

STATE OF NORTH CAROLINA
CHATHAM COUNTY



THE HAMPTONS BUILDER LOT PURCHASE AGREEMENT

THIS AGREEMENT is made and entered into this the _____ day of _____, 2007, by and between WINDJAM 23, LLC, a North Carolina Limited Liability Company, (hereinafter referred to as “Seller”) and the undersigned purchaser, referred to herein as “Builder” or “Purchaser”, Seller and Purchaser being referred to herein individually as a “Party” or “party”, and together as the “Parties” or “parties”;

WITNESSETH:

WHEREAS, Seller owns certain real property in Chatham County, North Carolina, containing 176.27 acres, more or less, as described in three deeds recorded in the Chatham County Registry in Book 1240, Page 237; Book 1232, Page 75; and Book 1313, Page 246, SAVE AND EXCEPT therefrom that certain tract containing 7.14 acres, more or less, described as Lot 17 on map titled “Survey for Windjam 23, LLC, Minor Subdivision” recorded in Plat Slide 02007-0093, Chatham County Registry, known or to be known as “The Hamptons Subdivision” (such real property also being referred to herein as “The Hamptons” or the “Subdivision”), Seller reserving the right to change the name of the Subdivision as Seller deems necessary to comply with Legal Requirements or to avoid or settle litigation or threatened litigation regarding the name of the Subdivision),out of which real property Seller has subdivided or will subdivide the residential “Lots” described on EXHIBIT A attached hereto, all of the Lots subject to this Agreement being referred to herein together at the “Property”;

AND WHEREAS, Seller has agreed to sell the Lot(s) in the Subdivision to Purchaser, and Purchaser has agreed to purchase such Lot(s) from Seller, upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing, the promises and covenants of both parties set forth herein, and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Seller and Purchaser, intending to be legally bound, hereby agree as follows:

Section 1
Definitions.

In addition to other defined words or terms contained herein, the following are defined words or terms applicable to this Agreement. When two or more words or terms are defined by the same definition, those words or terms are interchangeable and each has the defined meaning. When these and other defined words or terms herein have an initial capital letter or letters, however, it is not required that their use in this Agreement have initial capital letters in order to have the defined meaning.

1.1 “Association” is defined as Hamptons Owners Association, Inc., a North Carolina corporation, its successors and assigns..

1.2 “best of Seller’s knowledge,” “best knowledge of Seller,” or other, substantially similar terminology used herein, is defined as matters actually known by a Manager of Seller, including matters reported to him by third parties, if any, employed by Seller to examine, test or investigate the Property.

1.3 “Builder” or “Purchaser” is defined as the Person or legal entity named as the Builder in the first paragraph of this Agreement., its successors and assigns, and, where appropriate in the context of any particular portion of this Agreement relative to activities of the Purchaser on or in connection with the Subdivision or this Agreement, includes the employees, agents, representatives and contractors of the Purchaser and all other Persons acting on behalf of the Purchaser.

1.4 “building envelope” is defined as all of a Lot inside of the lines formed by the building setback distances under the Declaration, Legal Requirements or recorded Plat, whichever contains the greater required building setback distances. The “building setback distance” is the distance from a Lot boundary line to the associated line forming part of the building envelope. Whenever a building setback distance is expressed in terms of a cumulative distance (for example, a side setback distance of a minimum of 5 feet and an aggregate of 15 feet), unless the parties otherwise agree or Legal Requirements otherwise require, for the purposes of this definition the applicable building setback distance is the aggregate distance divided by the number of lines affected by the distance requirement (for example, if the aggregate building setback distance is 15 feet and two boundary lines are affected, the applicable building setback distance is 7.5 feet). Seller shall decide any dispute as to the number and location of the building envelope and all building setback lines.

1.5 “business day” or “working day” is defined as any day other than a Saturday, Sunday or United States or State of North

Carolina legal holiday. If the last day for doing or completing any action required or permitted hereunder falls on a Saturday, Sunday or United States or State of North Carolina legal holiday, the day for doing or completing such action shall be extended to the next day that is not a Saturday, Sunday, United States or State of North Carolina legal holiday.

1.6 "County" or "City" or "Town" or "governmental entity" as used herein includes, as applicable, the United States of America, the State of North Carolina, Chatham County, North Carolina, and all other governmental entities (including the agencies, branches and departments of the foregoing), including those from whom an approval is required to satisfy a condition or a development obligation in this Agreement or who provide a governmental service to a Lot that is required to satisfy a condition or a development obligation in this Agreement.

1.7 "closing" is defined as each sale by Seller to Purchaser of one or more Lots subject to this Agreement. A closing, or purchase of a Lot is completed when the deed from Seller to Purchaser for the Lot is recorded and the Seller's net proceeds of sale have been received by Seller.

1.8 "Common Area" or "Common Property" is defined as all portions of the Subdivision that are not Lots or publicly dedicated street rights of way, and may consist of areas owned or to be owned by the Association as well as areas owned or to be owned by the County or a utility provider. Common Area typically will be identified as on recorded plats of the Subdivision in some manner that distinguishes it from the Lots and publicly dedicated street rights of way. The parties acknowledge that part or all of the Common Area may be subject to easements recorded in the Registry and/or as contemplated by this Agreement, including as shown on recorded plats of the Subdivision.

1.9 "Complete construction," "completing construction," "completion of construction" or other, substantially similar term used in this Agreement is defined as the later of the date on which construction of a Dwelling on a Lot has been finished in full compliance with the architectural plans approved under the Declaration, or a certificate of occupancy has been issued by the County for the Dwelling constructed on the Lot, both of such requirements being necessary to constitute completion of construction.

1.10 "contractor" is defined as a Person employed by either Seller or Purchaser to construct or perform some improvement on any part or all of the Property or to perform some service in connection with any part or all of the Property, including Persons who supply materials for improvements on any part or all of the Property, and the term contractor includes all levels of subcontractors under the contractor.

1.11 "Date of Execution" or "Effective Date" of this Agreement is defined as the date that this Agreement is executed by the later of Seller or Purchaser to execute same, which date shall be inserted in the first paragraph of this Agreement.

1.12 "Declaration" is defined as the "Declaration of Covenants, Conditions and Restrictions for The Hamptons Subdivision," which is the restrictive covenants recorded or to be recorded by Seller for the Subdivision. "Declaration" also includes any "Subdivision Declaration" that contains provisions related specifically to any phase or section of the Subdivision, and also includes any "Supplemental Declaration" recorded to subject additional real property to the Declaration.

1.13 "Dwelling" is defined as the single-family residential dwelling constructed or to be constructed on a Lot and approved for construction in accordance with the provisions of the Declaration and this Agreement, it being agreed by the parties that only one (1) Dwelling will be constructed on each Lot subject to this Agreement.

1.14 "Environmental Laws" is defined as the rules and regulations of the United States Environmental Protection Agency and the Legal Requirements of any governmental entity having jurisdiction over the Property, relating to the use, generation, storage, discharge, release, disposal or removal of hazardous materials, including the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Occupational Safety and Health Act of 1970, the North Carolina Oil Pollution and Hazardous Substance Control Act, including all amendments to any of the foregoing, and the regulations of the United States Environmental Protection Agency, the United States Nuclear Regulatory Agency, the United States Occupational Safety and Health Administration and the North Carolina Department of Environment and Natural Resources.

1.15 "Guidelines" is defined as The Hamptons Subdivision Architectural and Landscape Design Guidelines for builders who are constructing Dwellings or any improvements upon a Lot in The Hamptons, if any, as established by Seller and revised from time to time by Seller. By its execution of this Agreement, Purchaser acknowledges receipt of a copy of any Guidelines in effect on the Date of Execution hereof.

1.16 "hazardous material" or "hazardous substance" is defined as any substance or waste containing any hazardous or toxic substance, pollutant or contaminant, as those terms are defined in any Environmental Laws applicable to the Property. This definition includes asbestos, asbestos-containing materials, petroleum and petroleum-based products, polychlorinated biphenyls (PCPs), infectious wastes and radioactive materials and wastes.

1.17 "Institutional Lender" is defined as any one or more of the following: a commercial or savings bank, a savings and loan association, a trust company, a credit union, an industrial loan association, an insurance company, a pension fund, a business trust (including a real estate investment trust), or any other entity regularly engaged in lending money to finance the purchase, construction or improvement of real property.

1.18 "Legal Requirement" is defined as any lawful statute, ordinance or regulation of the United States, State of North Carolina or the County or Town applicable to the Property or any part thereof, and includes all development approvals given

by the County and other governmental entities having jurisdiction over the Property.

1.19 “person” or “Person” is defined to include a natural person, corporation, partnership, limited liability company and any other legal entity.

1.20 “Purchaser” or “Builder” is defined as the Person who has executed this Agreement at the Purchaser or Builder, its successors and assigns, and, where appropriate in the context of any particular portion of this Agreement relative to activities of the Purchaser on or in connection with the Property, includes the employees, agents, representatives and contractors of the Purchaser and all other Persons acting on behalf of the Purchaser.

1.21 “Registry” is defined as the office of the Register of Deeds for Chatham County, North Carolina, or the office of any successor official. Any reference in this Agreement to a recorded document or plat or to a document or plat to be recorded refers to the Registry as the place of recording.

1.23 “Seller” is defined as Windjam 23, LLC, a North Carolina limited liability company, its successors and assigns, and, where appropriate in the context of any particular portion of this Agreement relative to activities of the Seller on or in connection with the Subdivision or this Agreement, includes the employees, agents, representatives and contractors of the Seller and all other Persons acting on behalf of the Seller.

1.24 “Subdivision Plan” is defined as the most current plans and drawings (including engineering and construction plans and drawings) for development of the Subdivision that have been approved by the County as of the applicable point in time. If on the Date of Execution of this Agreement no Subdivision Plan has been approved by the County, it is defined as the most current plans and drawings for development of the Subdivision that have been submitted to the County for review and approval. The Subdivision Plan contains a sheet or sheets showing the configuration of the Lots within the Property and, with respect to those Lots for which no plat has been recorded as of the Date of Execution of this Agreement, the applicable sheets of the most current Subdivision Plan are attached to this Agreement as EXHIBIT B.

Section 2

Lots Subject To Agreement.

Seller hereby agrees to sell and convey to Builder, and Builder agrees to purchase and accept conveyance of from Seller, subject to all of the terms and conditions hereof, the Lot or Lots in the Subdivision listed on EXHIBIT A attached hereto. Some or all of the Lots on EXHIBIT A may not have been recorded on plats in the Chatham County Registry on the Date of Execution of this Agreement. Accordingly, as such Lots are recorded on plats in the Chatham County Registry, or as Seller and Builder desire to add other Lots to this Agreement, Seller and Builder may execute a “Supplemental Exhibit A” (in the form attached hereto as EXHIBIT A-1) to specifically describe the plat recording information for Lots or to subject additional Lots to this Agreement. If the parties do not execute a Supplemental Exhibit A to state the plat recording information of Lots that have not been recorded on the Date of Execution of this Agreement or at the time of execution of a Supplemental Exhibit A, then the description of the Lots used for the purposes of closing shall be deemed to be the description of the Lots for the purposes of this Agreement. Each fully executed Supplemental Exhibit A is incorporated into and becomes a part of EXHIBIT A of this Agreement. References in this Agreement to EXHIBIT A also include all applicable Supplemental Exhibit A(s).

Section 3

Purchase Price.

The purchase prices for the Lots shall be as set forth on EXHIBIT A. The purchase price of each Lot shall be paid as follows:

3.1 Earnest Money. Prior to or contemporaneously with this execution of this Agreement and with the execution of any Supplemental Exhibit A that adds additional Lots to this Agreement, Purchaser shall deposit with Seller the sum of \$10,000.00 per Lot as the “Earnest Money” for the Lots described on each EXHIBIT A. The Earnest Money is non-refundable, except in the event of Seller's default, and may be commingled with other funds of Seller. The Earnest Money shall be applied at closing as a credit toward the Purchase Price of each Lot at the rate of \$10,000.00 per Lot.

3.2 Balance of Purchase Price. The balance of the purchase price of each Lot remaining after applying the applicable Earnest Money to the purchase price, and subject to the pro-rations described herein, shall be paid at closing.

Section 4

Ownership and Conveyance.

4.1 Deed and Title Exceptions. Seller covenants that it owns or will own, at or prior to closing, each Lot to be purchased at that closing pursuant to this Agreement, and that at closing it will convey to Purchaser marketable, fee simple title to such Lot by general warranty deed in the form of or containing all the warranties contained in the then current North Carolina Bar Association approved General Warranty Deed form, subject only to the following “Title Exceptions” (some or all of which may be described in the deed by which Seller conveys a Lot to Purchaser): rights of way and easements of record; easements reserved or established as provided herein; matters shown on recorded plats of the Lot or of the real property out of which the Lot is subdivided; current zoning and other Legal Requirements; unconfirmed special assessments; Ad Valorem property taxes for the year in which closing occurs (to be pro-rated as provided herein); Association assessments (some or all of which may not become applicable to a Lot until it is conveyed by Seller to Purchaser); Lot Transfer Restrictions; the Declaration; and all other matters constituting “Title Exceptions” in this Agreement. Legal Requirements and agreements or conditions that are part of the County’s approval of the Subdivision also are included within the definition of “Title Exceptions” for the purposes of this Agreement, whether or not they are referenced in any deed by which Seller conveys a Lot

to Purchaser.

4.2 “As Is, Where Is” Conveyance. It is expressly understood and agreed that, except as specifically set forth herein, Seller has not made, and shall not be deemed to have made, any warranties or representations, expressed or implied, nor shall Seller have any liability to Purchaser, with respect to any aspect of the Property or its condition, including specifically but without limitation as to (a) the design, construction, maintenance, operation, profitability, marketability or compliance with any Legal Requirement, of any improvement located or to be located on the Property (except for any improvements on the Property constructed by or on behalf of the Seller as part of the Seller Development Obligation) or (b) the compliance of the Property with any Legal Requirement relating to Environmental Laws, health, safety, zoning, or persons with disabilities. Further, it is expressly understood and agreed that Purchaser will purchase each Lot in an **“AS IS, WHERE IS”** condition, and that, (i) except as specifically set forth herein, any warranty or representation by Seller regarding the Property, express or implied, is hereby expressly excluded and negated and, (ii) except for any violation or breach of any warranty or representation made by Seller in this Agreement, or any Seller default under this Agreement, Purchaser hereby releases Seller from any claim, cause of action or damage related to any aspect of the Property or its condition. The provisions of this paragraph, at Seller’s option, may be inserted in each deed by which Seller conveys a Lot to Purchaser.

Section 5

Closing.

The following provisions are applicable to the closing of each Lot subject to this Agreement:

5.1 Closing Date. Purchaser shall purchase each Lot by the date for closing that Lot indicated on EXHIBIT A. Provided, however, if the plat for the Lot has not been recorded by the closing date, then the closing date for the purchase of that Lot shall be extended to the date that is up to thirty (30) days after the plat for that Lot has been recorded. Failure by Builder to close the purchase of a Lot on or before the closing date shall constitute a default by Builder hereunder. Without limiting or constituting a waiver of any other rights or remedies of Seller, if Builder fails to close the purchase of any Lot on or before the closing date and Seller elects to waive such default and allow Builder to close on a later date, in addition to the Purchase Price Builder shall pay at closing a late closing charge in the amount of \$150.00 per day from and including the closing date specified to and including the actual date of closing.

5.2 Recording and Other Costs. With respect to each closing: (i) Seller shall pay for the cost of deed preparation, North Carolina excise tax (also known as revenue stamps) for the transfer of the Lot being purchased, the cost of all confirmed special assessments on the Lot due at the time of closing to any governmental authority as provided herein (other than any assessments for charges or fees that Purchaser is responsible for paying hereunder), and all other closing costs incurred by Seller; and (ii) Purchaser shall pay for the cost of recording the deed, with the exception of North Carolina excise tax all transfer taxes, if any, required to be paid under applicable Legal Requirements, Purchaser's title examination expenses, premiums for Purchaser's title insurance, all costs and fees required to be paid by Purchaser under other provisions of this Agreement, and all other closing costs incurred by Purchaser. The fees and expenses for attorneys, accountants and others shall be paid for by the party who retains the services of such persons.

5.3 Property Taxes. Seller shall pay all Ad Valorem property taxes which may be a lien on a Lot at the time of closing, including all deferred or rollback taxes, except that the real property Ad Valorem taxes billed by the taxing authority during the calendar year in which closing occurs shall be pro-rated between the parties on a calendar year basis as of the date of closing, with the Seller being responsible for the portion of same for January 1 through the day immediately preceding closing and with Purchaser being responsible for the portion of same for the day of closing through December 31. The Ad Valorem property tax bill issued by the taxing authority during the calendar year in which closing occurs is referred to in this section as the “applicable bill”. If the closing occurs prior to the date on which the applicable bill is issued by the taxing authority, the pro-ration at closing shall be based on the tax rates applicable to the Ad Valorem tax bill issued by the taxing authority during the calendar year immediately preceding the calendar year in which closing occurs, and either party may request a revised pro-ration after the applicable bill is issued, each party agreeing to adjust the pro-ration based on the applicable bill and pay any amount due to the other party within ten (10) days of being requested to do so. If the parties expect that the applicable bill will be issued for the Lot being purchased by Purchaser, at closing Seller shall its pro-rata share to Purchaser, and Purchaser shall pay the applicable bill prior to the date on which any penalty and/or interest would be assessed against the applicable bill. If the parties expect that the applicable bill will be issued for a larger tract out of which the Lot has been subdivided, the property tax pro-ration for the closing of that Lot shall be calculated based on the acreage of the Lot as a percentage of the total acreage of the larger tract out of which it has been subdivided, at closing Purchaser shall pay its pro-rata share to Seller, and Seller shall pay the applicable bill prior to the date on which any penalty and/or interest would be assessed against the applicable bill.

5.4 Special Assessments. All certified, confirmed or ratified special assessment liens that affect the Lot as of the date of closing shall be paid by Seller at closing. Pending liens as of the date of closing shall be assumed by the Purchaser. Provided, however, where the improvement has been substantially completed as of the date of closing, any such pending liens shall be considered as certified, confirmed or ratified and at closing Seller shall be charged and Purchaser shall be credited an amount equal to the last estimate by the County of the assessment for the improvement, and Purchaser shall be responsible for payment of the assessment upon its certification, confirmation or ratification.

5.5 Association Assessments. Association assessments applicable to any Lot being purchased shall be pro-rated at closing, which includes Purchaser’s payment of the portion of the applicable assessment due for the period of time from the date of closing through the end of the year in which closing occurs, even if the Lot is exempt from such assessments as owned by Seller.

5.6 Non-Foreign Status. At each closing Seller shall execute and deliver at Purchaser’s request an affidavit certifying Seller’s United States taxpayer identification number, stating that Seller is not a "foreign person" as defined by Section 1445

of the Internal Revenue Code, and containing such other information as required by Section 1445 of the Internal Revenue Code and the regulations issued pursuant thereto, or if Seller is a foreign person, Seller shall cooperate with Purchaser to insure that the parties fully comply with all withholding requirements of the Internal Revenue Code and Internal Revenue Service regulations in connection with the sale and purchase of each Lot.

5.7 Labor and Material Liens. Seller represents and warrants to Purchaser that all Persons who have performed work upon or furnished labor and/or materials to improve or benefit a Lot on behalf of Seller have been or will be paid in full by Seller prior to the time of closing of the sale of that Lot to Purchaser, or that, in connection with the closing, Seller will obtain from any such Persons who have not been paid in full, in a form reasonably acceptable to Purchaser's title insurance company, waivers of all liens that any of the foregoing may have a legal right to file or assert against the Lot being purchased, or provide Purchaser's title insurance company with such other assurances as may be reasonably required to induce such title insurance company to issue an owner's policy of title insurance to Purchaser without any exception for unfiled labor or material liens. Provided, however, and notwithstanding the foregoing, it shall be Purchaser's responsibility to obtain any and all waivers of liens with respect to all work performed and materials delivered to a Lot for Purchaser, and it shall not be a condition of any closing that such waivers of liens be obtained.

5.8 Possession. Possession of the Lot shall be delivered to Purchaser at closing.

Section 6 Seller Development Obligation.

The "Seller Development Obligation" with respect to the Lots and related matters is described on EXHIBIT C attached hereto.

Section 7 Purchaser Development Obligation.

The "Purchaser Development Obligation" with respect to the Lots and related matters is described on EXHIBIT D attached hereto.

Section 8 Conditions Precedent to Lot Purchase.

Notwithstanding anything to the contrary appearing herein, Purchaser shall not be obligated to purchase any Lot subject to this Agreement until the following have occurred or been completed or satisfied with respect to that Lot (referred to herein as the "Conditions Precedent"):

8.1 Lot Development. Development of the Lot has been completed by Seller to the extent that the Lot meets the requirements of the County for issuance of a building permit to construct a Dwelling on the Lot, subject only to presentation by Purchaser to the County of a properly completed building permit application and payment or posting of appropriate financial security by Purchaser of all fees charged by the County in connection with issuance of the building permit, and compliance by Purchaser will all other applicable items of the Purchaser Development Obligation.

8.2 Recorded Plat. The plat for the Lot has been recorded in the Chatham County, North Carolina Registry, or has been approved for recording by the County and Seller is delaying recording until the time of Purchaser's closing of the purchase of the Lot.

8.3 Street Paving. Construction of the street on which the Lot fronts, together with construction of all other streets in the Subdivision necessary to provide motor vehicle access to the Lot from North Carolina State Road 1700, has been completed except for the final inch of asphalt or other paving material.

8.4 Water and Septic. Construction of the water lines to a boundary line of each lot which is connected to Chatham County's water system has been completed. Notwithstanding the foregoing, any tap fees are the responsibility of the Purchaser. The permitting, installation and costs of installation of the onsite septic systems (waste water treatment systems) shall be the responsibility and obligation of the Purchaser.

8.5 Lot Staking. The initial staking of the Lot corners has been completed (which staking may or may not be the final iron pin staking). Purchaser shall be responsible for all re-staking of a Lot following closing or following any commencement by Purchaser of any construction activities (which includes delivery of materials) on a Lot prior to closing.

Section 9 Condemnation.

If, prior to any closing, any portion of a Lot that is scheduled to be purchased at that closing shall be condemned or taken pursuant to any governmental or other power of eminent domain, any written notice of taking or condemnation is issued, or any proceedings are instituted by any governmental authority having the power of eminent domain, and the taking or condemnation is of the entire Lot or such portion of the Lot as would result in a material adverse effect upon its use as a residential lot (a "Major Taking"), then the Purchaser shall have the right to refuse to purchase that Lot by giving Seller written notice to that effect within fifteen (15) days after receiving written notice from Seller advising of the condemnation or taking. In such event, except as otherwise provided herein, both Seller and Purchaser shall be relieved of further rights, duties, obligations and liabilities with respect to that Lot. If a taking or condemnation occurs which is not a Major Taking, or if a Major Taking occurs and Purchaser does not refuse to purchase the Lot within the fifteen (15) day period, Purchaser

shall proceed with the purchase of the Lot, less the part of the Lot already taken, with a reduction in the Purchase Price equal to the condemnation award paid to Seller for the portion of the Lot already taken. If the condemned part of the Lot to be purchased has not yet been taken and paid for by the condemning authority by the time of closing, there shall be no reduction in the Purchase Price and Seller shall assign to Purchaser at closing all of Seller's right to such unpaid condemnation award applicable to that Lot, and Seller shall convey to Purchaser the entire Lot.

Section 10

Risk of Loss And Waste.

Unless the loss or damage is caused by Purchaser, the risk of loss or damage by fire or other casualty with respect to each Lot prior to closing of the purchase of that Lot shall be upon Seller. The risk of loss following closing shall be upon Purchaser. For purposes of determining when the risk of loss passes from Seller to Purchaser, closing shall be deemed to have occurred when the deed has been delivered to Purchaser free of all conditions placed upon such delivery by Seller. Except as may be required (i) for Seller to fulfill the Seller Development Obligation or other requirement of this Agreement, or (ii) by the County, or (iii) to remove dead or diseased trees or other debris from the Property, or (iv) to comply with any applicable Declaration, or (v) to develop any part or all of the Subdivision, or (vi) as otherwise may be reasonably required for Seller in the exercise of reasonable care to avoid civil liability or to prevent injury to person or property, Seller agrees not to commit or knowingly allow the commission of waste on any Lot subject to this Agreement and to convey each such Lot to Purchaser in substantially the same condition it is in on the Date of Execution of this Agreement, subject to ordinary wear and tear.

Section 11

Declaration, Easements, And Agreements.

11.1 Declaration. Seller and Purchaser acknowledge and agree that, at or prior to closing, Seller will subject the Lots being purchased to the Declaration. The Declaration shall comply with County requirements, if any, and may include provisions related to any part or all of the following: (i) architectural approval of improvements to be constructed, placed or altered on the Property; (ii) the Association's rights and obligations under the Declaration; (iii) membership and votes in the Association; (iv) payment of assessments to the Association; (v) subjection of portions of the Property to the Declaration in phases, Seller reserving the right to subject Lots and associated Common Property to the Declaration only as such Lots are purchased by Purchaser; (vi) working capital assessment to be paid by initial purchasers of Dwellings; (vii) exemption from all assessments of Lots owned by Seller that have been subjected to the Declaration, except for those Lots, if any, on which Dwellings have been constructed; (viii) reservation of rights for Seller to complete development of Lots and other portions of the Subdivision over Common Property, including the right to grant such easements as may be necessary in connection with such development and including Seller's right of pedestrian and vehicular access over and upon all Common Areas in the Subdivision; (ix) the transfer of Declarant rights and obligations by Seller to Purchaser or the Association; (x) a requirement that the Association accept all conveyances from Seller of all Common Property; (xi) a requirement that the Association accept the transfer from Seller of all County permits and contractual obligations of Seller related to the Common Area; and (xii) the requirement of architectural approval by Seller of all improvements to be constructed or placed on the Property by Purchaser and other Persons.

11.2 Easements and Buffers. Seller reserves the right to establish or reserve on each Lot subject to this Agreement such easements, greenways and buffers as may be reasonably required in connection with the development of the Subdivision or as required by Legal Requirements; provided, however, no such easement or buffer shall interfere unreasonably with Purchaser's construction of a Dwelling on any Lot and shall not, without Purchaser's consent, be located within the building envelope on a Lot. Such easements and buffers may include one or more of the following: water and sanitary sewer line easements; easements and facilities for storm water flow, inspection, collection, drainage, discharge, and/or retention; other utility easements (including electric, telephone, natural gas and cable television); sign and landscaping easements; temporary ingress/egress easements until such time as there are publicly dedicated streets or private streets providing substantially similar access; greenway easements; Cape Fear River basin buffers; and other easements and buffers required by Legal Requirements. All of such easements and buffers shall be Title Exceptions. In order to complete development of the Subdivision and/or the Seller Development Obligation, Seller further reserves the right to "tap on" or connect to each utility pipe or line located in, on, under or through a Lot or any other part of the Subdivision, without any payment or charge to the Association, Purchaser, or any other owner of any part or all of the Lot or other portion of the Subdivision on which any such utility line or pipe, or tap or connection, is located.

11.3 Agreements. Seller and Purchaser acknowledge that, as part of Seller's development of the Subdivision, or as a condition of the issuance of building permits or the granting of certificates of occupancy for Dwellings on the Lots, it may be necessary for Seller and/or Purchaser and/or the Association under the Declaration, to enter into one or more agreements with the County with respect to development requirements imposed by the County on development of the Subdivision. As an example, the parties acknowledge that the County may require an agreement for the maintenance of part or all of the storm water system for the Subdivision, which agreement may require an escrow of funds with the County to pay for certain maintenance items related to such facilities. Purchaser agrees that it will cooperate reasonably in executing any such agreements with respect to Lots that it owns, and Purchaser further agrees that any such agreements executed by Seller that affects Lots subsequently conveyed by Seller to Purchaser shall be part of the Legal Requirements applicable to such Lots and shall be Title Exceptions, whether or not such agreements are recorded in the Chatham County, North Carolina Registry.

Seller and Purchaser further acknowledge that the Legal Requirements applicable to development of the Subdivision into lots on which residential dwellings may be constructed often change over time, and that they may not know on the Date of Execution of this Agreement all the Legal Requirements that ultimately may be applicable to some or all of the Lots. Accordingly, the parties agree that they will cooperate reasonably and in good faith with respect to such Legal Requirements and agreements to be executed pursuant to such Legal Requirements.

11.4 Storm Water. For the purposes of this Agreement, the "storm water system" for the Subdivision is defined as all pipes, drains, drainage ditches, swales, retention areas, wetlands areas (natural or man-made), and other facilities and equipment used for collection, handling, storage, transportation, management and/or discharge of storm water into, in and/or

from the Subdivision as required by the Subdivision Plan, and that either are located in the Common Area or that serve more than one (1) Lot, and including all facilities and equipment located outside of the boundaries of the Subdivision that are part of the storm water system for the Subdivision. Purchaser acknowledges and agrees that, because of the topography of the Property and adjoining properties, the engineering of the Subdivision, and County requirements, storm water from adjoining properties may drain or be discharged onto or into the Property to be handled by the storm water system for the Subdivision. In addition, Purchaser acknowledges that the Subdivision Plan may include specific elevations, direction of flow, and other requirements for above ground and/or below ground storm water drainage that Purchaser will be required to comply with in connection with Dwellings and other improvements it makes to Lots. Seller is responsible for the initial installation of the storm water system for the Subdivision and the Association is responsible for maintenance of the storm water system as provided in the Declaration. With respect to the storm water system for the Subdivision, Builder acknowledges and agrees that Seller reserves, and in the Declaration may reserve for itself and the Association, the right to enter into agreements with the County to satisfy Legal Requirements with respect to storm water in the Subdivision, which agreements may include provisions for payment or escrow of money by the Seller, the Association and/or owners of Lots in the Subdivision, and the granting of storm water drainage easements, storm water retention easements, access easements, and other necessary easements over, upon and on those portions of the Subdivision on which such easements are shown on a recorded plat. Builder further acknowledges and agrees that Seller or the Association may enter into such agreements and grant such easements either before or after conveying a Lot to Builder and with or without the joinder of Builder in the execution of any such agreement or easement, except that, without Purchaser's consent, no such easement shall be located within the building envelope on a Lot. As reasonably requested by Seller from time to time, Builder agrees to join in the execution of such agreements and easements that affect Lots owned by Builder.

11.5 Septic System. For the purposes of this Agreement, the "septic system" for the Subdivision is defined as the proposed wastewater system on each individual Lot as defined by the Chatham County Health Department, Environmental Health Division. Septic system includes the initial and repair fields.

Section 12 Default.

12.1 Seller Default. Should Seller default in any of its obligations herein and fail to cure such default within thirty (30) days of receipt of notice of the default from Purchaser, Purchaser either may (a) enforce specific performance of the conveyance of Lots under this Agreement, or (b) cancel and terminate this Agreement as to all unpurchased Lots subject hereto by notifying Seller of such termination, whereupon Purchaser shall receive a refund from Seller of the Earnest Money for such unpurchased Lots as its sole remedy and liquidated damages for such default, the parties hereby acknowledging and agreeing that the amount of Purchaser's actual damages in such circumstance would be difficult, if not impossible, to determine, that the foregoing is the parties' best estimate of such damages and the foregoing shall not constitute a penalty for such default. The foregoing remedies (a) and (b) are separate, mutually exclusive remedies. Provided, however, the foregoing limited remedies shall in no way prohibit or limit Purchaser's rights to pursue all remedies available at law or in equity against Seller if, following Seller's default and termination of this Agreement by Purchaser, Seller refuses to return the required amount of Earnest Money to Purchaser. Upon any such termination of this Agreement by Purchaser, except as otherwise provided herein, thereafter neither party shall have any further rights, duties, obligations or liabilities hereunder. Further provided, however, if Seller defaults in any of the Seller Development Obligation with respect to a Lot that Purchaser has purchased, then Purchaser shall have all remedies available at law or in equity with respect to such default.

12.2 Purchaser Default. Should Purchaser default in any of its obligations under this Agreement, or should Purchaser default in any obligations or fail to comply with any requirements under the Guidelines or Declaration (including failure to comply with architectural approval requirements), in addition to any remedies provided under the Declaration, Seller may terminate this Agreement by notifying Purchaser of such termination, whereupon, except as otherwise provided herein, the Earnest Money shall be retained by Seller as its sole remedy and liquidated damages for such default, the parties hereby acknowledging and agreeing that the amount of Seller's actual damages in such circumstance would be difficult, if not impossible, to determine, that the foregoing is the parties' best estimate of such damages and the foregoing shall not constitute a penalty for such default. Provided, however, such default shall not relieve Purchaser of its obligations with respect to any indemnification of Seller under this Agreement, construction of Dwellings and other activities on the Lots and in the Subdivision, or its continuing obligations under this Agreement with respect to Lots it previously has purchased (including compliance with the Declaration and Guidelines and Purchaser Development Obligation), and with respect to such obligations and any Purchaser default thereof, Seller shall have all remedies available at law or in equity. Except for the foregoing, and except as otherwise provided herein, upon such termination neither party shall have any further rights, duties, liabilities or obligations hereunder. Provided, however, the foregoing limited remedies shall in no way prohibit or limit Seller's rights to pursue all remedies available at law or in equity against Purchaser if, following Purchaser's default and termination of this Agreement by Seller, Purchaser objects to Seller retaining the applicable Earnest Money, or Purchaser takes any action to prohibit or interfere with Seller's right or ability to deal with the unpurchased Lots or remaining portions of the Subdivision as if this Agreement had never existed.

Section 13 Architectural Approval.

Prior to commencement of construction or installation of any improvement upon a Lot, Purchaser shall submit to Seller all construction plans and design drawings for Dwellings and other improvements to Lots for Seller's review. Plan review will be as set forth in the Declaration and/or Guidelines, as applicable. In addition to any requirements in the Declaration, as long as Seller owns any Lot in the Subdivision, Builder must obtain architectural approval from Seller prior to commencement of construction or installation of any improvement on a Lot, including clearing of a Lot.

Section 14 Brokerage And Marketing Fees.

14.1 Brokerage. Due to the substantial monetary investment by Seller in the Subdivision and the critical importance to Seller of advertising and marketing the Subdivision, Seller has entered or may enter into an agreement with a real estate company selected by Seller for the marketing and sale of Lots and Dwellings in the Subdivision (said real estate company hereinafter being referred to as the "Broker"). Purchaser agrees that at the time of closing of each Lot subject to this Agreement there shall be in full force and effect a "Brokerage Agreement" between Purchaser and Broker for the listing and sale by Broker of all Lots, including the Dwellings constructed thereon, owned by Purchaser, including the Lot that is being purchased. The Brokerage Agreement shall contain such terms and provisions as are mutually agreeable among Seller, Purchaser and Broker, including payment by Purchaser to Broker upon the sale of Purchaser's Lots of sales commissions in the amounts specified in the Brokerage Agreement. Seller reserves the right at any time and from time to time to replace Broker with a different real estate broker or company, provided that the total amount of Purchaser's monetary obligation under the Brokerage Agreement is not affected by any such change and that the terms of the Brokerage Agreement, except for the new Broker, are not materially changed. Purchaser shall cooperate with Seller with respect to any such change, including executing a new Brokerage Agreement with the new Broker in substantially the same form as the Brokerage Agreement with the previous Broker. Purchaser acknowledges that Broker may be an affiliated entity or person with Seller.

14.2 Marketing Fee. In addition to the purchase price of the Lot, Purchaser agrees to pay Seller at the time Purchaser closes the sale of a Lot a marketing fee in an amount equal to one percent (1.0%) of the gross sales price of the Lot. Seller shall not be required to account to Builder for the expenditures of any specific marketing fees paid by Builder and, in the event it is not necessary for Seller to expend all of such funds for marketing expenses, Seller shall be entitled to retain the balance of such funds.

14.3 No Other Commissions. Seller and Purchaser each represent to the other that, except for the Broker referenced herein, it has not dealt with a broker, agent or finder in connection with the sale/ purchase of Lots from Seller to Purchaser under this Agreement. Seller and Purchaser each covenant and agree with the other that it shall indemnify, defend and hold the other harmless from any and all loss, cost, or expense (including costs and reasonable attorney fees incurred in defending against same) arising from any claim made by any broker, agent, finder or Person for any fee, commission or other compensation allegedly due by reason of employment by or agreement with such indemnifying party in connection with the sale/purchase of Lots by Seller to Purchaser under this Agreement, regardless of whether or not such claim is meritorious, and Purchaser shall indemnify defend and hold Seller harmless from any and all loss, cost, or expense (including costs and reasonable attorney fees incurred in defending against same) arising from any claim made by any broker, agent, finder or Person for any fee, commission or other compensation allegedly due from the sale by Purchaser of any Lot or Dwelling in the Subdivision.

**Section 15
Commencement and Completion of Construction.**

Builder shall submit plans for the Dwelling to the Architectural Control Committee within ninety (90) days of closing and shall commence construction of a spec home upon a Lot within forty-five (45) days after approval of said plans. Without limiting or constituting a waiver of any other rights or remedies of Seller, if Builder fails to commence construction of a Dwelling pursuant to the provisions of this Section, Builder shall pay the amount of \$150.00 per day until construction is commenced. For the purposes of this Section, commencement of construction is defined as the procurement of all permits necessary for construction of the improvements, the submission of plans to the Architectural Control Committee, and the actual construction of improvements upon the Lot.

Builder shall complete construction of the spec home within twenty-four (24) months of commencement of construction. Upon completion of construction and sale of the spec home, Builder shall commence construction of another spec home within one hundred twenty (120) days, and such shall be completed within the timeline specified hereinabove. Without limiting or constituting a waiver of any other rights or remedies of Seller, if Builder fails to complete construction of a Dwelling pursuant to the provisions of this Section, Builder shall pay the amount of \$150.00 per day until construction is completed. Builder shall, upon the sale of any Lot to another purchaser, execute another Purchase Agreement or a Supplemental Exhibit A for the purchase of an additional Lot.

**Section 16
Signs.**

Purchaser shall not erect, place or maintain, or cause or allow to be erected, placed or maintained, any type of sign on any Lots subject to this Agreement without having first obtained written approval for such sign (including design, color and location on the Lot) from the Seller and applicable architectural approval committee as required under the Declaration. All such signs shall be in compliance with Legal Requirements and with the sign plan, if any, for the Subdivision. Seller shall have the right to remove from a Lot or other portion of the Property any sign that has not been so approved. At Seller's option Seller may have builder identification and/or Lot/Dwelling for sale signs made for use by the Builder, so that there is uniformity in signs and compliance with the sign plan for the Subdivision. In such event, Builder will obtain its signs from or through Seller and will pay for the cost of each sign as Builder obtains same from or through Seller (including payment directly to the sign manufacturer or reimbursement to Seller, as appropriate).

**Section 17
Model Home.**

Purchaser may not maintain any model homes in the Subdivision without the prior written consent of Seller, which may be granted or withheld in Seller's sole discretion.

**Section 18
Lot Transfer Restrictions.**

With respect to each Lot purchased by Purchaser, until the later of that date that is seven (7) years following the date on which a Purchaser closes the purchase of the Lot, the following "Lot Transfer Restrictions" shall apply to the Lot, all of which are deemed to be reasonable by Purchaser: Purchaser shall not sell or transfer title to the Lot without first completing the construction of a Dwelling thereon, except for the following:

a. Purchaser may transfer title pursuant to a Deed of Trust or Construction Loan Deed of Trust. The Institutional Lender to whom any Deed of Trust or Construction Loan Deed of Trust is given by Purchaser is **not** subject to the Lot Transfer Restrictions with respect to any foreclosure or conveyance by Purchaser in lieu of foreclosure to or as directed by the Institutional Lender; and

b. Purchaser may transfer title with the prior written consent of Seller, Seller not being obligated to consent except as otherwise provided herein.

Purchaser agrees that Seller may insert the Lot Transfer Restrictions in each Deed by which Seller conveys to Purchaser a Lot subject to this Agreement. Seller agrees that it will consent to the sale or transfer of title to a Lot prior to the time Builder has completed construction of a Dwelling thereon: (i) to a residential building contractor who is acceptable to Seller and who agrees to comply with all of the other terms and provisions of this Agreement and executes documents acceptable to Seller obligating such residential building contractor to the terms and provisions of this Agreement, including the Lot Transfer Restrictions and payment of the marketing fee and the commission required under the Brokerage Agreement between Purchaser and Broker; and (ii) to one or more individuals with whom Builder has contracted to sell or transfer title to the Lot, provided that, not later than the date and time of transfer, such individuals, Builder, and any other Person (including a residential building contractor) involved in the transaction execute an agreement acceptable to Seller and Broker regarding the Lot Transfer Restrictions, regarding payment of the marketing fee and the commission required under the Brokerage Agreement between Purchaser and Broker, and otherwise acceptable to Seller.

Section 19

Miscellaneous.

19.1 Exhibits. The recitals to this Agreement, and all Exhibits referred to herein, are hereby incorporated into and made a part hereof.

19.2 Captions. The captions of the numbered paragraphs of this Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of any provision hereof.

19.3 Binding Effect. This Agreement shall be binding and obligatory upon the parties and, as applicable, their heirs, executor, administrators, successors and assigns.

19.4 Assignment. Purchaser may not assign part or all of its rights and obligations under this Agreement without the prior written consent of Seller, which consent shall not be unreasonably withheld, delayed or conditioned. Provided, however, the foregoing shall not prohibit or invalidate a written waiver of any requirement of this Agreement signed only by the party entitled to grant such waiver. The assigning Purchaser shall remain liable for all indemnities under this Agreement with respect to matters that occurred prior to the effective date and time of the assignment.

19.5 Complete Agreement. This Agreement constitutes the full and complete understanding that exists between the parties, superseding any and all prior negotiations and/or agreements between them relative to the Lots, and this Agreement shall not be altered, amended, or otherwise modified except by the express written agreement between the parties executed by each of the parties to this Agreement in the same manner as this Agreement is executed.

19.6 TIME IS OF THE ESSENCE with respect to the performance by the parties of the terms and conditions of this Agreement.

19.7 Other Documents. The parties agree that they will execute such other and further documents as are reasonably necessary to complete the transaction contemplated by this Agreement.

19.8 Governing Law. The provisions of this Agreement shall be governed by and construed pursuant to the laws of the State of North Carolina.

19.9 Gender and Number. Whenever the context requires, the singular shall include the plural and one gender shall include all.

19.10 Notices. Any notices or other communications allowed or required by the terms of this Agreement shall be in writing and signed by the party giving same or that party's attorney or authorized agent, and shall be deemed to have been given by the sending party and received by the receiving party (i) when delivered in person to the other party, if the other party is an individual or upon delivery to any partner if the party is a partnership, or upon delivery to any corporate officer if the other party is a corporation, or upon delivery to a manager or member if the other party is a limited liability company; or (ii) on the date of delivery indicated on the return receipt registry when it is deposited in the United States mail, certified or registered, return receipt requested, postage prepaid, properly addressed to the party to whom such notice is intended to be given; or (iii) on the date indicated in the records of the courier service, when such notice is properly addressed to the other party and is deposited with such courier service for delivery; or (iv) on the date on which the receiving party acknowledges in writing receipt of the notice (each party has a duty to acknowledge actual receipt of a notice sent by facsimile or electronic mail by a written transmission to the other party stating the date of receipt and the nature of the notice received). Delivery

either method (ii) or (iii) may be made to an employee of the receiving party working in the office of the receiving party at the address for delivery under this Agreement. Written acknowledgment of receipt of notice by a party may be made with respect to any of the foregoing forms of notice by any of the officials described in delivery method (i).

Until notice of changes of address is given to the other party in accordance with the provisions of this paragraph, notices shall be delivered, addressed or directed as follows:

SELLER: Windjam 23, LLC
Attn: Rex Vick, Jr.
PMB #132
3434-135 Kildaire Farm Rd.
Cary, NC 27518
Telephone: (919) 868-4924
Facsimile: (919) 534-1770
Email: rvick@windjamdevelopment.com

WITH A COPY TO: William Black, Esq.
P.O. Box 19866
Raleigh, NC 27619
Telephone: (919) 782-6155
Facsimile: (919) 782-4892

PURCHASER: Name: _____
Attn: _____
Address: _____

Telephone: ()
Facsimile: ()
Email:

WITH A COPY TO: _____

Telephone: ()
Facsimile: ()

Failure to send the copy shall not void a notice to a party otherwise given in accordance with the foregoing provisions.

19.11 Severability. In the event that any part or all of any term, covenant, condition, agreement, provision or section of this Agreement shall be adjudged invalid or unenforceable by a court of competent and final jurisdiction, the same shall be severable from the remainder of this Agreement and this Agreement shall not terminate or be deemed void or voidable, but shall continue in full force and effect and there shall be substituted for such invalid provision a like, but legal and enforceable, provision which most nearly accomplishes the intention of the parties hereto, and if no such provision is available, the remainder of this Agreement shall be enforced. If such term, covenant, condition, agreement, provision or section of this Agreement is adjudged invalid due to its scope or breadth, such item shall be deemed valid to the extent of the scope or breadth permitted by law.

19.12 Execution. This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of such counterparts together shall constitute only one Agreement. Except for the execution of this original Agreement, all other executions of documents, notices, acknowledgments and waivers under this Agreement may be evidenced by a signature on a paper that has been transmitted electronically (for example, either by facsimile or e-mail).

19.13 Confidentiality. Seller and Purchaser each agree to keep all terms of this Agreement confidential between them, regardless of whether the closing occurs, except for (i) information which is required to be disclosed by applicable law or the terms of this Agreement; (ii) information that would need to be disclosed in connection with any legal proceeding involving this Agreement, or information ordered to be disclosed by a court of competent jurisdiction; (iii) information whose disclosure is reasonably required to enforce the rights of either Seller or Purchaser under this Agreement; and (iv) information which becomes a part of the public domain other than by a breach of this paragraph.

19.14 Memorandum. Seller and Purchaser agree that, upon the request of either party, a memorandum of this Agreement, sufficient to identify the parties and the Lots will be executed by the parties in a form acceptable for recording in the office of the Chatham County Register of Deeds. Any such Memorandum shall have a termination date of the latest date on which Purchaser, without being in default, could close the purchase of the last Lot under this Agreement.

19.15 Waiver. Any waiver by a party of the other party's default, or any waiver by a party of a condition set forth herein, or any failure by a party to exercise any right granted to that party hereunder, shall not constitute a subsequent waiver or failure to exercise such right.

19.16 Payment. All sums required by this Agreement to be paid shall be paid in currency of the United States of America.

Whenever the word "cash" is used in this Agreement with respect to payment of any sum due hereunder, that word shall include cash and any one or more of the following acceptable to the party who is to receive the payment: certified check, cashier's check, attorney's trust account check, or wired funds.

19.17 Indemnity by Purchaser. Purchaser shall indemnify, defend and hold harmless Seller and Owner from and against any and all claims for damages or other remedy or relief, causes of actions, judgments, liens, costs, losses, expenses and liabilities, including costs of defending against such claims or causes of action (including reasonable attorney fees), arising out of or resulting from, directly or indirectly, any of the following: (i) Purchaser's development of any part or all of a Lot; (ii) Purchaser's construction of any Dwelling or related improvements on any Lot; (iii) the selection or inclusion of Purchaser as a builder of residential dwellings in the Subdivision; (iv) all other activities of Purchaser in the Subdivision; and (v) any misrepresentation, fraud, or unfair trade practice by Purchaser or Purchaser's employees, agents or subcontractors.

19.18 Duty to Defend. In connection with any obligation of a party under this Agreement to indemnify, defend, protect or hold harmless the other party: (i) the indemnifying party shall employ legal counsel reasonably acceptable to the indemnified party; (ii) in the event that the indemnifying party fails or refuses to undertake the defense of the indemnified party, or fails or refuses to diligently and continuously conduct such defense or indemnity, the indemnified party may undertake its own defense without reducing the indemnifying party's obligations to indemnify, defend, protect or hold harmless the indemnified party as provided in this Agreement, and the costs incurred by the indemnified party in undertaking its own defense including, but not limited to, its reasonable attorney fees, shall constitute a portion of such obligation of the indemnifying party as set forth in this Agreement.

19.19 License Requirement. Builder hereby warrants and represents to Seller that Builder has an Unlimited contractor's license as defined by the North Carolina Licensing Board for General Contractors and is in good standing with the Board.

19.20 Litigation Costs. In the event that any party commences any action or proceeding against the other party to enforce the provisions hereof or to seek any other legal remedy available to such party under the terms hereof, the prevailing party therein shall be entitled to recover, in addition to any amount of money or other relief awarded, all reasonable costs incurred in connection with such action, including, without limitation, court costs and reasonable attorney fees.

19.21 Drafting of Agreement. The parties acknowledge that each of them either has been represented by legal counsel, or has had a reasonable opportunity to be represented by legal counsel, in connection with the negotiation of the terms of this Agreement, with Seller's counsel having prepared the Agreement. Accordingly, Purchaser agrees that in any proceeding in which the terms of this Agreement are questioned, construed or interpreted, there shall be no presumption against the Seller because of the drafting services provided by Seller's counsel.

19.22 Survival of Provisions. If any provision contained herein which by its nature and effect is required to be observed, kept or performed after a closing, it shall survive the closing and remain binding upon and for the benefit of the parties until fully observed, kept or performed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in legal and binding form on the dates indicated with their respective executions.

SELLER:

Windjam 23, LLC,
a North Carolina Limited Liability Company

By: _____
Rex Vick, Jr., Manager

Date: _____

PURCHASER:

Name:

By: _____

Title: _____

Date: _____

EXHIBIT A

The Lots subject to this Agreement, purchase price, earnest money, and Closing dates are as follows:

Lot No.	Purchase Price	Earnest Money	Closing Date
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SELLER:

Windjam 23, LLC,
a North Carolina Limited Liability Company

By: _____
Rex Vick, Jr., Manager

Date: _____

PURCHASER:

Name:

By: _____

Title: _____

Date: _____

EXHIBIT A-1

SUPPLEMENTAL EXHIBIT A

Date	Lot No.	Purchase Price	Earnest Money	Map Book - Page	Closing
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SELLER:

Windjam 23, LLC,
a North Carolina Limited Liability Company

By: _____
Rex Vick, Jr., Manager

Date: _____

PURCHASER:

Name:

By: _____

Title: _____

Date: _____

EXHIBIT B

SUBDIVISION PLAN

EXHIBIT C

SELLER DEVELOPMENT OBLIGATION

Seller, at its own cost and expense (which shall include payment of all applicable County permit and inspection fees in connection with the construction or installation of such improvements, but not in connection with the use of such improvements by Purchaser or those Persons who purchase Dwellings from Purchaser, and not including the fees and charges to be paid by Purchaser as described in EXHIBIT D), shall construct, install, or provide for construction or installation of, the following improvements to the Lots (and Common Areas as applicable) in accordance with the Subdivision Plan and all Legal Requirements (including posting of all bonds or other security required by the County and any applicable private utility provider, and including payment of applicable water fees and dedication of land for, or payment of money or other consideration in lieu of, applicable land dedication requirements), and shall be responsible for the other items described in this EXHIBIT C. In connection with the foregoing, Seller shall grant or dedicate within the Subdivision (i) all necessary public street rights of way and (ii) all publicly dedicated and private easements necessary to provide County water, storm water drainage, retention and discharge, electricity, telephone, natural gas and cable television as required by this Agreement (all of the foregoing items in this No. (ii) being referred to collectively herein as the “utilities”). All of the improvements and attendant obligations to be provided by Seller as described in this EXHIBIT C are referred to together as the “Seller Development Obligation”.

Seller shall complete the Seller Development Obligation in a timely manner so that (i) the County’s requirements for issuance of a building permit have been satisfied with respect to all matters included in the Seller Development Obligation as provided in the Conditions Precedent to Purchaser’s obligation to close the purchase of Lots, and (ii) the County’s requirements for issuance of a certificate of occupancy for the Dwelling constructed by Purchaser on a Lot have been satisfied with respect to all matters included in the Seller Development Obligation by no later than the time Purchaser has completed construction of the Dwelling to the extent that such construction meets all of the requirements for issuance of a certificate of occupancy by the County.

Provided, however, Purchaser acknowledges that installation of electric, telephone, natural gas and cable television utilities are not within Seller’s control, as such utilities are provided by private utility providers, and that natural gas, telephone and cable television providers may not install their respective utility services until after Purchaser has completed construction of a Dwelling on a Lot to the extent that Purchaser is ready to request a certificate of occupancy from the County (and that natural gas and cable television utility providers may determine not to install such utilities in the Subdivision). Accordingly, Seller shall make a diligent effort (which does not include payment of any sums to any utility provider or other Person as a premium or additional charge or fee to obtain any utility) to obtain installation of all such utilities to serve the Lots in the Property, but Seller shall not be responsible for any delay in Purchaser’s obtaining a building permit or certificate of occupancy that relates to telephone, natural gas and cable television utilities. To the extent reasonably possible (meters, transformers and relays being among the obvious exceptions) and as allowed by the applicable private utility provider, all private utilities shall be installed underground.

Seller reserves the right, on behalf of the Subdivision and each Lot therein and owner thereof, to enter into one or more agreements with utility providers that grant exclusive or non-exclusive easements and rights to furnish utilities to the Subdivision, which agreements may be assignable in whole or in part by Seller to the Association. In connection with such agreements Seller may reserve utility easements around the boundary of each Lot, in the publicly dedicated and private (if any) streets, and over the Common Area.

Seller reserves the right, on behalf of the Subdivision and the Association, to enter into one or more encroachment agreements with the County with respect to any Subdivision entrance feature or medians in any streets in the Subdivision, which encroachment agreements may require the Association to be responsible for maintenance of such Subdivision entrance features and associated improvements, including grass mowing, and for maintenance of improvements and grass mowing in such medians. Seller shall have satisfied the Seller Development Obligation under this Agreement when all of the foregoing requirements of this EXHIBIT C, together with the following requirements, have been satisfied, completed, provided, done, or fulfilled with respect to each Lot purchased by Purchaser:

1 Corner Staking. The corners of each Lot and the Common Area associated with such Lot have been marked with iron pins by Seller’s surveyor; provided, following initial staking, all re-staking shall be the responsibility of the Purchaser unless acts of the Seller or its employees, agents or contractors are the cause of the necessary re-staking.

2 Subdivision Plan and Plats. The Subdivision Plan (including any phasing of development of the Subdivision) has been approved by the County and the Subdivision plat for the Lots to be purchased by Purchaser at any closing has been approved by the County for recording and is recorded at or prior to closing; provided, however, this requirement applies only to the initial recording of any Subdivision plat and shall not prohibit any re-recording of same that may be required by the County or reasonably agreed to by Seller and Purchaser.

3 Streets. Construction of all public streets in the Subdivision, including curbs, gutters, and street lighting (except for driveways, headwalls, and driveway aprons that are part of the Purchaser Development Obligation as described in this Agreement - see **Exhibit D** attached hereto for additional details) has been completed and the County or State has accepted responsibility for maintenance of the publicly dedicated streets. With respect to such public and private streets, Seller may delay installation of the final inch of asphalt until the earlier of such time as Seller determines it is in the best interests of the Subdivision to install same, or 6 months following the date of the sale by Seller of the last Lot in the Subdivision owned by Seller.

4 Water. Water laterals for each Lot have been (i) constructed or installed to a boundary line of each Lot, and such water laterals are connected to the County’s water systems (which systems may include water lines within or outside of the Subdivision that Seller is obligated to construct or install in order for the County to provide such services to the

Subdivision, and which systems may include water owned by a governmental entity other than the County, if the County is obtaining water services from such other governmental entity), and (ii) publicly dedicated water lines required by the Subdivision Plan have been accepted by the County for maintenance.

5 Storm Water. Construction of the storm water system for the Subdivision as required by the Subdivision Plan has been completed, including, as applicable, connection of same to existing storm water management facilities and structures located outside of the Subdivision.

6 Subdivision Entrance Feature. Seller shall construct a Subdivision entrance feature, which may include any or all of one or more signs, plant and other landscaping materials, lighting and irrigation as determined by Seller, at the entrance to the Subdivision off of Mt. Gilead Church Road, which Subdivision entrance feature shall be located in the Common Area along Mt. Gilead Church Road and will be part of the Association's maintenance responsibilities. At Seller's option, Seller may install Subdivision entrance features in the Common Areas on either side of the entrance off of Mt. Gilead Church Road.

7 Phasing of Development. Seller, at its option, may develop the Subdivision in phases, as long as Seller meets its obligation to develop Lots for Purchaser to purchase pursuant to this Agreement.

8 Force Majeure. At any time and from time to time that Seller is delayed in completing any part or all of the Seller Development Obligation by an event of Force Majeure, Seller may notify Purchaser of the delay and the event causing the delay, and one day shall be added to the time period within which Seller is required to complete the particular Seller Development Obligation for each day of delay caused by that event of Force Majeure. Provided, however, if any such delay results in Lots not being available for purchase by Purchaser to meet the minimum Lot purchase requirement, Purchaser, upon notice to Seller, may extend the time period for compliance with the then current minimum Lot purchase requirement by the same number of days as Seller has extended completion of the particular Seller Development Obligation. Events of "Force Majeure" include any one or more of the following: acts of God; earthquakes; blizzards; tornadoes; hurricanes; fire; flood; malicious mischief; insurrection; terrorism; riots; strikes; lockouts; boycotts; picketing; labor disturbances; public enemy; war (declared or undeclared); landslides; explosions; epidemics; compliance with any order, ruling, injunction or decree by any court, tribunal or judicial authority of competent jurisdiction not related to any violation of a Legal Requirement by Seller; inability to obtain materials or supplies after the exercise of all reasonable efforts; substantial interference in construction activities resulting from construction activities conducted simultaneously on adjacent lands by or under the direction of unrelated parties, or construction or other activities conducted by Purchaser or its employees, agents or contractors; and any other similar circumstances beyond the reasonable control of Seller or its contractors.

9 Inspection Of Improvements. As Seller completes or partially completed improvements required as part of the Seller Development Obligation, Seller may request that Purchaser or its representatives meet with Seller or its representatives on the Property to examine the improvements constructed by or on behalf of Seller, which meeting shall occur as soon as reasonably possible following Seller's request. At such meeting the parties shall examine the improvements and complete the "Inspection Of Improvements" form attached hereto as EXHIBIT E and incorporated by reference. With respect to all improvements that have been completed or partially completed as indicated on the Inspection Of Improvements form, from and after the date of such agreement Purchaser shall be responsible for all repair, replacement and maintenance of such improvements, except for any damage that is caused by actions or omissions of Seller, except for Seller's maintenance responsibility for any such publicly dedicated improvement between the time of completion and the acceptance of the maintenance obligation therefore by the County (but Purchaser shall be responsible for repair of all damages to the improvement caused by the actions or omissions of Purchaser), and except for Seller's obligation to complete any partially completed improvement that is part of the Seller Development Obligation. Seller may request examination of improvements on one or more occasions until the Seller Development Obligation is completed with respect thereto and Purchaser has acknowledged completion thereof.

10 Damage to Purchaser Improvements. With respect to improvements constructed in the Subdivision by Purchaser, Seller shall be responsible for any damage to such improvements caused by Seller, other than normal wear and tear. Seller promptly shall repair all such damage and shall be responsible for the payment of all County fines resulting from the failure to repair any such damage within the time limitations specified in Legal Requirements.

EXHIBIT D

PURCHASER DEVELOPMENT OBLIGATION

Purchaser, at its own cost and expense (which shall include payment of all applicable County permit and inspection fees and posting of all bonds or other security required by the County and any applicable private utility provider), shall construct, install, or provide for construction or installation of, the following improvements on each Lot it purchases, all in accordance with the Subdivision Plan and Legal Requirements, and shall be responsible for the other items described in this EXHIBIT D. All of the improvements and attendant obligations to be provided by Purchaser as described in this EXHIBIT D are referred to together as the "Purchaser Development Obligation". The Purchaser Development Obligation includes all of the following:

1 Building Permit and Other County Fees. With respect to each Lot, Purchaser shall be responsible for payment of all fees and other charges required to be paid to the County in connection with the issuance of a building permit and construction of a Dwelling thereon, and to obtain a certificate of occupancy for the Dwelling, except for those fees and charges to be paid by Seller in completing the Seller Development Obligation, payment of which shall be the obligation of Seller as provided herein. Such fees and charges to be paid by Purchaser include all water and other utility connection, tap-on and meter fees, as well as transportation development fees and other fees or charges collected by the County as part of the building permit process. With respect to any of the foregoing fees and charges to be paid by Purchaser, to the extent that Seller has or can make available to Purchaser "credits" or "coupons" or "vouchers" that can be applied to the payment of part or all of Purchaser's required fees and makes the same available for Purchaser to purchase from Seller, Purchaser shall purchase such "credits" or "coupons" or "vouchers" from Seller in lieu of paying such fees to the County, and the purchase price for same, as established from time to time by Seller, shall not exceed the applicable fee amount being charged by the County at the time of purchase from Seller. Purchaser shall purchase such credits or coupons or vouchers for each Lot on or before the earlier of the time Purchaser obtains a building permit for such Lot or closes the purchase of the Lot. Provided, as to each Lot, as long as Seller has such coupons or credits or vouchers available for purchase by Purchaser and the County is accepting such credits or coupons or vouchers, Purchaser shall be liable for purchasing such coupons or credits or vouchers from Seller even if Purchaser also pays the County for the fee (the intent of this sentence being that if Purchaser, for example, inadvertently pays the County for such fee rather than purchasing the credit, coupon or voucher from Seller, Purchaser shall remain liable to Seller for such credit, coupon or voucher and it will be Purchaser's responsibility to secure a refund or reimbursement for same from the County). Septic improvement permits, which Seller has procured, expire after five (5) years after issuance. Purchaser shall purchase such permits from Seller before the expiration of the permits, or shall be responsible for the procurement thereof from the County. Seller has also paid the water availability fee to the County, and the Purchaser shall be responsible for reimbursing Seller for such.

2 Purchaser's Development of Lots. In addition to other matters contained in the Purchaser Development Obligation, Purchaser, at its own cost and expense (which shall include payment of all applicable County permits and inspection fees), shall be responsible for construction or installation and payment of all of the following for each Lot it purchases in accordance with the Subdivision Plan and all Legal Requirements, the Declaration and the architectural approvals given by Seller, and Seller shall have no responsibility for construction, installation or payment of any of the following:

2.1 Clearing, grading, and soil compaction and soil remediation of each Lot as deemed necessary or desirable by Purchaser for construction of a Dwelling thereon.

2.2 All water lines and septic systems (including any tap fees, etc.) within the boundaries of the Lot, other than those to be installed by Seller as part of the Seller Development Obligation.

2.3 Procurement of authorization for wastewater construction of the septic system from the County.

2.4 All meters required by the County or private utility provider in connection with water, septic system, and other utility services to the Lots.

2.5 Construction of the driveway, headwalls, and driveway apron on the Lot, including repairing all damaged by such construction.

2.6 All landscaping on the Lot, including planting of trees and other required vegetation in buffers adjoining the Lot boundaries.

2.7 The mailbox for the Lot.

2.8 Damage done to the initial and repair septic field.

3 Soil Erosion. Purchaser shall provide its own soil erosion controls in connection with its construction of Dwellings and other improvements on the Lots. Such soil erosion controls include silt fencing, clearing away and/or cleaning away accumulated soil, keeping soil out of the storm water management system for the Subdivision and other items required by Legal Requirements or the Declaration. If Purchaser fails to maintain appropriate soil erosion controls or fails to remedy any violation of a Legal Requirement or the Declaration with respect to soil erosion controls, Seller, at its option, and upon reasonable notice to Purchaser and failure of Purchaser to take appropriate action within fifteen (15) days after receiving written notice from the Seller, may perform the necessary maintenance or other action and the costs therefor shall be the responsibility of Purchaser, payment for which shall be due upon receipt of a bill or evidence of payment of the costs by Seller. Provided, however, if any notice of a soil erosion violation from the County specifies a date by which a violation of soil erosion controls must be remedied in order to avoid a fine or enforcement action or other penalty, and Purchaser has not

completed the appropriate remedial action by the date that is fifteen (15) days prior to the last date on which the remedial action can be taken to avoid the fine, enforcement action or other penalty, then Seller may take the appropriate remedial action without any notice to Purchaser and the costs therefor shall be the responsibility of Purchaser, payment for which shall be due upon receipt of a bill or evidence of payment of the costs by Seller.

4 Damage to Seller Improvements. Purchaser shall be liable for any damage to the improvements completed or required to be completed by Seller (other than normal wear and tear) that are caused by Purchaser, including accumulated silt or debris in storm water retention areas, storm water pipes or other storm water facilities (to the extent caused by Purchaser's construction activities), and damage to curbs, streets and utilities. Purchaser promptly shall repair all such damage and shall be responsible for the payment of all County fines resulting from the failure to repair any such damage within the time limitations specified in the applicable Legal Requirements.

5 Storm Water Drainage on Lots. Except for any storm water drainage pipes or other facilities located on a Lot that are part of the storm water system for the Subdivision, Builder is responsible for handling all storm water drainage related to the Lot during the time Builder owns the Lot, and for grading the Lot and constructing such facilities and equipment thereon necessary for storm water from the Lot to drain into the storm water system for the Subdivision. In addition, during the time it owns a Lot, Builder is responsible for and immediately will repair all damage to any portion of the storm water system located on the Lot that arises out of or results from any act or omission of Builder.

6 Trash and Debris. Purchaser shall be responsible for keeping each Lot, the Common Area, and the streets in the Subdivision clean and clear of all dirt, trash, construction materials and other debris resulting from Purchaser's residential construction activities. Purchaser, at its expense, shall be responsible for providing all refuse containers required by the County or under the Declaration, as applicable, and for having the trash, construction materials and other debris in such containers picked up not less than once each week or more frequently as required by the County or under the Declaration, as applicable.

7 Soil Conditions. Purchaser, at its own expense, shall be responsible for handling any fill dirt, rock, or other unusual or unexpected soil conditions encountered by Purchaser in construction of a Dwelling on any Lot.

8 Maintenance of Septic Field. Purchaser, at its own expense, shall be responsible for the maintenance of the septic field on the Lot.

9 Mowing of Lots. Purchaser shall be responsible for mowing Lots owned by Purchaser, including within the street rights of way adjacent to such Lots, to a reasonable standard as specified by Seller or the Association. Provided, however, at Seller's option Seller may provide for the regular mowing of Lots on which Dwellings are not under construction (and, to the extent necessary, on Lots on which Dwellings are under construction), and Purchaser agrees to pay its pro-rata share of the costs of such mowing, such pro-rata share to be determined by multiplying the costs of the mowing by a fraction whose numerator is the number of Lots owned by Purchaser (or on which Purchaser is constructing a Dwelling) and whose denominator is the total number of Lots mowed. Payment is due to Seller within ten (10) days after Seller gives Purchaser notice of Purchaser's pro-rata costs.

10 Storing of Materials and Equipment. Except as reasonably permitted by Seller, no construction or other materials, vehicles or equipment may be stored or kept by or for Purchaser on any part of the Property except on a Lot on which a Dwelling is under construction or on portions of the Property that have been designated by Seller for such storage. With respect to any portions of the Property on which Purchaser is allowed to store or keep any such materials, vehicles or equipment, following removal of same Purchaser shall restore such portions of the Property to a condition substantially similar to or better than the condition such portions of the Property were in prior to the storage thereon of such materials, vehicles or equipment.

With respect to any portions of the Property on which Purchaser stores or deposits excess dirt, if Purchaser does not purchase all of the Lots subject to this Agreement for any reason other than an uncured default by Seller, then, at Seller's option, Purchaser either shall remove such excess dirt from the Property or make the condition of such portions of the Property substantially similar to those Common Areas in the Subdivision that are located closest to such portions of the Property. With respect to any Lot on which Purchaser stores any dirt, Purchaser shall be solely responsible for (i) removal of debris from such dirt and (ii) soil compaction on such Lot, to the extent deemed necessary or desirable by Purchaser for construction a Dwelling on that Lot.

EXHIBIT E

THE HAMPTONS SUBDIVISION INSPECTION OF IMPROVEMENTS

Purchaser certifies that it has inspected all water meter boxes, yokes, sewer cleanouts, storm water drainage and retention facilities, streets, curb and gutter, and private utilities in **The Hamptons Subdivision** on or adjoining Lot No(s). _____, and, with respect to streets, providing access from the Lot to and from Mt. Gilead Church Road, and acknowledges that, except as specified herein, the improvements marked below by a "x" or checkmark have been completed with respect to each such Lot and are not damaged. Purchaser agrees to accept such improvements in their current condition, and all readjustments, repairs and maintenance of same will be the sole responsibility of the Purchaser, except as otherwise provided in the purchase agreement between Purchaser and the undersigned Seller with respect to such Lot(s).

- 1 _____ Water Lateral _____ Water Meter Box
- 2 _____ Septic Permit from County
- 3 _____ Streets: _____ including final inch of asphalt, or _____ excluding final inch of asphalt
- 4 _____ Drainage ditches
- 5 _____ Storm Water System
- 6 Private Utilities:
_____ Electric _____ Telephone _____ Natural Gas _____ Cable Television

NOTES/WORK REQUIRED FOR COMPLETION:

SELLER:

Windjam 23, LLC,
a North Carolina Limited Liability Company

By: _____
Rex Vick, Jr., Manager
Date: _____

PURCHASER:

Name: _____
By: _____
Title: _____
Date: _____