shall not assign, transfer, pledge or encumber this Agreement or any right under it, in whole or in part, voluntarily, by operation of law or otherwise, without Seller's prior written consent, which Seller may withhold in its sole discretion. Any direct or indirect change in the ownership or control of Buyer (including any transfer of a majority of its voting interests, any merger, consolidation or conversion, and any change in the persons who control its management), any assignment of Buyer's rights to a lender, and any transfer in violation of Section 13.1, is an assignment for this purpose. Any purported assignment without consent is void and a Buyer Default. If Seller consents to an assignment, Buyer and the assignee are jointly and severally liable for all obligations under this Agreement, Buyer is not released, and the assignee shall assume this Agreement in writing in form satisfactory to Seller.

16.2 **Guaranty.** If the Agreement names a guarantor, the guarantor shall execute and deliver to Seller, as a condition of the Contract Effective Date, an unconditional guaranty of payment and performance of all obligations of Buyer under this Agreement in the form Seller provides. Any change in control of Buyer, and any assignment, requires the guarantor's written reaffirmation of the guaranty.

17. DEFAULT AND REMEDIES

17.1 **Buyer Default.** Each of the following is a "**Buyer Default**": (a) Buyer fails to pay any installment of the Deposit, any first-half payment, any second-half payment or any other sum when due, and the failure continues for five (5) Business Days after written notice from Seller, except that no notice or cure period applies to an installment of the Deposit or to a second-half payment due on an Outside Closing Date; (b) Buyer fails to perform any other obligation under this Agreement and the failure continues for twenty (20) Business Days after written notice from Seller (or, if the failure cannot reasonably be cured within that period, Buyer fails to commence the cure within that period and thereafter diligently pursue it to completion within sixty (60) days); (c) Buyer fails to close on a Lot on the date required; (d) any assignment, transfer, encumbrance or recording in violation of Section 6.4, 13.1, 13.2 or 16.1; (e) Buyer fails to maintain the insurance required by Exhibit A or to deliver certificates on request; (f) a lien filed through any Buyer Party is not discharged or bonded within the period in Section 6.9; (g) Buyer abandons construction on any Lot for more than ninety (90) consecutive days after commencement, other than by reason of force majeure affecting Buyer that is documented to Seller; (h) Buyer or any guarantor becomes insolvent, admits in writing its inability to pay its debts, makes an assignment for the benefit of creditors, or is the subject of a bankruptcy, receivership, dissolution or similar proceeding that, if involuntary, is not dismissed within sixty (60) days; (i) any representation or warranty of Buyer in this Agreement or in any certificate delivered under it is untrue or misleading in any material respect when made or deemed made; (j) a cross-default under Section 13.10; or (k) Buyer fails to deliver an estoppel certificate under Section 13.4 or a lender document under Section 13.6 within the period required. A Buyer Default as to any Lot is a Buyer Default as to all Lots.

17.2 **Seller's Remedies.** On a Buyer Default, Seller may, at its election and without prejudice to any other right or remedy, and in addition to its rights under Sections

6.13, 7.7 and 9: (a) terminate this Agreement by written notice as to all Lots for which a Lot Closing has not occurred, whereupon Seller shall retain the Deposit, all Lot Payments and all Improvements as liquidated damages under Section 3.5, all Construction Licenses terminate, and Buyer shall execute and deliver within five (5) Business Days a recordable release of any interest in the Property; or (b) keep this Agreement in effect and recover from Buyer, by action, all sums then due and unpaid, including under Sections 5.6, 6.6, 6.9 and 7.7, together with interest under Section 2.5; and in either case (c) recover from Buyer all costs and reasonable attorneys' fees incurred by Seller in connection with the Buyer Default and the enforcement of this Agreement, and all amounts due under any indemnity. Seller may also, without terminating this Agreement, terminate the Construction License for any Lot, release any Lot under Section 9.3, suspend performance of the Seller Site Work for any Lot not yet triggered, and withhold any consent or approval. Seller's remedies are cumulative, and Seller's election to pursue one remedy is not an election against any other, except that Seller's retention of liquidated damages on termination under clause (a) is in lieu of recovery of other damages for the loss of the bargain (but not in lieu of sums already due, indemnities, or obligations that survive termination).

17.3 **Seller Default; Buyer's Exclusive Remedies.** Seller is in default under this Agreement only if Seller fails to perform a material obligation expressly stated in this Agreement and the failure continues for thirty (30) days after written notice from Buyer specifying the failure in reasonable detail (or, if the failure cannot reasonably be cured within thirty (30) days, Seller fails to commence the cure within that period and thereafter diligently pursue it). Delay in the Seller Site Work is not a Seller default under any circumstances and is governed solely by Section 5.3. In the event of a Seller default, Buyer's sole and exclusive remedies, in lieu of all other rights and remedies at law or in equity, are: (a) if the default is Seller's wrongful refusal to convey a Lot for which Buyer has paid the first-half payment, is not in default, and has tendered the second-half payment and all other sums due, an action for specific performance of the conveyance of that Lot only, commenced within sixty (60) days after the expiration of Seller's cure period, failing which the right to specific performance is waived; or (b) termination of this Agreement as to the Lot or Lots directly affected by the default only, by written notice within sixty (60) days after the expiration of Seller's cure period, in which event Seller shall refund the Lot Payments made for the affected Lots within thirty (30) days, the Deposit shall be applied to the remaining Lots under Section 3.3 (or refunded under Section 3.3 if no Lots remain), and this Agreement continues as to all other Lots. Buyer waives any right to terminate this Agreement as a whole on account of a Seller default affecting fewer than all Lots.

17.4 **Limitation of Seller's Liability.** Buyer waives, and shall not seek to recover from any Seller Party, any damages of any kind on account of any default, breach, misrepresentation or other act or omission of Seller, including actual, direct, indirect, consequential, incidental, special, exemplary and punitive damages, lost profits, lost opportunity, carrying costs, financing costs, and the cost of any Improvements or of any investigation, design, marketing or sales activity. Without limiting the foregoing, the aggregate liability of the Seller Parties to the Buyer Parties under or in connection with this Agreement, on any theory, shall not exceed the Lot Payments actually paid for the Lot or Lots directly affected by the matter giving rise to the liability. No member, manager, officer, employee, agent or Affiliate of Seller has any personal liability under

or in connection with this Agreement, and Buyer shall look solely to Seller's interest in the Property for the satisfaction of any claim.

17.5 **No Lis Pendens; No Injunction.** Buyer shall not file any lis pendens, notice of pendency or similar notice against the Property or any Lot, and shall not seek any injunction or other equitable relief that would restrain Seller from marketing, selling, developing, financing or dealing with the Property or any lot, except in a properly commenced action for specific performance expressly permitted by Section 17.3(a) and then only as to the single Lot that is the subject of that action.

17.6 **Attorneys' Fees.** Buyer shall pay on demand all costs and reasonable attorneys' fees incurred by Seller in enforcing this Agreement or any indemnity, in collecting any sum due, in responding to any claim by a Buyer Party, in reviewing any request by Buyer for consent, or in any bankruptcy or insolvency proceeding of Buyer, whether or not an action is commenced. In any action between the Parties arising out of this Agreement, the Party that prevails on the principal issues in dispute, as determined by the court, is entitled to recover its reasonable attorneys' fees and costs from the other Party.

17.7 **Limitation Period.** Any claim by any Buyer Party against any Seller Party arising out of or relating to this Agreement, the Property, any Lot or the Seller Site Work must be commenced within one (1) year after the claim accrues, or within such longer period as may be the shortest period permitted by law, failing which it is barred.

17.8 **Survival.** All indemnities, releases, waivers, limitations of liability and payment obligations of Buyer, all representations of Buyer, Sections 2.5, 3.5, 5.6, 5.10, 6.3, 6.5 through 6.14, 7.6, 11.2, 12, 13, 17 and 18, and every other provision that by its nature or terms is intended to survive, survive each Lot Closing, the delivery of each deed, and any expiration or termination of this Agreement.

18. DISPUTES

18.1 **Governing Law.** This Agreement, and every claim arising out of or relating to it, the Property or the Lots, is governed by the laws of the State of New York without regard to its conflict-of-laws rules.

18.2 **Venue; Jurisdiction.** The Parties submit to the exclusive jurisdiction of the Supreme Court of the State of New York, Albany County, for any action arising out of or relating to this Agreement, and waive any objection to venue or any claim of inconvenient forum. Buyer consents to service of process by the methods for notice in Section 21, in addition to any method permitted by law.

18.3 **Jury Waiver.** EACH PARTY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PROPERTY OR THE LOTS.

18.4 **Equitable Relief for Seller.** Buyer acknowledges that a breach of Sections 6, 13.1, 13.2, 13.3 or 13.9 would cause Seller irreparable harm for which damages would be an inadequate remedy, and that Seller is entitled to injunctive and other equitable relief to restrain or remedy any such breach, without the posting of a bond and without prejudice to its other remedies.

19. CONFIDENTIALITY

19.1 Buyer shall keep the terms of this Agreement, the Seller Materials, Buyer's reports under Section 4.3 and all non-public information concerning any Seller Party or the Project confidential, and shall not disclose them to any person other than its lenders, attorneys, accountants and insurers, and the attorneys of End-Users, in each case only to the extent necessary and on a confidential basis, without Seller's prior written consent. Seller may disclose this Agreement to its lenders, advisors, Affiliates, prospective purchasers and investors, and governmental authorities as it determines. This Section 19 survives the termination of this Agreement for three (3) years.

20. FORCE MAJEURE

20.1 Seller's performance of the Seller Site Work and of every other non-monetary obligation is excused, and every period for Seller's performance is extended, for the duration of any delay caused by moratorium, governmental action or inaction, delay in the issuance of any permit or approval, weather, labor dispute, shortage or unavailability of labor, materials or equipment, casualty, litigation or administrative proceeding affecting the Property, any Approval or any Seller Party, utility delay, pandemic or public-health order, or any other cause beyond Seller's reasonable control, whether or not foreseeable. No payment obligation of Buyer, and no Outside Closing Date, is excused, extended or deferred for any reason, including force majeure affecting Buyer.

21. NOTICES

21.1 All notices under this Agreement must be in writing and are deemed given (a) when delivered by hand, (b) one (1) Business Day after deposit with a nationally recognized overnight courier, signature required, or (c) when sent by email to the address stated in the Agreement, provided a copy is sent the same or the next Business Day by one of the methods in clause (a) or (b), in each case addressed to the Party at the address stated in the Agreement or such other address as that Party designates by notice. Notice to a Party's attorney named in the Agreement is notice to that Party, and each Party's attorney may give notice on behalf of that Party. A notice refused or returned as undeliverable is deemed given on the date of refusal or return.

22. GENERAL

22.1 **Entire Agreement.** This Agreement (including these Terms and all Schedules and Exhibits) is the entire agreement of the Parties concerning its subject matter and supersedes all prior and contemporaneous negotiations, letters of intent, term sheets, understandings, representations and agreements, oral or written. Buyer acknowledges that no Seller Party has made any promise, representation or inducement not set out in this Agreement.

22.2 **Amendment; Waiver.** This Agreement may be amended, modified, supplemented or terminated only by a writing signed by the Party to be charged. No waiver is effective unless in writing signed by the waiving Party, and a waiver of one matter is not a waiver of any other matter or of the same matter on another occasion. No course of dealing, delay, forbearance, acceptance of a late or partial payment, or failure to enforce any right is a waiver of it.

22.3 **Severability.** If any provision of this Agreement is held invalid or unenforceable, the remainder is enforced to the fullest extent permitted by law, and the invalid provision is reformed to the minimum extent necessary to make it enforceable in a manner that most nearly achieves the Parties' intent.

22.4 **Successors; No Third-Party Beneficiaries.** This Agreement binds and benefits the Parties and their permitted successors and assigns. The Seller Parties are intended third-party beneficiaries of every indemnity, release, waiver and limitation of liability in favor of them. No End-User, lender, contractor, supplier or other person is a third-party beneficiary of this Agreement.

22.5 **Relationship.** The relationship of the Parties is solely that of seller and buyer. Nothing in this Agreement creates a partnership, joint venture, agency, fiduciary or landlord-and-tenant relationship, and neither Party has authority to bind the other.

22.6 **Time of the Essence; Computation.** Time is of the essence of this Agreement and of every date and period in it. If the last day of any period falls on a day that is not a Business Day, the period runs until the next Business Day.

22.7 **Brokers.** Each Party represents that it has dealt with no broker, finder or agent in connection with this Agreement, and shall indemnify, defend and hold harmless the other against any claim for commission, fee or other compensation by any person claiming through it. This Section survives each Lot Closing and termination.

22.8 **Counterparts; Electronic Signatures.** The Agreement may be executed in counterparts, each of which is an original and all of which together are one instrument, and may be executed and delivered by electronic signature and electronic transmission, which have the same effect as original signatures under the New York Electronic Signatures and Records Act.

22.9 **Seller Parties' Rights.** Every right, indemnity, release, waiver and limitation in favor of Seller in this Agreement is for the benefit of each Seller Party and may be enforced by Seller on behalf of each of them.

22.10 **No Offer.** The delivery of a draft of the Agreement or of these Terms is not an offer, and no agreement exists until the Agreement has been signed and delivered by both Parties.

EXHIBIT A TO THE CARVER LOT PURCHASE STANDARD TERMS
BUYER'S INSURANCE REQUIREMENTS

Buyer shall maintain, and shall cause each contractor and subcontractor performing work on the Property to maintain, from first entry on the Property until the last Lot Closing (and, as to completed-operations coverage, for three (3) years after), the following insurance with insurers rated A- VII or better by A.M. Best and licensed to do business in New York:

1. **Commercial General Liability** on an occurrence basis (ISO CG 00 01 or equivalent), including premises/operations, contractual liability (covering the indemnities in this Agreement), products and completed operations, personal and advertising injury, and with no exclusion for residential construction, subsidence, earth movement, exterior insulation and finish systems, or work performed by subcontractors, with limits of not less than $1,000,000 per occurrence, $2,000,000 general aggregate (per project) and $2,000,000 products/completed operations aggregate. The Seller Parties shall be named as additional insureds on a primary and non-contributory basis for ongoing and completed operations (ISO CG 20 10 and CG 20 37, or equivalent).

2. **Umbrella or Excess Liability** with limits of not less than $5,000,000 per occurrence and in the aggregate, following form over the commercial general liability, automobile liability and employer's liability coverages, with the Seller Parties as additional insureds.

3. **Workers' Compensation** as required by New York law, **New York State Disability and Paid Family Leave Benefits**, and **Employer's Liability** with limits of not less than $1,000,000 each accident, each employee and policy limit, with a waiver of subrogation in favor of the Seller Parties. Buyer shall deliver Forms C-105.2 and DB-120.1 (or equivalent) naming Seller as the certificate holder.

4. **Commercial Automobile Liability** covering all owned, hired and non-owned vehicles, with a combined single limit of not less than $1,000,000 per accident, with the Seller Parties as additional insureds.

5. **Builder's Risk** on a completed-value, special-form (all-risk) basis, covering all Improvements, materials and equipment on or in transit to each Lot from commencement of construction until the Lot Closing, including soft costs and debris removal, with Seller named as an additional insured and loss payee as its interest may appear, and with no coinsurance penalty.

6. **Contractor's Pollution Liability** with limits of not less than $1,000,000 per claim and $2,000,000 aggregate, covering sudden and gradual pollution conditions arising from Buyer's operations, with the Seller Parties as additional insureds.

All policies shall: (a) waive subrogation against the Seller Parties; (b) be primary to, and not contribute with, any insurance maintained by any Seller Party; (c) contain a severability-of-interests or cross-liability provision; (d) provide that the insurer will give Seller not less than thirty (30) days' prior written notice of cancellation, non-renewal or material reduction in coverage (ten (10) days for non-payment); and (e) not contain any deductible or self-insured retention exceeding $25,000 without Seller's prior written approval, and Buyer is responsible for all deductibles and retentions. Buyer shall deliver certificates of insurance and copies of all additional insured, primary and non-contributory, and waiver of subrogation endorsements

to Seller before first entry on the Property, on each renewal, and on request. Seller may, by notice to Buyer, reasonably increase the required limits or add coverages not more than once in any three (3) year period consistent with prevailing practice for residential construction in the Capital Region of New York. Buyer's indemnity obligations are not limited by the insurance required under this Exhibit A, and the acceptance of any certificate by Seller is not a waiver of any requirement.