

***Solstice Custom Homes  
Building Agreement***

LWD, LLC DBA SOLSTICE CUSTOM HOMES, "SELLER/BUILDER", AND \_\_\_\_\_, "BUYER", AGREE TO THE FOLLOWING TERMS AND CONDITIONS REGARDING THE CONSTRUCTION OF A RESIDENCE ON PROPERTY KNOWN AS \_\_\_\_\_

THE FIXED PRICE CONTRACT OF THIS PROJECT IS \$ \_\_\_\_\_. START OF CONSTRUCTION IS ESTIMATED TO BE \_\_\_\_\_. COMPLETION DATES IS ESTIMATED TO BE \_\_\_\_\_. THE FOLLOWING EXHIBITS ARE MADE A PART HEREOF:

THE BUYER AND BUILDER HEREBY AGREE TO THE FOLLOWING:

1. THE "PLAN" SHALL BE \_\_\_\_\_ CONSISTING OF \_\_\_\_\_ SQUARE FEET. THE CONSTRUCTION SHALL BE SIMILAR MATERIALS AND WORKMANSHIP AS SET FORTH IN THE SPECIFICATIONS AND AS CONSTRUCTED AT \_\_\_\_\_ WHICH BUYER TOURED AND VIEWED ON \_\_\_\_\_. BUILDER SHALL COMPLY WITH ALL FEDERAL, STATE, AND LOCAL LAWS APPLICABLE TO THIS AGREEMENT.
2. BUILDER SHALL FURNISH AND PAY FOR ALL PERMITS, MATERIALS AND LABOR TO COMPLETE A NEW RESIDENCE FOR BUYER IN ACCORDANCE WITH THE "PLAN" AND "BUILDING SPECIFICATIONS". ALL WORK WILL BE DONE WITH MATERIALS, WORKMANSHIP, TOLERANCES, AND DEVIATIONS TO INDUSTRY STANDARDS. THE WORK IS TO COMMENCE PROMPTLY AND SHALL CONTINUE WITHOUT DELAY EXCEPT FOR CAUSES NOT REASONABLY WITHIN THE CONTROL OF THE BUILDER. BUILDER SHALL TAKE ALL NECESSARY PRECAUTIONS TO PROTECT ALL MATERIALS FROM DAMAGE UNTIL COMPLETION AND WILL, AT NO EXPENSE TO BUYER, REPLACE OR REPAIR ANY DAMAGE PRIOR TO CLOSING.
3. IF BUYER IS PURCHASING THE RESIDENCE WITH A LOAN AND THE APPRAISAL IS BELOW THE SALES PRICE, BUYER AGREES TO EITHER: 1) INCREASE THE DOWN PAYMENT TO OFFSET ANY DIFFERENCE BETWEEN APPRAISED VALUE AND SALES PRICE; OR 2) TERMINATE THIS AGREEMENT WITH 100% EARNEST MONEY REFUNDED TO BUYER.
4. BUILDER SHALL MAINTAIN COMPREHENSIVE GENERAL LIABILITY INSURANCE NO LESS THAN 1,000,000 FOR INJURY OR DEATH PER CLAIM AND NOT LESS THAN \$1,000,000 FOR PROPERTY DAMAGE AS REQUIRED BY THE OREGON CONSTRUCTION CONTRACTOR'S BOARD ("CCB").
5. BUYER SHALL HAVE THE RIGHT TO SELECT INTERIOR AND EXTERIOR PAINT COLORS, EXTERIOR CULTURED STONE, FLOORING, COUNTERTOPS, DOORS, DOOR HARDWARE, MOLDINGS & MILLWORK, APPLIANCES, CABINETS, PLUMBING TUBS, SHOWER, SINKS, & FIXTURES, AND LIGHTING FIXTURES AS SPECIFIED IN THE "BUILDING SPECIFICATIONS". ALL SELECTIONS ARE TO BE MADE FROM THOSE OPTIONS OFFERED BY BUILDER. BUILDER AGREES TO NOTIFY BUYER NO LATER THAN FOURTEEN (14) CALENDAR DAYS IN ADVANCE OF WHEN SUCH SELECTIONS MUST BE MADE. SHOULD BUYER FAIL TO MAKE SUCH SELECTIONS WITHIN THE ALLOTTED TIME, BUILDER SHALL HAVE THE RIGHT TO PROCEED WITH SELECTIONS OF BUILDER'S CHOICE TO PERMIT CONSTRUCTION TO PROCEED TO MEET THE "FINAL CLOSING DATE" AS SET FORTH IN THE "NEW RESIDENTIAL CONSTRUCTION REAL ESTATE SALES AGREEMENT." BUYER AGREES TO COMMUNICATE SOLELY WITH BUILDER AND WILL NOT COMMUNICATE WITH SUBCONTRACTORS AND SUPPLIERS WITHOUT BUILDER'S KNOWLEDGE AND CONSENT. THE CONDUCT AND CONROL OF ALL SUBCONTRACTORS AND SUPPLIERS LIES SOLELY WITH BUILDER.
6. BUILDER AGREES TO MAKE CUSTOM ALTERATIONS IN THE PLANS AND SPECIFICATIONS OF SAID DWELLING AS AGREED IN WRITING BY BOTH PARTIES. ANY CHANGE IN PLANS AND/OR

SPECIFICATIONS REQUESTED BY BUYER SHALL BE DONE WITH A CHANGE ORDER ON A COST PLUS 15% BASIS, TO BE PAID BY BUYER UPON BUILDER'S ACCEPTANCE OF SUCH CHANGE, UNLESS OTHERWISE AGREED IN WRITING. IF NOT PAID WITHIN SEVEN DAYS, WORK WILL PROGRESS ACCORDING TO THE ORIGINAL PLAN. ITEMS WITH ALLOWANCES WILL BE ADJUSTED ON THE NET HARD COST BASIS (UPGRADE VALUE MINUS THE ALLOWANCE).

7. SHOULD THE BUILDER BE DELAYED IN THE PROGRESS OR COMPLETION OF THE DWELLING BY ANY DAMAGE CAUSED BY FIRE OR OTHER CASUALTY, EXTREME WEATHER CONDITION, BY GENERAL STRIKE, OR LOCK-OUT CAUSED BY ACTS OF EMPLOYEES, OR FOR ANY REASON NOT WITHIN THE NORMAL CONTROL OF BUILDER, (I.E. DELIVERY OF ITEMS SELECTED BY BUYER, SHORTAGE OF MATERIALS, ETC...) THEN THE TIME HEREIN FIXED FOR THE COMPLETION OF THE DWELLING AND THE CLOSING OF THE TRANSACTION SHALL BE EXTENDED FOR PERIOD EQUIVALENT TO THE TIME LOST BY REASONS OR ANY OR ALL CAUSES AFORESAID. "COMMENCEMENT OF CONSTRUCTION" SHALL BE DETERMINED BY POURING OF FOUNDATION FOOTINGS. "COMPLETION DATE" SHALL BE THE DATE THAT THE CERTIFICATE OF OCCUPANCY IS ISSUED BY CITY OF TIGARD. CLOSING OF THIS TRANSACTION SHALL OCCUR WITHIN EIGHT (8) CALENDAR DAYS FOLLOWING THE COMPLETION DATE. IN THE EVENT THE FINAL CLOSING DATE IN THE REAL ESTATE SALES AGREEMENT CONFLICTS WITH THIS PROVISION, THE FINAL CLOSING DATE SHALL BE CHANGED TO A DATE CERTAIN THAT IS EIGHT (8) DAYS FOLLOWING THE COMPLETION DATE.
8. IN THE EVENT A COST INCREASE IN EXCESS OF 10% TO THE BUILDER OF ANY COMPONENT PART OF SAID DWELLING BETWEEN THE DATE OF THIS AGREEMENT AND START OF CONSTRUCTION, BUILDER SHALL HAVE THE RIGHT TO REQUEST A REVISED PRICE OF SAID DWELLING SUBJECT TO THE APPROVAL OF THE BUYER. ANY SUCH COST INCREASE MUST BE SUBSTANTIATED AND VERIFIABLE. IN THE EVENT THAT THE PARTIES CANNOT AGREE UPON A REVISED PRICE, AND BUILDER DOES NOT WISH TO CONTINUE FOR THE AGREED PRICE, EITHER PARTY SHALL HAVE THE RIGHT TO TERMINATE THIS AGREEMENT. BOTH PARTIES SHALL THEN BE RELIEVED OF ANY FURTHER OBLIGATION UNDER AND/OR CLAIMS FOR ANY DAMAGES TO THE OTHER AND SHALL HOLD EACH OTHER HARMLESS AS A RESULT OF THIS TRANSACTION AND 100% OF THE EARNEST MONEY DEPOSIT(S) SHALL BE RETURNED TO BUYER.
9. BUYER SHALL BE ENTITLED TO POSSESSION OF THE RESIDENCE ONLY AFTER BUILDER HAS OBTAINED A FINAL OCCUPANCY PERMIT FROM THE CITY OF TIGARD AND FINAL SETTLEMENT OF THE PRICE IN THIS AGREEMENT TOGETHER WITH THE AGREED UPON PRICE FOR ANY CHANGE ORDERS. BUILDER WILL WARRANT ALL LABOR AND MATERIALS FOR ONE YEAR AFTER COMPLETION AS SET FORTH IN THE "LWD, LCC WARRANTY".
10. BUYER OR BUYER'S AGENT(S) SHALL HAVE THE RIGHT TO PERFORM REASONABLE INSPECTIONS OF BUILDER'S WORK DURING CONSTRUCTION AND PRIOR TO COMPLETION. SUCH INSPECTIONS SHALL BE PERFORMED WITH BUILDER OR BUILDER'S AGENT AT MUTUALLY AGREEABLE TIMES. SEE "NEW CONSTRUCTION PROFESSIONAL INSPECTION ADDENDUM".
11. BUILDER SHALL PROVIDE THE "PLAN" INCLUDING ALL ARCHITECTURE AND ENGINEERING, HOWEVER BUILDER IS NOT BEING HIRED TO PERFORM ANY ADDITIONAL ARCHITECTURAL, ENGINEERING OR DESIGN SERVICES NOT SHOWN ON THE "PLAN". TO THE EXTENT THAT BUILDER MAKES SUGGESTIONS IN ARCHITECTURAL, ENGINEERING, OR DESIGN, BUYER ACKNOWLEDGES THAT BUILDER'S SUGGESTIONS SHOULD BE REVIEWED WITH AN APPROPRIATE PROFESSIONAL AT BUYER'S EXPENSE.
12. BUYER AND BUILDER ACKNOWLEDGE AND AGREE THAT BUILDER HAS UNDERTAKEN SUBSURFACE INVESTIGATIONS REGARDING THE SOILS CONDITIONS OF THE PROPERTY AND IS FAMILIAR WITH SUCH CONDITIONS. IN THE EVENT THAT BUILDER ENCOUNTERS ANY UNFORESEEN SUBSURFACE CONDITIONS WHICH MATERIALLY AND ADVERSELY IMPACT UPON

THE WORK (SUCH AS ROCK FORMATIONS, AQUIFERS, WETLANDS, ARCHAEOLOGICAL SITES, ETC.), BUILDER SHALL STOP THE WORK AND NOTIFY BUYER. WORK SHALL RECOMMENCE WHEN BUYER AND BUILDER HAVE MUTUALLY AGREED UPON SUCH NECESSARY AND APPROPRIATE ADJUSTMENTS TO THE CONTRACT PRICE AND ANY OTHER RELEVANT PROVISIONS OF THIS AGREEMENT. IF BUYER AND BUILDER CANNOT SO AGREE, EITHER PARTY MAY TERMINATE THIS AGREEMENT. BOTH PARTIES SHALL THEN BE RELIEVED OF ANY FURTHER OBLIGATION UNDER AND/OR CLAIMS FOR ANY DAMAGES TO THE OTHER AND SHALL HOLD EACH OTHER HARMLESS AS A RESULT OF THIS TRANSACTION AND 100% OF THE EARNST MONEY DEPOSIT(S) SHALL BE RETURNED TO BUYER.

13. BUILDER WARRANTS TO BUYER THAT MATERIALS AND EQUIPMENT FURNISHED UNDER THIS AGREEMENT WILL BE NEW, THAT BUILDER'S WORK WILL CONFORM TO INDUSTRY STANDARDS OF ACCEPTABLE CRAFTSMANSHIP, AND THAT BUILDER'S WORK WILL BE FREE FROM SUBSTANTIAL DEFECTS FOR A PERIOD OF ONE YEAR AFTER COMPLETION. BUILDER'S OBLIGATION UNDER THE "LWD, LLC LIMITED WARRANTY" SHALL BE LIMITED SOLELY TO THE REPAIR OF THAT PORTION OF THE WORK FOUND NOT TO HAVE BEEN CONSTRUCTED AS WARRANTED. THE BUILDER'S WARRANTY EXCLUDES REMEDY FOR DAMAGE OR DEFECT CAUSED BY ABUSE, MODIFICATIONS NOT EXECUTED BY BUILDER, IMPROPER OR INSUFFICIENT MAINTENANCE, IMPROPER OPERATION, OR NORMAL WEAR AND TEAR AND USAGE. ANY WARRANTY WORK PERFORMED BY BUILDER OR ON BUILDER'S BEHALF SHALL NOT EXTEND THE WARRANTY, APPLICABLE STATUTE OF LIMITATIONS OR THE STATUTE OF ULTIMATE REPOSE.
14. UPON COMPLETION OF BUILDER'S WORK, BUILDER SHALL ASSIGN AND TRANSFER TO BUYER ALL MANUFACTURER WARRANTIES RECEIVED (OR THE RIGHT TO RECEIVE SUCH WARRANTIES) FOR EQUIPMENT, APPLIANCES, SYSTEMS, COMPONENTS OR MATERIALS INCORPORATED INTO BUILDER'S WORK. BUILDER PROVIDES NO WARRANTY OF ITS OWN WITH RESPECT TO SUCH ITEMS. CONSEQUENTLY, BUILDER SHALL NOT BE LIABLE FOR ANY FAILURE OR DEFICIENCY IN THE EQUIPMENT, APPLIANCES, SYSTEMS, COMPONENTS OR MATERIALS INCORPORATED INTO THE WORK THAT ARE COVERED AT ANY TIME BY A MANUFACTURER'S WARRANTY ASSIGNED TO BUYER.
15. THE "LWD, LLC LIMITED WARRANTY AGREEMENT" HAS BEEN REVIEWED BY BUYER AND IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF FITNESS, HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR USE OR PURPOSE, ALL OF WHICH ARE HEREBY DISCLAIMED.
16. BUYER SHALL HAVE ONGOING MAINTENANCE AND INSPECTION RESPONSIBILITIES FOR THE HOME. BUILDER HAS PROVIDED BUYER WITH THE "HOME BUYERS MANUAL", THE TERMS OF WHICH ARE INCORPORATED HEREIN BY REFERENCE, WHICH DESCRIBES BUYER'S MAINTENANCE AND RESPONSIBILITIES FOR THE RESIDENCE.
17. OREGON LAW CONTAINS IMPORTANT REQUIREMENTS BUYER MUST FOLLOW BEFORE COMMENCING AN ARBITRATION OR A COURT ACTION AGAINST BUILDER, SUBBUILDER OR SUPPLIER FOR CONSTRUCTION DEFECTS. BEFORE COMMENCEMENT OF ARBITRATION OR A COURT ACTION BUYER MUST DELIVER A WRITTEN NOTICE OF ANY CONDITIONS ALLEGED TO BE DEFECTIVE WITHIN 30 DAYS AFTER DISCOVERY TO THE BUILDER, SUBBUILDER OR SUPPLIER BELIEVED TO BE RESPONSIBLE FOR THE ALLEGED DEFECT. BUYER IS REQUIRED TO PROVIDE BUILDER, SUBBUILDER OR SUPPLIER THE OPPORTUNITY TO REPAIR OR COMPENSATE BUYER FOR THE ALLEGED DEFECT(S). BUYER IS NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE BUILDER, SUBBUILDER OR SUPPLIER. STRICT DEADLINES AND PROCEDURES EXIST UNDER STATE LAW. FAILURE TO MEET THOSE DEADLINES OR FOLLOW THOSE PROCEDURES WILL AFFECT BUYER'S ABILITY TO COMMENCE ARBITRATION OR A COURT ACTION. SEE "NOTICE OF PROCEDURE REGARDING RESIDENTIAL CONSTRUCTION ARBITRATION AND LAWSUITS". IN THE

EVENT OF ANY SUIT OR ACTION RELATING TO OR ARISING OUT OF THIS AGREEMENT, THE PREVAILING PARTY SHALL BE ENTITLED TO RECOVER ITS REASONABLE ATTORNEY'S FEES AT TRIAL OR APPEAL. ALL EXPENSES IN CONNECTION WITH THE ARBITRATION OF ANY MATTER UNDER THE TERMS OF THIS AGREEMENT, INCLUDING REASONABLE ATTORNEY'S FEES, TRAVEL EXPENSES, AND EXPENSES FOR ARBITRATION SHALL BE PAID BY THE NON-PREVAILING PARTY.

18. BUYER AGREES THAT THE LIABILITY OF BUILDER OR BUILDER'S SUBBUILDERS FOR ANY CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE WORK, INCLUDING CLAIMS BASED UPON BREACH OF CONTRACT OR NEGLIGENCE BY BUILDER, ANY SUBBUILDER OR MATERIAL SUPPLIER, SHALL BE LIMITED TO THE "LWD, LLC LIMITED WARRANTY AGREEMENT" AND ANY APPLICABLE FEDERAL, STATE, AND LOCAL LAWS. BUYER ALSO AGREES THAT THE LIABILITY OF BUILDER OR BUILDER'S SUBBUILDER UNDER ANY CIRCUMSTANCE SHALL BE LIMITED TO THE LESSER OF: 1) THE REASONABLE COST OF REPAIR OR REPLACEMENT OF ANY PORTION OF THE WORK FOUND TO BE DEFECTIVE UNDER ORDINARY USE; OR 2) THE DIFFERENCE BETWEEN THE ACTUAL VALUE OF THE ACTUAL WORK AS COMPLETED BY BUILDER AND THE CALCULATED VALUE HAD THE WORK BEEN CONSTRUCTED ACCORDING TO THE PLANS AND SPECIFICATIONS.

BUYER:

SELLER/BUILDER:

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

Alan R DeHarpport, member  
LWD, LLC dba Solstice Custom Homes  
Oregon CCB #193633  
Date: \_\_\_\_\_