## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA FLORENCE DIVISION

Hyland Winnie, Jr., on behalf of himself and	)	Civil Action No.
others similarly situated,	)	
	)	
Plaintiff,	)	
	)	
VS.	)	NOTICE OF REMOVAL
	)	
D.R. Horton, Inc.,	)	<b>Jury Trial Demanded</b>
, ,	)	•
Defendant.	)	
	)	
	/	

Defendant D.R. Horton, Inc. ("D.R. Horton"), by and through its undersigned counsel, pursuant to 28 U.S.C. §§ 1332, 1367, 1441, 1446, and 1453; 28 U.S.C. § 121(3); and Local Rule 3.01, hereby notifies this Court that it is removing the above-captioned action currently pending in the Court of Common Pleas for Horry County, South Carolina, to the United States District Court for the District of South Carolina, Florence Division. In support of this Notice of Removal, D.R. Horton states as follows:

- 1. On March 13, 2018, Plaintiff filed a Complaint against D.R. Horton in the Court of Common Pleas for Horry County, South Carolina under Civil Action Number 2018-CP-26-01728 ("the State Court Action"). A copy of the Summons and Complaint is attached as Exhibit A and incorporated herein by reference. The purported class action Complaint alleges claims for breach of contract, unjust enrichment, and declaratory relief. Plaintiff seeks an unspecified amount of actual and compensatory damages as well as attorney's fees. (Compl., p. 8.)
- 2. Plaintiff served D.R. Horton's statutory agent with copies of the file-stamped Summons and Complaint on March 14, 2018. A copy of the transmittal is attached as <u>Exhibit B</u>.

- 3. This Notice of Removal has been filed with this Court within thirty (30) days of D.R. Horton's receipt of Plaintiff's Summons and Complaint as required by 28 U.S.C. § 1446(b).
- 4. The basis for removal to federal court is diversity jurisdiction pursuant to 28 U.S.C. § 1332(a), or, in the alternative, class action jurisdiction pursuant to 28 U.S.C. § 1332(d).
- 5. In accordance with 28 U.S.C. § 1446(d), D.R. Horton has contemporaneously filed a copy of this Notice of Removal with the Clerk of Court for the Court of Common Pleas for Horry County, South Carolina.
- 6. In accordance with 28 U.S.C. § 1446(d), D.R. Horton has given written notice to Plaintiff by contemporaneously serving this Notice of Removal on Plaintiff's counsel.
- 7. Venue properly lies in this district and division pursuant to 28 U.S.C. § 1441(a), because Plaintiff's State Court Action was originally filed in Horry County, South Carolina, a county within the Florence Division of the United States District Court for the District of South Carolina. 28 U.S.C. § 121(3).

#### **BASIS FOR DIVERSITY JURISDICTION**

8. The first basis for removal to federal court is diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) because: (1) there is complete diversity of citizenship between Plaintiff and D.R. Horton, and (2) although D.R. Horton ultimately disputes the validity of Plaintiff's claims, the amount in controversy exceeds seventy-five thousand dollars (\$75,000), exclusive of interest and costs. Plaintiff's claims satisfy both statutory requirements for diversity jurisdiction. The claims of the purported class members would fall within the supplemental jurisdiction of the United States District Court pursuant to 28 U.S.C. § 1367.

#### Complete Diversity of Citizenship

- 9. D.R. Horton is informed and believes that, at all times relevant to this action and the filing of this Notice of Removal, Plaintiff Hyland Winnie was and is a citizen and resident of the State of New York. (Compl., ¶ 1.)
- 10. At all times relevant to this action and the filing of this Notice of Removal, D.R. Horton was and is a corporation incorporated under the laws of the state of Delaware with its headquarters/principal place of business in Texas. D.R. Horton is not a citizen or resident of South Carolina.
- 11. Accordingly, complete diversity of citizenship existed between Plaintiff Winnie and D.R. Horton at the time Plaintiff's Complaint was filed, and complete diversity of citizenship exists at the time of removal.

## Amount in Controversy Exceeds \$75,000

- 12. As required by 28 U.S.C. § 1332, this Court has jurisdiction when the amount in controversy is greater than \$75,000, exclusive of interest and costs.
- 13. Plaintiff Winnie seeks recovery of money damages for D.R. Horton allegedly breaching a Home Purchase Agreement in connection with the purchase of Winnie's home. (Compl., ¶ 22–25.) Specifically, Plaintiff pleads causes of action for breach of contract, unjust enrichment, and declaratory relief. (Compl., p. 5–6.)
- 14. Plaintiff seeks actual damages, compensatory damages, and declaratory relief. (Compl., Prayer for Relief.)
- 15. Plaintiff has not limited his damages in the Prayer for Relief and has not filed or otherwise served a stipulation of damages. If Plaintiff intended to limit his recovery to an

amount less than \$75,000, he could have done so by verifying the Complaint or filing a preremoval affidavit in which he disclaims any monetary recovery in excess of \$75,000.

16. D.R. Horton denies Plaintiff's claims and his entitlement to relief; however, based on Plaintiff's allegations in the Complaint, the amount in controversy requirement is satisfied.

### Supplemental Jurisdiction

- 17. The claims of purported class members are based upon the same facts as the claims arising under federal law and form part of the same case or controversy such that supplemental jurisdiction would be appropriate.
- 18. Therefore, pursuant to 28 U.S.C. § 1367, the federal court is vested with authority to retain supplemental jurisdiction over Plaintiff's claims. *See Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 559, 125 S. Ct. 2611, 2620, 162 L. Ed. 2d 502 (2005) (holding that the court may exercise supplemental federal jurisdiction over additional plaintiffs if at least one satisfies the amount-in-controversy requirement).

### **BASIS FOR CLASS ACTION JURISDICTION**

- 19. The second basis for removal to federal court is class action jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d) because: (1) there is diversity of citizenship between at least one Plaintiff and D.R. Horton, and (2) the aggregate amount in controversy exceeds five million dollars (\$5,000,000), exclusive of interest and costs. Plaintiff's claims satisfy both statutory requirements for class action jurisdiction.
- 20. As established above, complete diversity of citizenship existed between Plaintiff and D.R. Horton at the time Plaintiff's Complaint was filed, and complete diversity of citizenship exists at the time of removal.

- 21. As required by 28 U.S.C. § 1332(d)(2), this Court has jurisdiction when the amount in controversy is greater than \$5,000,000, exclusive of interest and costs.
- 22. Pursuant to 28 U.S.C. § 1332(d)(6), "in any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interests and costs."
- 23. The Complaint seeks to certify a statewide class of "all persons...who have purchased a new home located in South Carolina from D.R. Horton or any of its related companies using [the] Home Purchase Agreement or materially similar Sales Contract" as attached to the Complaint. (Compl., ¶ 6.)
- 24. D.R. Horton has sold thousands of homes in the state of South Carolina in the past 3 years alone (Exhibit C, Affidavit of Charles C. Hull, Jr.).
  - 25. The number of proposed members of the class is more than 100.
- 26. Plaintiff has not limited his damages in the Prayer for Relief and has not filed or otherwise served a stipulation of damages.
- 27. If Plaintiff intended to limit the value of the purported class claims to below \$5,000,000, he could have done so by verifying the Complaint or filing a pre-removal affidavit in which he disclaims any monetary recovery for the class in excess of \$5,000,000. *See Chavis v. Fid. Warranty Servs., Inc.*, 415 F. Supp. 2d 620, 627 (D.S.C. 2006) ("Thus, Plaintiffs could have limited the damages alleged in their complaint to escape possible removal to federal court under CAFA.") They cannot file an effective stipulation subsequent to removal. *Id. (quoting Thompson v. Victoria Fire & Cas. Co.*, 32 F. Supp .2d 847, 849 (D.S.C. 1999) ("To the extent Plaintiffs allege in their motion to remand and their reply brief that the amount in controversy is

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less than \$5,000,000, the court notes that 'post-removal events ... do not deprive a federal court

of diversity jurisdiction.")

28. D.R. Horton submits this Notice of Removal without waiving any defenses to the

claims asserted by Plaintiff, without conceding that Plaintiff has pleaded claims upon which

relief can be granted, without admitting that Plaintiff has standing, without admitting that

Plaintiff's claims have any monetary value, and without admitting that Plaintiff is entitled to any

monetary or equitable relief whatsoever.

WHEREFORE, Defendant D.R. Horton, Inc. respectfully requests that the above-

captioned action now pending in the Court of Common Pleas for Horry County, South Carolina

be removed to the United States District Court for the District of South Carolina, and this Court

assume jurisdiction of this action and enter such other and further orders as may be necessary to

accomplish the removal and promote the ends of justice.

WOMBLE BOND DICKINSON (US) LLP

*s/ James E. Weatherholtz* 

James E. Weatherholtz, Fed. Bar No. 7473

Kathryn S. Mansfield, Fed. Bar No. 12231

5 Exchange Street

P.O. Box 999

Charleston, SC 29402

(843) 722-3400

(843) 723-7398

james.weatherholtz@wbd-us.com

Kathryn.mansfield@wbd-us.com

Attorneys for D.R. Horton, Inc.

April 13, 2018

Charleston, South Carolina

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STATE OF SOUTH CAROLINA	) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	) FIFTEENTH JUDICIAL CIRCUIT
Hyland Winnie, Jr., on behalf of himself and others similarly situated,	) Civil Action No. 2018-CP-26-
Plaintiffs,	
vs.	SUMMONS
D.R. Horton, Inc.,	
Defendant.	) }

## TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer upon the undersigned attorney at 1325 Park Street, Suite 300, Post Office Box 96, Columbia, South Carolina 29202, within thirty (30) days from the date of service hereof upon you, and in the event you fail to answer within the time specified herein, plaintiff will apply to the court for the relief demanded in the Complaint.

s/ Charles H. McDonald
Charles H. McDonald [SC Bar # 11580]
BELSER & BELSER, P.A.
Post Office Box 96
Columbia, SC 29202
(803) 929-0096
Email: chuck@belserpa.com

Counsel for Plaintiff

Columbia, South Carolina

March 13, 2018

STATE OF SOUTH	CAROLINA	) IN THE COURT OF COMMON PLEAS
COUNTY OF HOR	RY	) ) FIFTEENTH JUDICIAL CIRCUIT
Hyland Winnie, Jr., and others similarly	on behalf of himself situated,	) Civil Action No. 2018-CP-26-
	Plaintiffs,	
vs. D.R. Horton, Inc.,		CLASS ACTION COMPLAINT (JURY TRIAL DEMANDED) )
	Defendant.	) ) )

Plaintiff Hyland Winnie, Jr., on behalf of himself and all others similarly situated, complaining of the Defendant D.R. Horton, Inc. ("D.R. Horton") would respectfully show as follows:

## INTRODUCTION & NATURE OF THE ACTION

Defendant D.R. Horton is a builder and seller of new homes in the state of South Carolina and advertises itself on its website as "America's Builder" due to its status as the nation's largest builder of new homes by volume. Under well-established law, the "warranty of habitability" is implied in the sale of all new homes in South Carolina. Recognizing the importance of this implied warranty, and the relative sophistication of homebuilders such as D.R. Horton vis-à-vis the new home buyer, our Supreme Court ruled that the warranty of habitability can be waived or disclaimed only if the waiver is (1) conspicuous; (2) known to the buyer; and (3) specifically bargained for. Nevertheless, and in contravention to this long-standing precedent, Defendant D.R. Horton unlawfully and uniformly requires all new home buyers, including Plaintiffs, to waive the warranty

<sup>&</sup>lt;sup>1</sup> See www.drhorton.com (last visited February 26, 2018).

of habitability without providing the homebuyers any compensation for such waiver as required by South Carolina law.

This is a proposed class action under Rule 23, SCRCP, seeking money damages and declaratory relief, to redress Defendant D.R. Horton's uniform and improper practice of requiring purchasers of its new homes in South Carolina to waive the valuable warranty of habitability without providing to purchasers any compensation for such waiver.

## **PARTIES AND JURISDICTION**

- 1. Plaintiff purchased a new home from D.R. Horton in the Bradford Meadows subdivision in Horry County, South Carolina in 2015. Plaintiff resides primarily in New York at the present time, but spends considerable time at his Horry County home and intends to make this his permanent residence in a few years.
- 2. D.R. Horton is a foreign corporation and is one of the largest homebuilding enterprises in the United States.
- 3. The matters complained of herein arise from D.R. Horton's unlawful and uniform waiver of the implied warranty of habitability contained in D.R. Horton's "Home Purchase Agreement" for new homes in South Carolina to purchasers of unequal sophistication and bargaining power.
  - 4. This Court has jurisdiction over the parties and the subject matter of this action.
- 5. Venue is proper in this forum as the real estate sales contract at issue here involves real property located in Horry County and all material events took place in Horry County.

## THE CLASS MEMBERS

6. The members of the putative class include all persons, excluding D.R. Horton's agents or principals, who have purchased a new home located in South Carolina from D.R. Horton

or any of its related companies using this Home Purchase Agreement or materially similar Sales.

Contract as attached as Exhibit 1 and more particularly described in the paragraphs below.

- 7. As part of the sale of the new home by D.R. Horton, all class members were uniformly required to waive and forego valuable warranty rights without compensation to which they were entitled.
- 8. All class members have been harmed by the unjust conduct of D.R. Horton and its agents.

### **FACTS**

## D.R. Horton's Home Purchase Agreement & Sales Practices

- 9. D.R. Horton requires purchasers of its homes to execute D.R. Horton's "Home Purchase Agreement."
- 10. This Home Purchase Agreement contains a disclaimer of critical warranty rights implied by law in South Carolina and designed to protect the new homebuyer, who the law recognizes is at a significant disadvantage in sophistication and bargaining power with a large volume homebuilder such as D.R. Horton.
- 11. One of the implied warranties that D.R. Horton requires its purchasers to waive is the implied warranty of habitability—the most essential warranty that exists with respect to the sale of a new home. The implied warranty of habitability ensures, among other things, that the home purchased by the new homebuyer is free from substantial defects which could render the home unsuitable for habitation.
- 12. South Carolina courts have long recognized the importance of guarding and protecting the rights of innocent homebuyers against defective construction placed into the stream of commerce by volume builders such as D.R. Horton.

- 13. In lieu of the critical and essential implied warranties that D.R. Horton makes all of its purchasers waive in the Home Purchase Agreement, D.R. Horton substitutes a dubious limited warranty through a third-party warranty company.
- 14. Through this sophisticated scheme, D.R. Horton does not directly warrant any part of the construction of the new homes it sells to purchasers.
- D.R. Horton home is usually from Residential Warranty Corporation. This warranty is exceptionally limited, excluding material matters such as building code violations and incomplete construction items.
- 16. Despite requiring its purchasers to give up substantial warranty rights, including the warranty of habitability, as a condition of purchasing a new home, D.R. Horton provides no reduction in price or separate benefit to the purchaser who is giving up such critical rights.
- 17. In certain material respects, D.R. Horton's Home Purchase Agreement is unlawful, unfair, and benefits only D.R. Horton and its affiliates at the expense of homebuyers.

## Waiver of the Implied Warranty of Habitability in South Carolina

- 18. A seller of a new home cannot disclaim the implied warranty of habitability unless the disclaimer was "(1) conspicuous, (2) known to the buyer, and (3) specifically bargained for." Kirkman v. Parex, 369 S.C. 477, 485, 632 S.E.2d 854, 858 (2006)...
  - 19. The South Carolina Supreme Court has specifically stated:

We agree with the Supreme Court of Alabama "that the principle of freedom of contract permits a party to effectively disclaim the implied warranty of habitability." To maintain the protection of purchasers, however, disclaimer can be permitted only if strict conditions are satisfied. We adopt the requirements set forth by the Washington Court of Appeals: the disclaimer must be (1) conspicuous, (2) known to the buyer, and (3) specifically bargained for.

Parex, 369 S.C. at 485, 632 S.E.2d at 858 (internal quotation marks and citations omitted).

D.R. Horton and its agents have had actual or constructive knowledge of this ruling since 2006, yet D.R. Horton and its agents continue to operate the improper warranty scheme described above all to the detriment of the purchaser of a D.R. Horton home.

## **CAUSES OF ACTION**

# For a First Cause of Action: Breach of Contract/Breach of Implied Covenant of Good Faith and Fair Dealing

- 21. The allegations of Paragraphs 1 through 20 are re-alleged and incorporated herein.
- 22. Plaintiff entered into an enforceable and valid contract with D.R. Horton by executing D.R. Horton's "Home Purchase Agreement" in connection with the purchase of a new D.R. Horton home for which Plaintiff paid valuable consideration. A true and correct copy of this Home Purchase Agreement is attached hereto as Exhibit 1.
- 23. The actions and conduct of D.R. Horton constitute a breach of the duty of good faith and fair dealing implied in every contract, including the D.R. Horton Home Purchase Agreement.
- 24. As a direct and proximate result of D.R. Horton's actions, Plaintiff has suffered actual damages in the form of the fair value of the waiver of the implied warranty of habitability which D.R. Horton intentionally avoided paying the Plaintiff through its scheme set forth above.
- 25. Plaintiff is entitled to judgment against D.R. Horton in such amount as shall be proven at trial together with interest thereon as provided by law.

## For a Second Cause of Action: Unjust Enrichment

- 26. The allegations of Paragraphs 1 through 25 are re-alleged and incorporated herein.
- 27. D.R. Horton has received a significant benefit from the Plaintiff in the form of a waiver and release of important warranty rights including the warranty of habitability implied in every sale of a new home.
- 28. D.R. Horton has realized the full benefit of Plaintiff's waiver and release of these fundamental warranty rights.
- 29. It would be a gross injustice for D.R. Horton to continue to reap the benefit of this "bargain" with the Plaintiff without paying fair value for the Plaintiff's waiver and release of important warranty rights and specifically the warranty of habitability.
- 30. Plaintiff is entitled to recover such fair value from D.R. Horton and seeks judgment against D.R. Horton in such amount as the Court finds just and proper under the circumstances.

## For a Third Cause of Action: Declaratory Relief

- 31. The allegations of Paragraphs 1 through 30 are re-alleged and incorporated herein.
- 32. Plaintiffs pray that the Court inquire into the matters set forth above and issue its ruling declaring the relative rights of the parties with respect to the following:
  - a. The validity of the waiver of implied warranty of habitability without separate consideration contained in D.R. Horton's Home Purchase Agreement; and
  - b. The validity of D.R. Horton's purported transfer of all remaining warranty obligations to a third party.

## **CLASS ACTION ALLEGATIONS**

33. The allegations of Paragraphs 1 through 32 are re-alleged and incorporated herein.

- 34. Pursuant to Rule 23, SCRCP, the Plaintiff Class for whom Plaintiffs seek to represent includes: "All persons, excluding D.R. Horton's agents or principals, who have purchased a new home located in South Carolina from D.R. Horton or its related companies using the 'Home Purchase Agreement' or materially similar purchase agreement."
- 35. Upon information and belief, the size of the class is so numerous that joinder of all members of the Plaintiff Class is impractical.
- 36. Plaintiff does not have any interests antagonistic to or in conflict with the interests of the Plaintiff Class.
- 37. Counsel for Plaintiff are experienced in complex civil litigation, well versed in the issues presented in this matter, and have extensive experience in handling class actions in both state and federal court.
- 38. There are questions of law and fact common to Plaintiff and all members of the Plaintiff Class that predominate over any individual questions of law and/or fact, including the validity of the purported waivers of fundamental warranty rights in D.R. Horton's Home Purchase Agreement and the consideration to which Plaintiff and all members of the Plaintiff Class are entitled for such waivers.
- 39. The claims of Plaintiff are typical of the claims of all members of the Plaintiff Class in that the same or materially similar proprietary Contract for Sale were used in each new home sales transaction involving members of the Plaintiff Class.
- 40. Class treatment of the matters at issue in this case is superior to the alternatives, if any, for the fair and efficient adjudication of such issues because such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum

simultaneously, efficiently, and without the unnecessary duplication of evidence, effort, and expense that would be involved in numerous individual actions.

- 41. The amount in controversy exceeds one hundred dollars for each member of the class.
- 42. Upon information and belief, the members of the Plaintiff Class are readily ascertainable from D.R. Horton or other third party's business records.
- 43. Plaintiff is not aware of any difficulty in the management of this action that would preclude it from being maintained as a class action.

## **PRAYER FOR RELIEF**

WHEREFORE, having complained of Defendant D.R. Horton and other entities for which D.R. Horton is legally responsible, Plaintiff requests the following relief:

- a. An order: (i) certifying a Plaintiff Class pursuant to Rule 23, SCRCP; (ii) appointing Plaintiff as representative of the Plaintiff Class; and (iii) appointing the undersigned as counsel for the Plaintiff Class;
- b. Pursuant to the First and Second Causes of Action: (i) an award of actual and compensatory damages for Plaintiff and each proposed class member in the amounts established at trial together with interest thereon as permitted by law; and
- c. Pursuant to the Third Cause of Action, a declaration regarding the validity of the waiver and release of certain warranty rights contained in the D.R. Horton Home Purchase Agreement; and
- d. Attorney's fees if permitted by law along with all taxable costs of this action as may be allowed by this Court; and
  - e. For such other relief as the Court may deem appropriate.

## McDONALD LAW, LLC

By: s/ Charles H. McDonald

Charles H. McDonald, Esquire [SC Bar# 11580]

P.O. Box 96

Columbia, SC 29202

Telephone: (803) 929-0096

chuck@belserpa.com

#### and:

Terry E. Richardson, Jr., Esquire [SC Bar# 4721] Matthew A. Nickles, Esquire [SC Bar# 80364] Brady R. Thomas, Esquire [SC Bar# 72530] Richardson, Patrick, Westbrook & Brickman, LLC 1730 Jackson Street P.O. Box 1368 Barnwell, SC 29812 Telephone: 803.541.7850

### and

Thornwell F. Sowell, Esquire [SC Bar# 5197] Beth B. Richardson, Esquire [SC Bar# 69552] Sowell Gray Robinson Stepp & Laffitte, LLC 1310 Gadsden Street P.O. Box 11449 Columbia, SC 29211 Telephone (803) 929-1400

### Counsel for Plaintiffs

Columbia, South Carolina March 13, 2018



#### HOME PURCHASE AGREEMENT

### NOTE: THIS CONTRACT PROVIDES FOR MANDATORY BINDING ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, SECTIONS 15-48-10 ET SEO., SOUTH CAROLINA CODE OF LAWS (1976, AS AMENDED)

In consideration of the reciprocal covenants stated herein, D.R. Horton, Inc. ("Seller") and HYLAND WINNIE JR. (collectively, "Purchaser") agree as follows:

1. CONVEYANCE. Seller shall sell to Purchaser and Purchaser shall purchase from Seller all that parcel of land located in HORRY County, South Carolina, with a street address of 308 Greenhaven Dr., more particularly described as Lot <u>0072</u>, <u>Bradford Meadows</u> Subdivision (the "Lot"), together with all improvements thereon and all appurtenances thereto, but less and except all rights, titles and interests to all oil, gas, water, petroleum, natural gas, coal, lignite and other minerals and hydrocarbons, and all geothermal energy and resources, located in whole or in part on, in or under the Lot and / or that may be produced or extracted from the Lot. The interests to be conveyed pursuant to this Agreement are hereinafter collectively referred to as the "Property."

<ol><li>PURCHASE PRICE AND METHOD QF PAYMENT. Subject to adjustment as may be provided herein,</li></ol>
the Purchase Price for the Property shall be:
to be paid in cash as provided herein. A breakdown of the Purchase Price as of
the Effective Date (defined in Section 19 below) is set forth in Addendum 2 attached hereto and incorporated
herein. The terms of the subsection (a or b) checked below shall also apply.

Oa. No Financing Contingency.

Purchaser shall pay to Seller the Purchase Price in cash at Closing. Within ten (10) business days of the Effective Date, Purchaser shall provide documentation to Seller that will verify to Seller's reasonable satisfaction that Purchaser has the available funds necessary to purchase the Property according to the terms of this Agreement. If Purchaser does not provide such documentation to Seller within that time period, then Seller may at its option terminate this Agreement by providing written notice to Purchaser of termination, in which event Seller shall retain the Earnest Money and neither party shall have any further obligation or liability to the other hereunder.

#### **Øb.** Financing Contingency

- (1) Purchaser shall use its best efforts to obtain a loan in the principal amount of no more than 96.5% of the Purchase Price, reduced to the next lowest hundred dollars, (the "Loan") to be secured by a first priority mortgage on the Property. The proceeds of the Loan, together with the balance of the Purchase Price, shall be paid to Seller by Purchaser in cash or other immediately available funds at Closing.
- (2) Purchaser shall apply for the Loan within ten (10) days of the Effective Date. Failure by Purchaser to apply for the Loan within that time-period or to pursue approval of the Loan diligently thereafter shall constitute a material breach of this Agreement by Purchaser. Within thirty (30) days of the Effective Date, Purchaser shall provide Seller with a letter from Purchaser's lender (the "Approval Letter") confirming that the Loan has been approved. If Purchaser fails to provide the Approval Letter to Seller within that period, then Seller may terminate this Agreement upon written notice to Purchaser, in which event the Earnest Money shall be refunded to Purchaser if Purchaser is not in breach of this Agreement, and thereafter neither party shall have any further liability or obligation to the other hereunder.
- (3) Purchaser acknowledges that there are many different loan programs available from many different lenders. If the loan approval obtained by Purchaser contains any contingencies, Seller may require the

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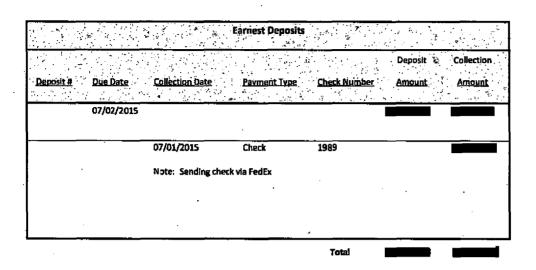
satisfaction of those contingencies within the time period specified for obtaining the Approval Letter and terminate this Agreement if those contingencies are not waived or satisfied; in which event, the Earnest Money shall be refunded to Purchaser, and neither party shall thereafter have any further liability or obligation to the other hereunder.

- Purchaser understands and acknowledges that loan/credit approvals are valid for up to one hundred twenty (120) days. Purchaser shall update loan/credit approval documentation as needed in order to maintain current loan approval up until the date of closing. Purchaser agrees to execute all papers and perform all other actions necessary to obtain the Loan and to accept the Loan if approved by lender. Purchaser shall, in addition to the payment of principal and interest upon the Loan, pay at Closing such amounts as may be required by the lender to establish or maintain an escrow for insurance, property taxes or private mortgage insurance.
- If Purchaser applies and obtains a commitment for an FHA insured loan, then notwithstanding any other provision of this Agreement, Purchaser shall not be obligated to complete the purchase of the Property or to incur any penalty by forfeiture of earnest money deposits or otherwise unless Purchaser has been given in accordance with HUD/FHA or VA requirements a written statement by the Federal Housing Commissioner. Department of Veterans Affairs or a Direct Endorsement lender setting forth the appraised value of the property of not less than the full final purchase price. The Purchaser shall have the privilege and option of proceeding with consummation of the contract without regard to the amount of the appraised valuation. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development ("HUD") will insure. HUD does not warrant the value or the condition of the property. Purchaser should satisfy himself/herself that the price and condition of the property are acceptable.
- If Purchaser applies and obtains a commitment for a VA guaranteed loan, then notwithstanding any other provision of this Agreement. Purchaser shall not incur any penalty for forfeiture of earnest money or otherwise or be obligated to complete the purchase of the Property if the contract purchase price or cost exceeds the reasonable value of the Property established by the Department of Veterans Affairs. The Purchaser shall, however, have the privilege and option of proceeding with the consummation of this contract without regard to the amount of the reasonable value established by the Department of Veterans Affairs.
- 3. FINANCIAL INFORMATION. Purchaser acknowledges that Purchaser's financial situation may affect Purchaser's ability to obtain a loan and/or purchase this Property. Purchaser further acknowledges that it is important for the Seller to know Purchaser's financial situation and Purchaser's ability to obtain financing. Purchaser hereby grants permission for the Seller to contact any mortgage company or financial institution to which Purchaser may apply for a loan and to discuss Purchaser's financial situation and prospects of obtaining a loan. Purchaser hereby authorizes any mortgage company or financial institution from which Purchaser may seek a loan to discuss Purchaser's financial status with the Seller and to provide the Seller with any documentation or information regarding said financial status, including but not limited to Purchaser's credit score.

#### 4. EARNEST MONEY.

Initial Deposit. Purchaser has agreed to pay to seller the following schedule of deposits; made payable to D. R. Horton, Inc., receipt of which is acknowledged by Seller (hereinafter, the "Initial Deposit"). The Initial Deposit shall be deposited in Seller's trust account upon acceptance of this Agreement by Seller.

Initials



- b. Additional Deposit. On or before, Purchaser shall pay to Seller an Additional Deposit in the amount of, to be held in Seller's trust account. Failure by Purchaser to pay the Additional Deposit by shall constitute a material breach of this Agreement by Purchaser.
- c. Disbursement. The Initial Deposit and the Additional Deposit are hereinafter referred to as the "Earnest Money," both individually and collectively. The Earnest Money shall be retained by Seller except as otherwise expressly stated in this Agreement. At Closing, the Earnest Money shall be credited to Purchaser against the Purchase Price; otherwise, the Earnest Money shall be disbursed as provided herein. If any dispute arises between Purchaser and Seller as to the final disposition of all or part of the Earnest Money, Seller may, but shall not be required to, interplead all or any disputed part of the Earnest Money into a court of competent jurisdiction. If Seller interpleads the Earnest Money into a court, Seller shall be entitled to recover the costs of such interpleader, including reasonable attorney's fees incurred in connection with the interpleader, from the Earnest Money.
- 5. SURVEY. At Closing, Seller shall provide Purchaser with a plat of survey of the Lot performed by an independent, licensed surveyor or engineer, showing all improvements located thereon as of the date of the survey. The plat of survey shall be suitable for use by Purchaser's closing attorney to obtain title insurance for the Property without exception for matters that would be shown or revealed by a current survey of the Lot. At Closing, Purchaser shall reimburse Seller for the cost of the survey and pay to Seller a reasonable fee, not to exceed Three Hundred Fifty Dollars (\$350.00), for obtaining and providing the survey. Seller makes no warranty or representation whatsoever regarding the quality, accuracy or reliability of the survey. Seller makes no warranty or representation whatsoever regarding any matter that would be shown or revealed by an accurate survey of the Lot. Purchaser acknowledges that the Property o is 8 is not located in a one hundred year flood plain as defined by HUD.
- 6. WARRANTY OF TITLE. Seller shall convey insurable fee simple title of the Property to Purchaser at Closing by special or limited warranty deed, subject to: (a) zoning ordinances affecting the Property; (b) utility, drainage and other easements of record upon which the residence does not encroach; (c) subdivision covenants, conditions and restrictions; (d) all matters shown on the final plat for the subdivision where the Property is located; (e) a prior conveyance of all rights, titles and interests to all oil, gas, water, petroleum, natural gas, coal, lignite and other minerals and hydrocarbons, and all geothermal energy and resources, located in whole or in part on, in or under the Lot and/or that may be produced or extracted from the Lot; and (f) any matters that would be shown or revealed by a current survey of the Lot. "Insurable title" shall mean title which a title insurance company licensed to do business in South Carolina will insure at its regular rates, subject only to its standard exceptions and those exceptions listed in subsections (a) through (e) above.

7. TITLE EXAMINATION. Purchaser shall have until ten (10) days prior to the Closing Date to examine title to the Property and to furnish Seller with a written statement of any exceptions to insurable title. If Purchaser does not serve Seller with notice of exception to insurable title prior to that date, Purchaser shall have waived any objection to title to the Property as it existed as of the Effective Date. If Purchaser does serve such notice on Seller prior to that date, the notice shall specify and itemize the exceptions to insurable title. If Seller does not remove any exceptions to insurable title within a reasonable time, Purchaser shall have the right to terminate this Agreement and to receive a refund of the Earnest Money and any Option Money paid to Seller. Under no circumstances shall Seller be obligated or required to remove or cure any exception to title to the Property that is not a valid exception to insurable title as defined in Section 6 above.

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

#### 9. INSPECTION.

- a. Procedure Prior to Closing, Seller shall have the right to deny access to the Lot to any person at any time, as Seller determines in its sole discretion. However, Purchaser or a professional home inspector contracted by Purchaser shall have the right to enter upon the Property at reasonable times during normal business hours for the purpose of inspecting, examining, testing and surveying the Property, solely at Purchaser's expense, provided that any such inspection must meet the following requirements and conditions:
  - Inspections by Purchaser:
- (a) All Inspections by Purchaser must be scheduled through the Community Construction
  Superintendent. These inspections must be scheduled at least seven (7) days in advance, must take place during normal working hours (Mon. Fri. 8:00AM to 4:00PM) and must be in accordance with the Community Construction Superintendent's production schedule.
- (b) Seller or its appointed representative shall have the right to accompany Purchaser during the inspection.
  - (2) <u>Inspections by an independent professional home inspector:</u>
- (a) All Inspections by a professional home inspector must be scheduled through the Community Construction Superintendent. These inspections must be scheduled at least seven (7) days in advance, must take place during normal working hours (Mon. Fri. 8:00AM to 4:00PM) and must be in accordance with the Community Construction Superintendent's production schedule. IF AN INSPECTOR DOES NOT HAVE AN APPOINTMENT ONE WEEK PRIOR TO THE PROPOSED INSPECTION, THE INSPECTOR WILL NOT BE ALLOWED TO PERFORM THE INSPECTION AND WILL BE INSTRUCTED TO RESCHEDULE. SELLER WILL NOT DELAY CONSTRUCTION OR CLOSING TO ACCOMMODATE INSPECTION APPOINTMENTS.
  - (b) Seller or its appointed representative shall accompany the home inspector during the inspection.
- (c) The home inspector must be licensed to do business by the State of South Carolina and must furnish to Seller a copy of the home inspector's State License Certificate prior to the inspection.
- (d) Prior to the inspection, the home inspector must furnish Seller with proof that the home inspector has workman's compensation insurance, if applicable, and a \$300,000.00 General Liability Insurance Policy which names Seller as an additional insured.

Failure by Purchaser to follow the procedures set forth in this subsection shall constitute a material breach of this Agreement. Unauthorized entry onto the Lot by Purchaser, its agents or contractors shall constitute a material breach of this Agreement.

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

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

- 10. REAL ESTATE BROKER AND COMMISSION. In negotiating this Agreement, Seller has acted as its own real estate broker. Purchaser acknowledges that Seller's sales agents represent Seller only, and do not represent Purchaser. Purchaser represents to Seller that Purchaser has not employed any real estate broker, agent or finder in connection with this Agreement, other than, an agent of ("Co-Broker"), who represents Purchaser. Purchaser shall indemnify and hold Seller harmless from and against any and all liabilities, losses, costs, damages and expenses (including attorneys' fees and expenses and costs of litigation) that Seller may suffer or incur because of any claim by any broker, agent or finder, whether or not meritorious, for any compensation with regard to this transaction arising out of any acts or contracts of Purchaser, other than the Co-Broker named above. Notwithstanding any other provision herein, the provisions of this Section shall survive Closing or termination of this Agreement for any reason. Purchaser acknowledges receipt of a copy of the Agency Disclosure Brochure.
- 11. NO RELIANCE! Purchaser acknowledges that it has not relied upon the advice or representations, if any, of Seller, Broker or Seller's salespersons or other agents with regard to the legal and tax consequences of this Agreement or the terms and conditions of any proposed financing of the purchase of the Property. Purchaser acknowledges that if such matters are of concern to Purchaser, Purchaser must obtain independent, professional advice regarding them.
- 12. WOOD INFESTATION REPORT. At the time of Closing, Seller shall provide Purchaser with a letter or a soil treatment report from a pest-control company licensed in South Carolina certifying that the Lot has been treated within one (1) year of the date of Closing for subterranean termite infestation. If required by Purchaser's lender, Purchaser may obtain at Purchaser's expense a South Carolina Wood Infestation Report performed by a pest-inspection company licensed in South Carolina.
- 13. HAZARDOUS SUBSTANCES. Purchaser acknowledges that Seller makes no representation or warranty with respect to the presence or absence of toxic waste, radon, hazardous materials or other undesirable substances on the Property. SELLER HEREBY DISCLAIMS ANY LIABILITY OR RESPONSIBILITY FOR THE PRESENCE OF ANY SUCH SUBSTANCES IN, ON, UNDER OR ABOUT THE PROPERTY.

#### 14. WARRANTIES AND DISCLAIMER.

- a. NWP Warranty; Manufacturers' Warranties. At Closing, Seller shall execute and deliver to Purchaser at no additional cost to Purchaser a structural warranty (the "Structural Warranty") by and from Residential Warranty Corporation or such other national warranty provider as Seller may reasonably select (the "NWP"). The Structural Warranty will provide, at a minimum, a ten (10) year structural warranty for the residence located or to be located on the Property. Prior to or at Closing, Seller shall provide purchaser with a brochure or handbook from the NWP that states the terms of the Structural Warranty. Also, at Closing Seller shall assign to Purchaser all warranties, expressed or implied, which are given by the manufacturer of any appliance or product installed in the home built on the Property.
- b. Horton One-Year Warranty. In addition, if within one year after the date of Closing any material feature of the construction of the home on the Property is found to be not in accordance with the requirements of this Agreement, then Seller shall correct such defect in construction after receipt of written request from Purchaser to do so, unless Purchaser has previously accepted or approved such defect or condition in writing. Seller shall correct such defects either: (i) approximately thirty (30) days after Closing, or (ii) approximately eleven (11) months after closing. Oral or email requests to Seller's staff are not acceptable. If Purchaser fails to notify Seller of the defect within the 1-year warranty period, or if Purchaser does not allow Seller any and all

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access to the Property needed to correct the defect during reasonable business hours, then Purchaser shall be deemed to have waived any claim against Seller for failure to correct such defect or condition. Notwithstanding any other provision herein, all of Seller's obligations and responsibilities pursuant to this subsection shall automatically expire one year from the date of Closing. Also, the following matters are excluded from Seller's Warranty:

- Landscaping, including trees, shrubs, grass and flowers are not covered by any warranty.
- (2) Grading and drainage are not covered by any warranty, nor will they be maintained or modified by Seller after closing in any way whatsoever UNLESS the grading or drainage is found to be in violation of the applicable provision of the South Carolina Residential Construction Standards. Purchaser's closing of the sale constitutes an acceptance of the existing drainage and erosion controls of the Property, except for matters noted on a Punch List as provided in Section 21 below.
- (3) As of the date and time of the Closing, Seller shall have no further responsibility for soil erosion, soil conditions or the growth or death of grass, trees or shrubbery. Seller shall not be liable for trees or shrubs, or damage or destruction to same. Seller makes no warranty whatsoever as to the type, location or amount of trees which will exist on the Property after construction. Seller will plant grass seed or install sod, as the case may be, in certain locations at Seller's discretion; however, as part of its construction many areas will be left in their natural state and will not be landscaped in any way. Because the growth of grass seed and the health of sod are dependent on Purchaser's care and maintenance, Seller makes no warranty regarding the presence, absence, growth or death of grass. Because prevention of erosion is dependent on Purchaser's care and maintenance of the grass and sod, Seller makes no warranty regarding erosion.
- (4) Seller shall not be responsible for the correction of any leakage or seepage caused by: (a) damaged water pipes or mains, (b) alteration of the landscaping by a party other than Seller (specifically including, without limitation, any changes which cause water to flow toward the dwelling), or (c) prolonged direction of water against the outside foundation wall from a spigot, sprinkler, hose or improperly maintained gutters or downspouts!
- (5) Seller will not correct minor cosmetic defect after Closing unless the defect is listed on the Punch List prior to Closing. Unless a defect is noted on the Punch List, Seller does not warrant the installation or the quality of any carpet or flooring product.
- c. Disclaimer and Limitation on Seller's Liability. THE WARRANTY MADE BY SELLER PURSUANT TO SUBSECTION 6 ABOVE IS TO THE EXCLUSION OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, AND SELLER HEREBY DISCLAIMS ANY AND ALL SUCH OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN ADDITION, SELLER MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER REGARDING THE PAST, PRESENT OR FUTURE CONDITION OR USE OF ANY LANDS OR AREAS SURROUNDING THE PROPERTY OR IN THE VICINITY OF THE PROPERTY. AFTER CLOSING, SELLER SHALL HAVE NO LIABILITY OR OBLIGATON TO PURCHASER OF ANY NATURE WHATSOEVER EXCEPT AS PROVIDED IN THIS SECTION 14 OF THIS AGREEMENT, IN SECTION 21 BELOW AND IN SELLER'S LIMITED WARRANTY DEED TO PURCHASER. SELLER SHALL NOT BE LIABLE FOR ANY REASON UNDER ANY CIRCUMSTANCES TO PURCHSER OR ANYONE CLAIMING THROUGH PURCHASER FOR MONETARY DAMAGES OF ANY KIND, INCLUDING SECONDARY, CONSEQUENTIAL, PUNITIVE, GENERAL, SPECIAL OR INDIRECT DAMAGES.
- 15. MANDATORY BINDING ARBITRATION. PURCHASER AND SELLER SHALL SUBMIT TO BINDING ARBITRATION ANY AND ALL DISPUTES WHICH MAY ARISE BETWEEN THEM REGARDING THIS CONTRACT AND/OR THE PROPERTY, INCLUDING BUT NOT LIMITED TO ANY DISPUTES REGARDING: (A) SELLER'S CONSTRUCTION AND DELIVERY OF THE HOME; (B) SELLER'S PERFORMANCE UNDER ANY PUNCH LIST OR INSPECTION AGREEMENT; AND (C) SELLER'S WARRANTY PURSUANT TO SECTION 14 ABOVE. THE ARBITRATION SHALL BE CONDUCTED IN ACCORDANCE WITH THE SOUTH CAROLINA UNIFORM ARBITRATION ACT (THE "ACT"), AND SHALL TAKE PLACE IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED. THE PROCEEDING SHALL BE CONDUCTED PURSUANT TO THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION (THE "AAA"), AND TO THE EXTENT POSSIBLE, UNDER RULES WHICH PROVIDE FOR AN EXPEDITED HEARING. IN THE EVENT OF A CONFICT BETWEEN THE ACT AND THE RULES OF THE AAA, THE ACT SHALL CONTROL. THE FILING FEE FOR THE ARBITRATION SHALL BE PAID BY THE PARTY FILING THE ARBITRATION DEMAND, BUT THE

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ARBITRATOR SHALL HAVE THE RIGHT TO ASSESS OR ALLOCATE THE FILING FEES AND ANY OTHER COSTS OF THE ARBITRATION, INCLUDING REASONABLE ATTORNEY'S FEES, AS A PART OF THE ARBITRATOR'S FINAL ORDER. THE ARBITRATION SHALL BE BINDING AND FINAL, AND EITHER PARTY SHALL HAVE THE RIGHT TO SEEK JUDICIAL ENFORCEMENT OF THE ARBITRATION AWARD. NOTWITHSTANDING ANY OTHER PROVISION HEREIN, ANY DISPUTES ARISISING UNDER THE STRUCTURAL WARRANTY PROVIDED TO PURCHASER BY THE NWP SHALL BE MEDIATED, ARBITRATED AND/OR JUDICIALLY RESOLVED PURSUANT TO THE TERMS, CONDITIONS, PROCEDURES AND RULES OF THAT WARRANTY PROGRAM.

- 16. CLOSING. The actual exchange of the Purchase Price for the Special Warranty Deed and possession of the Property is referred to herein as the "Closing." The date on which the exchange occurs is referred to herein as the "Closing Date." Closing shall not be complete until Seller has received full payment of the Purchase Price. Closing shall be scheduled and conducted as follow:
  - a. Closing Date. The subsection selected below shall apply:
- O (1) Closing shall take place on or before Seller shall notify Purchaser of the final date and time of Closing at least three (3) days in advance.
- ② (2) Seller shall notify Purchaser of a tentative date for Closing at least thirty (30) days in advance. Not less than ten (10) days prior to the tentative date set by Seller, Seller shall notify Purchaser by telephone and/or email of the final date and time for Closing, which shall be no earlier than, but may be later than, the tentative date previously set by Seller. Subject only to the provisions of Section 20 below, Closing shall occur no later than that date which is two (2) years after the date that Purchaser signs this Agreement.
- b. Exchange at Closing. At Closing, Seller shall deliver to Purchaser the Special Warranty Deed for the Property, possession of the Property, a certificate of occupancy for the house located on the Property issued by the applicable governmental authority, and, if applicable, a certificate of final approval by FHA or VA. At Closing, Purchaser shall pay to Seller the Purchase Price in full.
  - c. Place of Closing. Closing shall take place at the office of Purchaser's attorney in HORRY County, South Carolina, or at such other place as the parties may agree in advance.
- d. Seller's Failure to Close. Subject to the provisions of Section 20 below, in the event that Seller fails to close on the final date for Closing set by Seller and such failure is not due to default by Purchaser, then Seller shall pay Purchaser liquidated damages in the amount of Two Hundred Fifty Dollars (\$250.00) per day, calculated from the final date for Closing set by Seller until the date on which Seller tenders performance as specified in subsection b above, but not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00). Any damages to Purchaser pursuant to this subsection shall be credited against the Purchase Price of the Property at Closing, but shall not otherwise be recoverable from Seller.
- e. Purchaser's Failure to Close. Purchaser's failure to close on the final closing date set by Seller shall constitute a material breach of this Agreement by Purchaser. In such event, in addition to and without waiving any rights and remedies which Seller shall have pursuant to Section 18 below, Seller, at Seller's option, may extend the Closing Date until Purchaser tenders full payment of the Purchase Price; provided that Seller shall retain the right to terminate this Agreement and to retain Purchaser's Earnest Money at any time prior to actual Closing. If Seller does extend the Closing Date pursuant to this subsection, then at Closing Purchaser shall pay to Seller, in addition to the Purchase Price, liquidated damages in the amount of Two Hundred Fifty Dollars (\$250.00) per day, calculated from the final date for Closing set by Seller until the date on which Purchaser pays to Seller the full Purchase Price plus all liquidated damages due to Seller pursuant to this subsection, not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00).
- f. Closing Costs. Seller shall pay for preparation of the deed, Seller's attorney's fees and any property transfer tax (deed stamps) imposed by the State of South Carolina. Purchaser shall pay for all other costs related to the Closing. Real estate taxes on the Property for the calendar year in which the sale is closed shall be prorated as of the Closing Date. In the event the property is part of a Horizontal Property Regime, any prepaid hazard insurance shall be prorated at Closing.

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- 17. UTILITIES AND PERSONAL PROPERTY. Purchaser shall transfer all utilities into Purchaser's name within three (3) business days after Closing. Purchaser shall not move any personal property onto the Property prior to Closing.
- 18. DEFAULT; REMEDIES. The remedies specified below shall be the sole and exclusive remedies available to the parties in the event of breach of this Agreement, and shall be to the exclusion of all other remedies at law or in equity.
- a. Purchaser's Default. If Purchaser defaults on any of its obligations hereunder prior to Closing, Seller's sole and exclusive remedy shall be to terminate this Agreement by written notice to Purchaser; whereupon, Seller shall retain all Earnest Money and Option Money paid by Purchaser to Seller as liquidated damages and Seller may recover from Purchaser any liquidated damages due to Seller as of the date of termination pursuant to subsection e of Section 16 above. Thereafter, neither party shall have any further liability or obligation to the other hereunder.
- b. Seller's Default. If Seller defaults on any of its obligations hereunder prior to Closing, Purchaser's sole and exclusive remedy shall be either: (a) to terminate this Agreement by written notice to Seller, whereupon Purchaser shall be entitled to recover all Earnest Money and Option Money (if any) paid to Seller, or (b) to seek specific performance of this Agreement by serving written notice of default on Seller and by instituting mandatory binding arbitration of Purchaser's claim of default and demand for specific performance. Notwithstanding the foregoing, subject to the provisions of Section 20 below and provided that Seller has not terminated this Agreement as a result of breach by Purchaser, if Seller is obligated by this Agreement to build a single-family residence on the Lot and Seller fails to complete construction of the residence within two (2) years of the date Purchaser signs this Agreement, then Purchaser may pursue whatever remedies it may have against Seller at law or in equity.
- 19. TIME/DATE. The Effective Date of this Agreement shall be the date of signing of this Agreement by the last of the parties to sign. Time is of the essence as to the occurrence of all events, the satisfaction of all conditions and the performance of all obligations hereunder.
- 20. EXCUSED DELAYS. Notwithstanding any other provision herein, if Seller is delayed in performing any of its obligations hereunder or meeting any specified completion dates by labor disputes, fire, delays in deliveries, adverse weather conditions, unanticipated damage to or destruction of the Property, governmental controls or moratoria, acts of God or any other causes beyond Seller's reasonable control, then the time-period specified herein for performance of such obligation and/or meeting such completion date shall be extended a sufficient number of working days to enable and allow Seller to perform and/or complete the obligation.
- 21. WALK-THROUGH. Not more than ten (10) days prior to Closing, Purchaser and Seller shall conduct a mutual examination of the Property, commonly referred to as a "walk-through." Seller shall schedule the walk-through during normal working hours (Mon. Fri., 8:00AM to 4:00PM) and shall give Purchaser at least twenty-four (24) hours prior notice of the scheduled time by telephone. Immediately after the walk-through, Purchaser and Seller shall prepare a written list of items on the Property that the parties agree should be corrected, repaired or replaced (hereinafter, the "Punch List"). Seller shall thereafter correct, repair or replace the items listed on the Punch List. Under no circumstances shall Seller be required to correct, repair or replace any items on or of the Property that are not listed on a written Punch List that has been signed by Seller. Seller's obligation to correct, repair or replace any items that are listed on a written Punch List that has been signed by Seller shall survive Closing. UNDER NO CIRCUMSTANCES SHALL CLOSING BE DELAYED DUE TO SELLER'S FAILURE TO COMMENCE OR COMPLETE CORRECTION, REPAIR OR REPLACEMENT OF ANY ITEMS ON A PUNCH LIST. UNDER NO CIRCUMSTANCES SHALL FUNDS BE ESCROWED AT CLOSING TO COVER THE COST OF CORRECTION, REPAIR OR REPLACEMENT OF ANY ITEMS ON A PUNCH LIST.
- 22. RESTRICTIVE COVENANTS; HOMEOWNERS ASSOCIATION. Purchaser acknowledges receipt of a copy of that Declaration of Covenants, Conditions and Restrictions for <u>Bradford Meadows</u> Subdivision of record at Book 226 Page 296, County Registry, together with all amendments thereto (collectively, the "Declaration"). Purchaser acknowledges that the Property is subject to the Declaration and that upon purchase

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TO THE ASSOCIATION MAY CHANGE ACCORDINGLY.

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of the Property, Purchaser shall personally be subject to all the provisions of the Declaration, including but not limited to provisions requiring membership in and payment of assessment to Bradford Meadows Homeowners Association (the "Association"). Purchaser acknowledges that the current regular assessment due to the Association is \$240/Quarter. Purchaser acknowledges that in addition to the regular assessment, Purchaser shall be required to pay an initial fee or assessment to the Association at Closing in the amount of \$200.00. PURCHASER FURTHER ACKNOWLEDGES THAT THE DECLARATION MAY BE AMENDED FROM TIME TO TIME AS PROVIDED THEREIN, AND THAT THE AMOUNTS TO BE PAID BY PURCHASER

- 23. SUCCESSORS AND ASSIGNS; INTERPRETATION. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their heirs, successors, administrators, executors and assigns. Purchaser shall not have the right to assign Purchaser's interest in this Agreement. As required by context herein, the singular shall include the plural, and the neuter shall include the masculine and the feminine.
- 24. ENTIRE AGREEMENT; AMENDMENT. This document contains the sole and entire agreement between the parties hereto with regard to the Property. All prior discussions have been merged into this Agreement. No representation, statement, promise or inducement shall be binding upon either party hereto unless specifically stated in this Agreement. This Agreement may not be modified except by a writing signed by both parties.

#### 25. ADDENDA AND EXHIBITS.

a. Addenda. The following Addenda are attached hereto and incorporated herein: (Check those that apply)

🖾 (1)Addendum 1, Buyer's Referral Incentives and Contributions Addendum (BRICA)
☐ (2)Addendum 2, Completed Construction Addendum
□ (2)Addendum 2, Construction in Progress Addendum
III (2)Addendum 2, New Construction Addendum
🖾 (3)Addendum 3, Design Center Voucher
☐ (4)Addendum 4, Sale of Current Residence Contingency Addendum
🖄 (5)Addendum 5, Special Supulations Addendum
☐ (6)Addendum 9. Age Restriction Addendum
Ki (7)Addendum 11, Variations in Materials and Components
🖾 (8)Addendum 12, Alternative Builder Contribution Addendum
☐ (9)Addendum 13, Disclosure and Acknowledgement Regarding Amenities
☐ (10)Addendum 14. Disclosure and Acknowledgement Regarding Wetlands
[5] (11)Addendum 15, Disclosure and Acknowledgement Regarding Conway Sombing & Gunnery Range
☐ (12)Addendum 16 Golf Course and Private Amenities Addendum
🖸 (13)Notice of Seller's Business Affiliations
☐ (14) Broker Fee Agreement
☐ (14) Commission Rebate Addendum
☐ (14) Commission Rebate Certification
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- b. Exhibits. The following Exhibits are attached hereto and incorporated herein:
  - (1)Exhibit A, Included Features List
  - (2)Exhibit B, Selected Options List
  - (3) Exhibit C, Stage Matrix

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

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

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

NOTE: SELLER IS LICENSED AS A REAL ESTATE OFFICE IN SOUTH CAROLINA.

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

Buyer: HYLAND WINNIE JR. Date	Seller: D. R. Horton, Inc.  D.R. Horton, Inc.  Docustioned by:  John J (april)  7FGFEIECSCS44DO	7/2/2015
Purchaser's Current Mailing Address:	John J Caprio	Date
US	Officer, D.R. Horton	
Purchaser's Home Phone Mobile: Work:	Seller's Address: 4073 Belle Terre Blyd. Myrtle Beach, SC 29579	
Purchaser's Email:	Seller's Phone: <u>843-357-8400</u>	
	Sales Rep:  Document by:  Laura M. Cormay  1080455745847E.	6/29/2015
	Sales Rep: Laura M Conway	Date

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## ADDENDUM 1 BUILDER'S REFERRAL INCENTIVES AND CONTRIBUTIONS ADDENDUM

This ADDENDUM is attached to and made a part of that Home Purchase Agreement between D.R. Horton, Inc., as Seller, and HYLAND WINNIE JR. as Purchaser (the "Purchase Agreement"), regarding that parcel of real estate located in HORRY County, SC, briefly described as Lot 72, Bradford Meadows, and referred to in the Purchase Agreement as the "Lot." All terms defined in the main text of the Purchase Agreement shall have the same meanings when used in this Addendum. This Addendum, together with the Purchase Agreement, constitutes the sole and entire agreement between Seller and Purchaser with regard to any incentives, allowances, adjustments, credits, discounts, rebates or other contributions of any kind or amount (collectively, the "Referral Incentives and Contributions") made or to be made, by Seller to Purchaser in connection with Seller's referral of Purchaser to SELLER'S PREFERRED MORTGAGE LENDER(S) DESCRIBED BELOW ("PREFERRED LENDER"), and there are no agreements regarding such Referral Incentives and Contributions, whether written or unwritten, expressed or implied, between the parties except as set forth in this Addendum. In the event of any conflict between the terms and provisions of this Addendum shall control.

Purchaser acknowledges receipt of that document entitled, "Notice of Seller's Business Affiliations," (the "Affiliation Notice"), and Purchaser confirms its understanding that Seller has an affiliation with DHI MORTGAGE COMPANY, LTD. ("DHI MORTGAGE") and that Purchaser is not required to use this affiliated company or any Preferred Lender (described below) as a condition of Purchaser's purchase of the Property or Purchaser's access to settlement services in connection with the purchase of the Property. The parties state, acknowledge and agree as follows:

- 1. Seller shall provide for the benefit of Purchaser the Referral Incentives and Contributions listed in Section 2 below, provided that Purchaser chooses to use PREFERRED LENDER to finance the purchase of the Property and provided that each and all of the following occur:
  - a. Purchaser applies to PREFERRED LENDER for a mortgage loan to finance the purchase of the Property within two (2) business days after the Effective Date of this Purchase Agreement;
  - Purchaser's loan application is approved by PREFERRED LENDER, and PREFERRED LENDER actually funds the loan and finances the purchase of the Property,
  - Purchaser closes on the purchase of the Property on or before the final date and time for Closing set by Seller pursuant to subsection 16a of the Purchase Agreement; and
  - d. Purchaser uses the closing attorney recommended by Seller to act as settlement agent and close the purchase of the Property.
- 2. Provided that all the above conditions are satisfied and met in a timely manner, Purchaser shall be entitled to contributions to closing costs to be paid by Seller in an amount equal to the least of: (a) \$2,000.00 Dollars, (b) the maximum seller incentive allowed by Purchaser's toan program, (c) three percent (3.00%) of the final Purchase Price, or (d) the total amount of closing costs eligible for reimbursement (as listed below) actually incurred by Purchaser. Purchaser is to apply these contributions, up to the applicable limit, toward the following fees (if actually charged to Purchaser) in the following order: Origination Charge, then Discount Points, then Upfront Premium for Primary Mortgage Insurance (Conventional Financing Only), and then other usual and customary costs charged to Purchaser by other settlement service providers (provided, however, that no portion of the contributions may be applied to any property transfer tax (deed stamps) imposed by the State or any reimbursement to Seller for the cost of the survey for the Lot). No portion of the contributions may be applied as a credit to, or in partial payment of, the Purchase Price of the Property or disbursed to Purchaser.
- 3. Preferred Lender. The preferred lenders relating to this Builder's Referral Incentive and Contributions Addendum are: DHI Mortgage and USAA Federal Savings Bank, a federally chartered Savings Bank ("USAA FSB"). More information regarding DHI Mortgage is available at: <a href="www.dhimortgage.com">www.dhimortgage.com</a>. Please note that USAA FSB mortgages are limited to USAA members. Federal Housing Administration (FHA) loans are offered by USAA FSB through Military Home Loans, LLC, which is an affiliate of USAA Federal Savings Bank. More information regarding USAA FSB, its mortgages and USAA membership are available at: www.usaa.com. USAA is not an affiliate of Seller.

Purchaser's decision to use any lender other than PREFERRED LENDER will not affect any concessions, incentives or discounts offered by Seller for the purchase of the Property other than the closing cost contributions described in Section 2 above.

IN WITNESS WHEREOF, THE UNDERSIGNED, HAVING READ AND REVIEWED THIS ADDENDUM, HAVE SIGNED THIS ADDENDUM ON THE DATE SHOWN BELOW.

Purchaser:  Characteristic of the state of t	John J Caprio Date Officer, D.R. Horton
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л<del>ы:</del> 521380072

Printed: 6/29/2015

#### ADDENDUM 2 NEW CONSTRUCTION ADDENDUM

This Addendum is attached to and made a part of that Home Purchase Agreement (the "Agreement") between HYLAND WINNIE JR. as Purchaser and D.R. Horton, Inc. as Seller, regarding that parcel of land located in HORRY County, SC, briefly described as Lot 0972, Bradford Meadows, and referred to in the Agreement as the "Lot." All terms defined in the main text of the Agreement shall have the same meanings when used in this Addendum. Purchaser and Seller further agree as follows:

- 1. CONSTRUCTION OF HOUSE. Prior to Closing, Seller shall construct a \(\mathbb{Z}\) single-family detached \(\mathbb{L}\) townhouse residence (the "House") on the Lot. Seller shall not be required to commence construction of the House unless and until: (a) the Loan has been approved by Purchaser's lender to Seller's satisfaction; (b) Purchaser has paid all amounts then due to Purchaser's lender and to Seller; (c) all contingencies to Purchaser's performance hereunder have been satisfied or removed to Seller's satisfaction; and (d) Purchaser has completed its selection of all colors and options for the House.
- 2. HOUSE PLAN. Seller shall construct the House according to the SAVANNAH Plan, Elevation H, plan revision date:

  02/20/2015, including those features listed on that Included Features List attached hereto as Exhibit A and incorporated herein, on a slab □ basement □ crawlspace □ elevated/piers (collectively, the "Base Plan"). Seller's obligation to construct the House shall be contingent on Seller's ability: (a) to place the House on the Lot without obtaining variances from any set-backs or other dimensional requirements, and (b) to construct the House on the Lot without incurring abnormal costs for foundation, slab or structural support walls. If Seller determines that either of these contingencies cannot be satisfied to Seller's satisfaction, then Seller may terminate this Agreement upon written notice to Purchaser, in which event the Earnest Money and the Option Money (if any) shall be refunded to Purchaser. Seller shall determine the placement and orientation of the House on the Lot in Seller's sole discretion. Purchaser acknowledges that the House shall be handmade and unique, and that although the House shall be based on the Base Plan, variations from the Base Plan will occur. Seller shall not be responsible for such variations from the Base Plan. Purchaser also acknowledges that brochures, models and displays used by Seller's sales agents are for general illustrative purposes only, and are not to be relied upon as representations of actual locations, dimensions, specifications or finished products. Subject only to the provisions of Sections 14 and 21 of this Agreement, Closing shall constitute acceptance of the House by Purchaser AS BUILT, and Purchaser hereby waives any right to object to any variation in construction from the Base Plan after Closing.
- 3. HEATING AND AIR CONDITIONING. The House shall be adequately and efficiently heated and air-conditioned with equipment having at least the minimum specifications for the House as established by Load Calculations, Manual J, of the Air-Conditioning Contractors of America, current edition. The clothes dryer shall vent to the outside.
- 4. INSULATION. Insulation shall be installed in the House to at least the following minimum standards: (a) exterior walls, excluding exterior garage walls, to be insulated with <u>BATT</u> insulation to a thickness of <u>3 5/8</u> inches which will, according to the manufacturer, yield an R-value of <u>13</u>; (b) ceitings below attic areas to be insulated with <u>BLOWN</u> insulation to a thickness of <u>13</u> inches which will, according to the manufacturer, yield an R-value of <u>30</u>; (c) vaulted ceilings to be insulated with <u>BATT</u> insulation to a thickness of <u>6 1/4</u> inches which will, according to the manufacturer, yield an R-value of <u>19</u>; and (d) floor overhangs to be insulated with <u>BATT</u> insulation to a thickness of <u>3 5/8</u> inches which will, according to the manufacturer, yield an R-value of <u>13</u>.
- 5. PURCHASE PRICE. The base price for the House, constructed on a lot in Bradford Meadows according to the Base Plan, is (the "Base Price"). The premium charged for the Lot (the "Lot Premium") is selected to date by Purchaser as of the Effective Date of the Agreement is (see Exhibit B attached hereto and incorporated herein for an itemization of those options and their prices). Therefore, the initial Purchase Price for the Property, as stated in Section 2 of the Agreement, is:

Base Price	
Plus Adjusted Lot Premium	
Plus Adjusted Options Price	
Less Plan Adjustments	
Total Purchase Price	

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

6. MANDATORY SELECTION MEETING; OPTION MONEY.

a. Within 14 working days of the Effective Date of this Agreement, Purchaser and Seller's representative will meet at Seller's Design Center, located at 4073 Belle Terre Blvd, Myrtle Beach, SC, 29579, to select and confirm all options to be used in the construction of the House, including all colors and finishes. Seller shall schedule this meeting (the "Selection Meeting") during normal working hours and shall give Purchaser at least twenty-four (24) hours prior notice of the scheduled date and time by telephone and/or email. If Purchaser fails to attend the Selection Meeting and complete selection of all options at the Selection Meeting, then Seller may terminate

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Printed 6/20/2015

this Agreement upon written notice to Purchaser, in which event Seller shall retain all Earnest Money. At the conclusion of the Selection Meeting, Seller and Purchaser shall execute a First Amendment to this Agreement which shall specify all options chosen by Purchaser and any corresponding change to the Purchase Price. If the total cost of all non-structural options chosen by Purchaser at the Selections Meeting exceeds \$20,000.00 then Purchaser shall pay to Seller, at the time of execution of the First Amendment, the full amount of that excess (the "Option Money").

- b. Any Option Money paid to Seller at any time shall not be held in escrow, and shall be nonrefundable to Purchaser except in the event of: (1) breach of this Agreement by Seller, or (2) termination of this Agreement by Seller pursuant to Section 2 above. Upon Closing, all Option Money previously paid to Seller shall be credited to Purchaser against the Purchase Price. If Seller omits any option from the construction of the House, Purchaser shall be entitled to an additional credit at Closing against the Purchase Price in the amount of the specified price of the omitted option. Failure by Seller to install an option, including any of the options on Exhibit B, shall not constitute a breach of this Agreement by Seller, and Purchaser shall have no rights or remedies resulting from such failure except the right to a credit at Closing.
- 7. CHANGES. Seller shall not be required to allow any changes to Purchaser's selection of options after the execution of the First Amendment to this Agreement. If Purchaser requests a change in options and Seller agrees to the change, Purchaser shall pay to Seller a Change Fee in the amount of Two Hundred Fifty Dollars (\$250.00) for each such change at the time the request is approved by Seller. Any Change Fee paid shall be nonrefundable and shall not be credited against the Purchase Price. Any changes to options shall not be effective unless evidenced by a written amendment to this Agreement. At the time of execution of that amendment, Purchaser shall pay to the Seller the total increase in the Purchase Price resulting from the change in options as additional Option Money.
- 8. COMPLETION. Subject to the contingencies stated herein, Seller shall complete construction of the House prior to Closing. Seller shall construct the House according to all applicable governmental codes and regulations. Seller reserves the right to substitute materials or items to be used in the construction of the House with materials or items of equal or comparable value. Construction of the House shall be deemed complete when a certificate of occupancy is issued for the House by the applicable governmental authority. Seller shall deliver the completed House to Purchaser at Closing in "broom-clean" condition, ready to occupy. The House and Lot shall be free of all trash and debris.
- 9. PURCHASER'S INQUIRIES. Purchaser shall direct all inquiries and questions to Seller's on-site associate. The on-site associate will provide Purchaser with timely responses; however, the associate does not and shall not have authority to change the terms of this Agreement in any manner. This Agreement may be changed or modified only by a written amendment duly executed by both Purchaser and Seller. Purchaser acknowledges that Seller's sales associates, superintendents, closing staff, warranty staff and other employees do not have authority to modify this Agreement. Only an authorized corporate officer of Seller may modify this Agreement on Seller's behalf.

Purchaser:		Seller: D.R. Horton, Inc.	
HULAN WAME JR.	6/29/2015	John J Caprio	7/2/2015
Buyer: HYLAND WINNI	JR. Date	John J Caprio	Date
		Officer, D.R. Horton	
		Sales Rep:  - decessioned by:  - Laura M. Corway	
		JDSC4SE574BM7E_	6/29/2015
		Sales Rep: Laura M Conway	Date

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## ADDENDUM 3 DESIGN CENTER COUPON

This ADDENDUM is attached to and made a part of that Home Purchase Agreement between D.R. Horton, Inc., as Seller, and HYLAND WINNIE JR., regarding that parcel of real estate located in HORRY County, SC, briefly described as Lot 0072, Bradford Meadows, and referred to in the Agreement as the "Lot." Seller and Purchaser also agree as follows:

ADDENDUM 3 - Design Center Credit

- 1. All capitalized terms defined within the main text of the Agreement shall have the same meanings when used herein.
- 2. This Addendum shall serve as a voucher in the amount of which may be used by Purchaser to purchase options selected by Purchaser before or during the Selections Meeting at Seller's Design Center, and for that purpose only. This voucher entitles the Purchaser to a credit against the total amount of the prices of options chosen by Purchaser prior to or at the Selections Meeting, up to the maximum amount of which credit shall be applied at the time and place of the Selections Meeting and reflected in any corresponding amendment to the Agreement. Any amount of this voucher not used by Purchaser at the Selections Meeting shall automatically become null and void. This voucher shall not apply to and may not be used for options chosen by Purchaser by change order. No portion of this voucher may be used for a credit against the Purchase Price of the Property at Closing.
- 3. In the event of a conflict between the terms of this Addendum and the terms of the main text of the Agreement or any other Addenda thereto, the terms of this Addendum shall control.

IN WITNESS WHEREOF, THE UNDERSIGNED, HAVING READ AND REVIEWED THIS ADDENDUM, HAVE SIGNED THIS ADDENDUM ON THE DATES SHOWN BELOW.

Purchaser:	-	Seller:	<u></u>		<del>.</del>
AULIN WINE JR.	6/29/2015	D.R. Horton, Inc.	i.		•
Buyer: HYLAND WINNIE	JR. Date	7FSFEEECHCH4DD		7/2/2015	
		John J Caprio	!	Date .	• •
		officer, D.R. Horton	i .		

Buyer(s): MYLAND WINNE IR., Community: Bradford Meadows, Plat: 72//2, Address: 308 Greenhaven Dr. Soles Rep: Laura M Consc

tob: 521380072

Printed: 6/29/2015

## ADDENDUM 5 SPECIAL STIPULATIONS ADDENDUM

This ADDENDUM is attached to and made a part of that Home Purchase Agreement (the "Agreement") between D.R. Horton, Inc., as Seller, and HYLAND WINNIE JR., as Purchaser, regarding that parcel of real estate located in HORRY County, SC, briefly described as Lot 0072, Bradford Meadows and referred to in the Agreement as the "Lot." All terms defined in the main text of the Agreement shall have the same meanings when used in this Addendum. Notwithstanding any other provision of the Agreement, Seller and Purchaser agree as follows:

- 1. In the event of a conflict between the terms and provisions of the main text of the Agreement and the terms and provisions of this Addendum 5, the terms and provisions of this Addendum 5 shall control.
- 2. Design Center coupon is valid for when at least when at least is spent at the Design Center.

IN WITNESS WHEREOF, THE UNDERSIGNED, HAVING READ AND REVIEWED THIS ADDENDUM, HAVE SIGNED THIS ADDENDUM ON THE DATES SHOWN BELOW.

			•
Chocasigned by: RULIN WIME JR. 1880BAETORFAS	6/29/2015	D.R. Horton, Inc.  John J Capris  WEFERECOSSIDO.	7/2/2015
Buyer: HYLAND WINNIE IR.	Date	· · · · · · · · · · · · · · · · · · ·	
		John J Caprio	Date
		Officer, D.R. Horton	•

## ADDENDUM 11 VARIATIONS IN MATERIALS AND COMPONENTS

This Addendum is attached to and made a part of that Home Purchase Agreement (the "Agreement") between HYLAND WINNIE JR. as Purchaser and D.R. Horton, Inc. as Seller, regarding that parcel of land located in HORRY County, SC, briefly described as Lot 0072, Bradford Meadows and referred to in the Agreement as the "Lot." All terms defined in the main text of the Agreement shall have the same meanings when used in this Addendum. Purchaser and Seller further agree as follows:

Many materials, both natural and man-made, used in the construction of homes contain variations and inconsistencies. Such variations and inconsistencies are beyond Seller's control, and Seller shall not be responsible or liable for them. Some of the materials and components which may exhibit variations and inconsistencies are as follows:

#### **CONCRETE**

Purchaser understands that when adding additional concrete to the existing concrete pad, the two pads may not match in color. Also, there may be visible seam between the two pads.

#### **INTERIOR PAINT**

Seller installs a level 4 drywall/Gypsum Board finish in its homes. White or light color flat paint is recommended for this type of finish and is a standard feature in DR Horton homes. Colored, gloss or semi-gloss paint are not recommended as they may magnify joint or patch photographing in critical lighting areas. Purchaser understands that Seller will install, upon Purchasers request, alternate colored paint on an "as is" basis and is not responsible for any additional drywall finishing or painting to reduce visible joint or patch photographing.

#### **OUTLET LOCATION**

Purchaser understands that any cable, phone and/or data outlet locations that are not specifically designated at the initial time of selections will be placed by the construction supervisor, and will not be moved.

#### WOOD

Purchaser understands that wood of the same species will vary in color, mineral streaking, texture, pitch pockets, and grain uniformity, depending on when, where and how the tree grew and the fact that different wood products come from different manufacturers. These characteristics may occur on adjacent cabinets, between pair of doors and/or drawers, with the same cabinet panels, between flooring, stair treads and railings and between flooring and cabinets/vanities. It is these differences, caused by nature, that create the warmth and individuality of fine woods. Darker finishes tend to hide some of these natural characteristics while lighter finishes tend to accentuate the differences. Because of this, the variations in color and contrast may be different than in a display or in a smaller sample.

Seller does not recommend to any Purchaser that hardwood flooring be placed in areas that may have excessive moisture present including but not limited to kitchens, powder rooms, laundry rooms, or any bath rooms. Upon the Purchaser's request, Seller will install hardwood in these areas only on an "as is" basis and will not warranty any moisture or wear related items at <u>anytime</u>. The Purchaser understands they will be totally responsible for all problems arising in the future concerning this type of flooring in the areas as described above.

#### STUCCO

The final appearance of your home may be impacted by sunlight angles, shadows from architectural details, application and texturing techniques, environmental surrounding and color lot to color lot variations.

#### BRICK/STONE

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Brick and stone products are composed of earthen materials and go through many processes before firing and consequently each run or lot of brick/stone will vary. Photographs, samples and even completed homes are only a representation of the color and each run or lot and even installation can vary from home to home. An exact replication of total color or percentages as displayed by samples or model homes cannot be guaranteed.

### **GRANITE/CERAMIC/MARBLE**

The materials used in counter tops, fireplace surrounds/hearths, wall and floor tile contain color variations and "veining", natural blemishes, and grain. Accordingly, consistency cannot be guaranteed.

IN WITNESS WHEREOF, THE UNDERSIGNED, HAVING READ AND REVIEWED THIS ADDENDUM, HAVE SIGNED THIS ADDENDUM ON THE DATES SHOWN BELOW.

Purchaser:    Downsigned by:   HULLIN WIMME JK,   146000AE700F4A3.   6/29/   Buyer: HYLAND WINNIE JR.   Date	Seller: D.R. Horton, Inc.  Down J (agric  TOTAL PROFESSIONAL	7/2/2015
	John J Caprio Officer, D.R. Horton	Date

## ADDENDUM 12 ALTERNATIVE BUILDER CONTRIBUTION ADDENDUM

This ADDENDUM is attached to and made a part of that Home Purchase Agreement (the "Agreement") between D.R. Horton, Inc., as Seller, and HYLAND WINNIE JR. as Purchasers, regarding that parcel of real estate located in HORRY County, SC, briefly described as Lot 0072, Bradford Meadows, and referred to in the Agreement as the "Lot." All terms defined in the main text of the Agreement shall have the same meanings when used in this Addendum. Notwithstanding any other provision of the Agreement, Seller and Purchaser agree as follows:

- 1. At Closing, Seller shall provide for the benefit of Purchaser the contribution described in Section 2 below, provided that:
  - a. Within ten (10) business days of the Effective Date, Purchaser applies to GUILD MORTGAGE COMPANY. at 2050 Corporate Center Drive Suite 210, Myrtle Beach, SC 29577 ("GUILD MORTGAGE COMPANY.") for a mortgage loan to finance the purchase of the Property;
  - Purchaser pays GUILD MORTGAGE COMPANY or its third-party provider the customary and usual fee for appraisal of the Property at the time of application for the loan;
  - Purchaser's loan application is approved by GUILD MORTGAGE COMPANY, and GUILD MORTGAGE COMPANY actually funds the loan and finances the purchase of the Property;
  - d. Purchaser closes on the purchase of the Property on or before the Closing Date specified in the Purchase Agreement; and
  - e. Purchaser uses the closing attorney recommended by Seller to act as settlement agent and close the purchase of the Property.
- 2. Provided that all of the above conditions are satisfied and met in a timely manner, Purchaser shall be entitled to a contribution in the maximum amount of prepared for the closing. Such contribution shall be paid by Seller and GUILD MORTGAGE COMPANY as follows: (i) GUILD MORTGAGE COMPANY shall contribute 1% of the Purchaser's principal loan amount as a credit toward lender's fees, including but not limited to origination fees; and (ii) Seller shall pay the difference between the maximum amount of contribution allowed and the amount contributed by GUILD MORTGAGE COMPANY. Purchaser may apply the portion of the contribution paid by Seller to loan origination fee, underwriting fee, processing fee or other lender fees, assessments due to applicable homeowner's associations, title insurance premiums, escrow fee or other title company charges, tax or insurance pre-payments required by GUILD MORTGAGE COMPANY, Lot appraisal fees or other usual and customary closing costs charged to the Purchaser by GUILD MORTGAGE COMPANY or other settlement service providers. No portion of the contribution may be applied as a credit to, or in partial payment of the Purchase Price of the Lot or disbursed to Purchaser.
- 3. Purchaser is not required to use GUILD MORTGAGE COMPANY as a condition either to Purchaser's purchase of the Property or to Purchaser's access to settlement services in connection with the purchase of the Property. Purchaser acknowledges that there are other mortgage lenders available to Purchaser and that Purchaser is free to use any mortgage lender it chooses to finance the purchase of the Property. However, Purchaser shall not be entitled to the contribution described in Section 2 above unless all of the conditions stated in Section 1 above are satisfied and met in a timely manner.
- 4. Purchaser is not required to use the closing attorney recommended by Seller to act as settlement agent and close the purchase of the Property. Purchaser acknowledges that there are other real estate attorneys available to Purchaser and that Purchaser is free to use any closing attorney it chooses to act as settlement agent and close the purchase of the Property. However, Purchaser shall not be entitled to the contribution described in Section 2 above unless all of the conditions stated in Section I above are satisfied and met in a timely manner.

IN WITNESS WHEREOF, THE UNDERSIGNED, HAVING READ AND REVIEWED THIS ADDENDUM, HAVE SIGNED THIS ADDENDUM ON THE DATES SHOWN BELOW.

Initials (HU) 6/29/2015

					Indo: 521380072 Printed: 6/29/2015	
HULAN WILLIAM BUYER: HYLAN	· ·	6/29/2015 Date	Seller: D.R. Horton, Inc. Document by: John J Capris Traffeccocodo	7/2/2015		
			John J Caprio Officer, D.R. Horton	Date		

#### NOTICE OF SELLER'S BUSINESS AFFILIATIONS

To:

HYLAND WINNIE JR

PROPERTY: 308 Greenhaven Dr. LONGS, SC 29568

["Homebuyer(s)"]

This is to give you notice that the above referenced seller has a business relationship with:

FROM: D.R. HORTON, INC.

DATE:

06/29/2015

[Seller]

DIH MORTGAGE COMPANY, LTD 4073 Belle Terre Blvd. Myrtle Beach, SC 29579

D.R. HORTON INSURANCE AGENCY INC. 301 Commerce Street Suite 500 Fort Worth, Texas 76102

The nature of this business relationship is that these companies are corporate affiliates, each being 100% wholly owned by, or by a subsidiary of, the same parent corporation. Because of this relationship, this referral may provide seller a financial or other benefit.

Set forth below is the estimated charge or range of charges by each company for settlement services listed. You are NOT required to use these companies as a condition of your purchase of the property from seller or as a condition of your application for, or settlement of, a mortgage loan on the Property in connection with your purchase. THERE ARE FREQUENTLY OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE SERVICES.

DIII MORTGAGE COMPANY, LTD.					
Service	Charge or Range				
Loan Origination Charge:	\$895				
	An additional 1% of the Loar. Amount may apply for certain Affordable Housing Loan				
	Programs				

Mortgage fees may vary depending upon whether the loan is originated or brokered by DHI Mortgage Company, Ltd.

NOTE: If you apply with DHI Mortgage Company, Ltd., a Good Faith Estimate of all settlement charges will be provided to you by DHI Mortgage Company, Ltd. at or within three business days after loan application.

You may be entitled to additional builder discounts/credits paid by the seller to purchase multiple settlement services as set forth in the Builder's Incentive and Concessions Addendum to your purchase contract.

#### D. R. HORTON INSURANCE AGENCY, INC.

D.R. HORTON INSURANCE AGENCY, INC. is a licensed insurance agent that offers policies of property insurance as agent for one or more insurance companies qualified to transact insurance business in the State of South Carolina. You will be provided a separate proposal or quote of the terms and conditions of any policy of insurance offered by D.R. HORTON INSURANCE AGENCY, LNC. in which you express an interest. For comparison purposes, the cost for a hazard insurance policy for a home valued at \$211,000 with commonly selected coverage items and deductibles would range between: \$200 and \$2,154 per annum. The specific premium depends on various factors, including but not limited to, the value of the home, the location of the home, deductibles selected, and the amount of coverage selected. The quote will set out the estimated premium and other charges, or range of charges, by D.R. HORTON INSURANCE AGENCY, INC. for its insurance products or services.

I/we have read this disclosure form and understand that seller is referring me/us to purchase the above-described settlement services from DHI MORTGAGE COMPANY, LTD., and D.R. HORTON INSURANCE AGENCY, INC., and may receive a financial or other benefit as the result of this referral.

Homebuyer: Document by: HULIND WINNE JR. 148308AE70074A3.  Buyer: HYLAND WINNIE	<u>6/29/201</u> 5 JR. Date		SELLER:  D.R. Horton, Inc.  Boursigned by:  John J (april  THEREGOOMDO.	7/2/2015
		· ·	John J Caprio Officer, D.R. Horton	7/2/2013 Date

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#### **EXHIBIT B Selected Options List**

(No color selections found.)

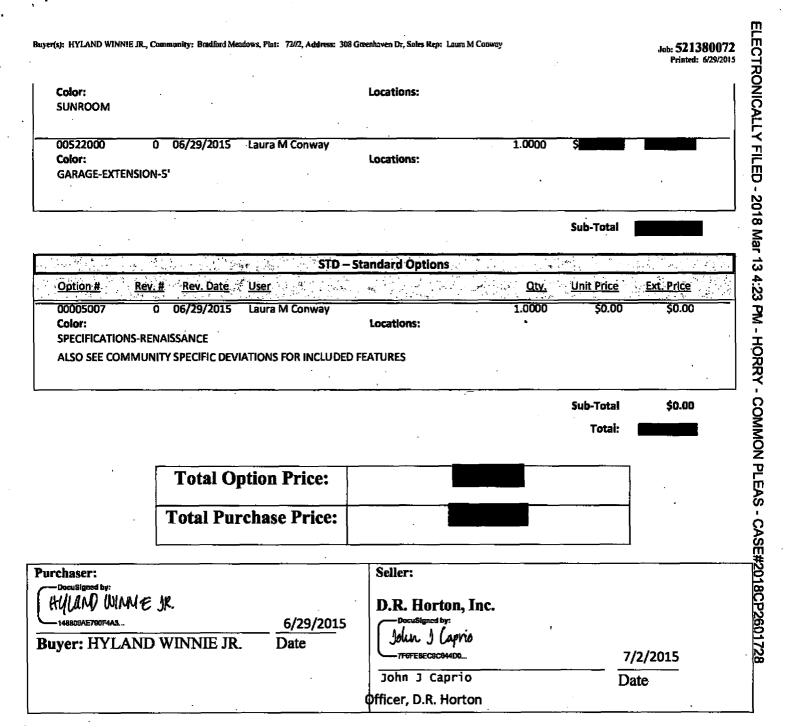
#### **Selected Options**

Option# Rev.# Rev. Dáte User  O2020000			2 33	45 A41 - 3 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	Deco Options		
CONCRETE-FLATWORK PER SQFT  13501000	Option#	Rev.#	Rev. Date	<u>User</u>	<u> </u>	<u>Unit Price</u>	Ext. Price
CONCRETE-FLATWORK PER SQFT  13501000	02020000	0	06/29/2015	Laura M Conway	120.0000		
13501000	Color:				Locations: 10x12 patio off rear of home	!	
Color: SHOWER-5' SHOWER W/ 2 SEATSILO 32x60 TUB/SHOWER COMBO  ONLY AVAILABLE IN MASTER/OWNER'S BATH  13920000 0 06/29/2015 Laura M Conway Color: LAUNDRY SINK-ROUGH IN ONLY  13940002 0 06/29/2015 Laura M Conway Locations: Locations: Master Bath	CONCRETE-FL	ATWORK	PER SQFT				
SHOWER-5' SHOWER W/ 2 SEATSILO 32x60 TUB/SHOWER COMBO  ONLY AVAILABLE IN MASTER/OWNER'S BATH  13920000	13501000	0	06/29/2015	Laura M Conway	1.0000		
ONLY AVAILABLE IN MASTER/OWNER'S BATH  13920000	Color:			•	Locations:		
ONLY AVAILABLE IN MASTER/OWNER'S BATH  13920000	CHOMED ELC	OWER !	U/ 3 CEATCH A	22-CO THE /CHOWED COA	ano'		
Color: LAUNDRY SINK-ROUGH IN ONLY  13940002 0 06/29/2015 Laura M Conway Color: Locations: Master Bath	2HOMEK-2, 2L	IOWER V	W Z SEMISILU	SEXOU TUB/SHOWER CON	/IBU		
LAUNDRY SINK-ROUGH IN ONLY  13940002			-	-	NBO		
13940002 0 06/29/2015 Laura M Conway 1.0000 1.0000 Color: Locations: Master Bath	ONLY AVAILA	BLE IN M	ASTER/OWNER	R'S BATH			
Color: Locations: Master Bath	ONLY AVAILAB	BLE IN M	ASTER/OWNER	R'S BATH	1.0000		
• · · · · · · · · · · · · · · · ·	ONLY AVAILAB 13920000 Color:	O O	O6/29/2015	R'S BATH	1.0000		<b></b>
VANITY SINK-CULTURED MARBLE-ADDITIONAL BOWL-OWNER'S BATH	ONLY AVAILAR 13920000 Color: LAUNDRY SINI	O K-ROUGH	06/29/2015	Laura M Conway	1.0000 Locations:		
	ONLY AVAILAB 13920000 Color: LAUNDRY SINI 13940002	O K-ROUGH	06/29/2015	Laura M Conway	1.0000 Locations:		
	ONLY AVAILAB 13920000 Color: LAUNDRY SINI 13940002 Color:	O K-ROUGH	06/29/2015 I IN ONLY	Laura M Conway  Laura M Conway	1.0000 Locations:  1.0000 Locations: Master Bath		

		v	POS - P	oint of Sale Options			
Option #	<u>Rev. #</u>	Rev. Date	<u>User</u>		Qty.	Unit Price Ex	t. Price
00076000	0	06/29/2015	Laura M Conway		1.0000		
Color: MEDIA ROOM (	OVER EX	CT. GARAGE		Locations:			- "
MUST ALSO PU	JRCHASE	GARAGE 5' EX	CTENSION				
00315000	0	06/29/2015	Laura M Conway	· · · · · · · · · · · · · · · · · · ·	1,0000		·
00315000 Color:	0	06/29/2015	Laura M Conway	Locations:	1.0000		
	_	06/29/2015	Laura M Conway	Locations:	1.0000		

HWJ 6/29/2015 Initials **Buyer** Date

Sub-Total



### D.R. HORTON Stage of Option Availability Matrix

#### Exhibit C

Use the followin	g table to determi	ne if a Standa	rd Change Order	is allowable	
OPTIONS	PRIOR TO FOUNDATION	PRIOR TO FRAME	PRIOR TO ROUGH MECHANICAL	PRIOR TO INSULATE	PRIOR TO SHEETROCK
Additional Appliances	Υ	Y	Y	· Y	Y
Flooring Selections	Y	Y	Υ	Υ	Υ
Exterior Concrete Changes	Υ	Y	Υ	Υ	Υ
Door and Shutter Color	Y	Υ	Υ	Υ	Υ
Kitchen Sink Option	Υ	Y	Υ	Υ	Υ
Electrical Appliance Option Upgrade	Υ	Υ	Y	Υ	Υ
Window Blinds	Y	Υ	Y	. Υ	Υ
Cabinet Crown Molding	Υ	Y	Y	Υ	N
Interior Trim Options/Plantation shutters	Y	Ý	Y	N	N
Exterior/interior Door Hardware	Y	Y	Υ	Ni Ni	N
Plumbing Fixtures (faucets)	Υ	Y	Υ	N _	N_
Kitchen Counter Color	Υ	Υ	Υ	N	N
Cabinet Options/Upgrades	Y	Y	Υ	N	N
Lighting & Fans (must have prewire)	Y	Y	Υ	N	N
Electrical Options/Upgrade	Υ	Y`	N	N	. N
Microwave Option	Υ	Υ	N N	N	N N
Roof Color	N	N	N	N _	N
Exterior Color Selections Viny/Stucco	N	N_	N	N	N
Framing Options	N	N	N .	N	N
Plumbing Options/Gas Line	N	. N	Ņ.	N	N_
Structural Options/Sunroom/	N	N	N	N	N ·
Screen Porch	N	N ·	N	N	N
Brick Color	N	N	N	N	N

# \*\*\*PURCHASER(S) ACKNOWLEDGE THAT NO CHANGES ARE ALLOWED AFTER SHEETROCK\*\*\*

Purchaser:    Countingwood by:   HULM WIME JR.   148808AE780F4A3	6/29/2015	Seller: D.R. Horton, Inc. John J Caprio	7 10 10045
Buyer: HYLAND WINNIE JR. I	Date	John J Caprio Officer, D.R. Horton	7/2/2015 Date
		Sales Rep: Laura M Conway  Sales Rep: Laura M Conway	<u>6/29/201</u> 5 Date

**CURRENT STAGE OF HOME:** 

## Agency Relationships in South Carolina

The SC Real Estate License Law, in Section 40-57-139 (A) (1) and (2), requires a real estate licensee to provide you this brochure and a meaningful explanation of agency relationships offered by the licensee's Company. This must be done at the first practical opportunity when you and the licensee have substantive contact.

Before you begin to work with a real estate licensee, it is important for you to know the difference between a broker-in-charge and associated licensees. The broker-in-charge is the person in charge of a real estate Company. Associated licensees may work only through a broker-in-charge. In other words, when you choose to work with any real estate licensee, your business relationship is legally with the Company and not with the associated licensee.

A real estate Company and its associated licensees can provide buyers and sellers valuable real estate services, whether in the form of basic customer services, or through client-level agency representation. The services you can expect will depend upon the legal relationship you establish with the Company. It is important for you to discuss the following information with the real estate licensee and agree on whether in your business relationship you will be a customer or a client.

### Now You Are a Customer of the Company

South Carolina license law defines customers as buyers or sellers who choose <u>NOT</u> to establish an agency relationship. The law requires real estate licensees to perform the following *basic duties* when dealing with *any* real estate buyer or seller as customers:

- Present all offers in a timely manner
- Account for money or other property received on your behalf
- Provide an explanation of the scope of services to be provided
- Be fair and honest and provide accurate information
- Disclose "adverse material facts" about the property or the transaction which are within the licensee's knowledge

Unless or until you enter into a written agreement with the Company for agency representation, you are considered a "Customer" of the Company, and the Company will not act as your agent. As a Customer, you should not expect the Company or its licensees to promote your best interest, or to keep your bargaining information confidential.

Customer service does not require a written agreement; therefore, you are not committed to the Company in any way.

#### You Can Become a Client Clients

receive more services than customers. If client status is offered by the real estate Company, you can become a client by entering into a written agency agreement requiring the Company and its associated licensees to act as an agent on your behalf and promote your best interests. If you choose to become a client, you will be asked to confirm in your written representation agreement that you received this brochure in a timely manner.

A seller becomes a client of a real estate company by signing a formal listing agreement with the Company. For a seller to become a client, this agreement must be in writing and must clearly establish the terms of the agreement and the obligations of both the seller and the Company which becomes the agent for the seller. A buyer becomes a client of a real estate Company by signing a formal buyer agency agreement with the Company. For a buyer to become a client, this agreement must be in writing and must clearly establish the terms of the agreement and the obligations of both the buyer and the Company which becomes the agent for the buyer.

If you enter into a written agency agreement, as a Client, you can expect the real estate Company to provide the following client-level services:

- Obedience
- Loyalty
- Disclosure
- Confidentiality
- Accounting
- Reasonable care and skill

Client-level services also include advice, counsel and assistance in negotiations.

#### Single Agency

When the Company represents only one client in the same transaction (the seller or the buyer), it is called single agency.

#### **Dual Agency**

Dual Agency exists when the real estate Company has two clients in one transaction – a seller client and a buyer client.

At the time you sign an agency agreement, you may be asked to acknowledge whether you would consider giving written consent allowing the Company to represent both you and the other client in a disclosed dual agency relationship.

#### **Disclosed Dual Agency**

In a disclosed dual agency, the Company's representation duties are limited because a buyer and seller have recognized conflicts of interest. Both clients' interests are represented by the

Company. As a disclosed dual agent, the Company and its associated licensees cannot advocate on behalf of one client over the other, and cannot disclose confidential client information concerning the price negotiations, terms, or factors motivating the buyer/client to buy or the seller/client to sell. Each Dual Agency Agreement contains the names of both the seller client(s) and the buyer client(s) and identifies the property.

#### **Designated Agency**

In designated agency, a broker-in-charge may designate individual associated licensees to act solely on behalf of each client. Designated agents are not limited by the Company's agency relationship with the other client, but instead have a duty to promote the best interest of their clients, including negotiating a price. The broker-in-charge remains a disclosed dual agent for both clients, and ensures the assigned agents fulfill their duties to their respective clients.

At the time you sign an agency agreement, you may be asked to acknowledge whether you would consider giving written consent allowing the Company to designate a representative for you and one for the other client in a designated agency.

Each Designated Agency Agreement contains the names of both the seller client(s) and the buyer client(s) and identifies the property.

#### What to Look For in Any Agreement

When you choose client-level service, your written Agency Agreement or your agent should answer these questions:

- Can I work with other Companies during the time of the Agreement?
- What will happen if I buy or sell on my own without the agent?
- When will this agreement expire?
- How will the Company be paid for its services?

- Does this Company represent both buyers and sellers as clients?
- If so, what are the choices if two clients become involved in one transaction?
- What duties will the Company continue to provide me after the transaction is completed?

If you plan to become a client of a Company, the licensee will explain the agreement to you fully and will answer questions you may have about the agreement. Remember, however, that until you enter into a representation agreement with the Company, you are considered a customer and the Company cannot be your advocate, cannot advise you on price or terms, and cannot keep your confidences.

#### It's Your Choice

As a real estate consumer in South Carolina, it is your choice as to the type and nature of services you receive.

- You can choose to remain a customer and represent yourself while the Company represents the other party.
- You can choose to hire the Company for representation through a written agreement.
- If represented by the Company, you can decide whether to go forward under the shared services
- of dual agency or designated agency or to remain in single agency.

The choice of services belongs to you—the South Carolina real estate consumer.

This brochure has been approved by the S.C. Real Estate Commission for use in explaining representation issues in real estate transactions and consumers rights as a buyer or seller. Reprinting without permission is permitted provided no changes or modifications are made.

# Agency Disclosure Brochure

# Agency Relationships in Real Estate



South Carolina Department of Labor, Licensing and Regulation

# South Carolina Real Estate Commission

PO Box 11847 Columbia, S.C. 29211-1847 Telephone: (803) 896-4400 Fax: (803) 896-4427 www.llr.sc.gov/POL/REC/

(Rev. 1/13)

# IN WITNESS WHEROF, THE UNDERSIGNED, HAVING READ AND REVIEWED THIS INFORMATION, HAVE SIGNED THIS DOCUMENT ON THE DATE SHOWN BELOW.

Purchaser:		Seller:		
HUUM WIMME JR.		D.R. Horton, Inc.		
148808AE790F4A3	6/29/2015	John J Caprio	7/2/2015	-
Buyer: HYLAND WINNIE JR.	Date	John J Caprio	Date	
		Officer, D.R. Horton		•
Doousigned by: Lawa M Conway	6/20/2015			
	6/29/2015  Date			 

Conway Bombing & Gunnery Range Addendum

#### ADDENDUM 15

#### DISCLOSURE AND ACKNOWLEDGEMENT REGARDING CONWAY BOMBING & GUNNERY RANGE

This Conway Bombing & Gunnery Range Addendum (this "Addendum") is attached to and made a part of that [Home Purchase Agreement] (the "Agreement") between [D.R. Horton, Inc.], as Seller, and HYLAND WINNIE JR., as Purchaser, regarding that parcel of land located in Horry County, South Carolina, briefly described as Lot 0072, Bradford Meadows subdivision (the "Subdivision"), and referred to in the Agreement as the "Property" or the "Lot." Capitalized terms defined in the Agreement shall have the same meanings when used in this Addendum. Notwithstanding any other provision of the Agreement, Seller and Purchaser agree as follows:

- 1. In the event of a conflict between the terms and provisions of this Addendum and any other terms or provisions of the Agreement, this Addendum shall control as to all matters in this Addendum.
- 2. Seller has disclosed to Purchaser and Purchaser understands and acknowledges the following:
  - a. The Subdivision is located within an approximately 56,000 acre tract in Horry County that was leased to the United States War Department for military training from approximately 1940 to 1948 and was called the Conway Bombing and Gunnery Range (the "CBGR").
  - b. In 1995, the United States Army Corps of Engineers (the "Corps") compiled an Archive Search Report (ASR) that divided the CBGR into twelve "areas of interest" consisting of "Range Impact Zones" (each of which is in the shape of a circle with a diameter of one mile); "Range Safety Zones" (each of which surrounds a Range Impact Zone and is in the shape of a circle with a two mile diameter); "Small Arms Ranges"; and the "Remaining Land." The Subdivision is located in an area designated as Remaining Land approximately 10,600 feet outside (northwest) of an area designated as the Area C-l Range IV Safety Zone.
  - c. The ASR report did not consider any of the Remaining Land or the Small Arms Ranges for further investigation based on a lack of "confirmed" or "potential" ordnance evidence in these areas. The Corps determined that there was, however, a potential for the presence of ordnance in certain other areas of the CBGR. Based on the ASR results, the Corps conducted an Engineering Evaluation/Cost Analysis ("EE/CA") field investigation from September 1999 to October 2000, the results of which are in a report entitled "Final Draft Engineering Evaluation/Cost Analysis (EE/CA) Conway Bombing and Gunnery Range, Conway, South Carolina" dated April 2002.
  - d. In August-September 2014, Seller, through its consultant Tetra Tech, Inc., performed unexploded ordnance ("UXO") detector-aided visual surveys, geophysical surveys and intrusive investigations of lots 1, 2, 4, 5, 6, 7, 8, 9, 11, 24, 25, 26, 27, 28, 31, 32, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 52, 53, 55, 56, 57, 58, 59, 61, 71, 72, 73 and 74 in the Subdivision (the "Inspected Lots") to evaluate whether munitions and explosives of concern ("MEC") were present on the Inspected Lots. The investigation report identified detection of 714 geophysical target anomalies, which were investigated and determined to be associated with construction debris or trash. The investigation did not identify the presence of MEC on the Inspected Lots.
  - Upon information and belief, a report of the Tetra Tech, Inc. investigation, titled "Munitions and Explosives of Concern Investigation For Bradford Meadows Subdivision Myrtle Beach, South Carolina (October 2014), as well as reports of the Corps investigations of the CBGR, are available for public review at the following libraries: (i) Horry County Memorial Library, 1008 5th Avenue, Conway, SC, (ii) North Myrtle Beach Library, 901 1st Avenue North, North Myrtle Beach, SC; (iii) Chapin Memorial Library, 400 14th Avenue North, Myrtle Beach, SC.

#### Conway Bombing & Gunnery Range Addendum

- Further information may be obtained by contacting the Charleston District Corps Formerly Used Defense Site Project Management Office at (843) 329-8161, or the Public Affairs Officer (843) 329-8123.
- 3. Except as stated in this Addendum, Seller, its parent, subsidiaries and affiliates and each of their respective officers, directors, employees, agents, heirs, personal representatives, successors, and assigns (the "Scller Parties"), have not made and do not make any warranties, representations, promises or statements of any kind, whether written or oral, express or implied, with regard to the CBGR and/or MECs concerning the Subdivision or any of the Inspected Lots, or any conditions or potential effects associated with any of the same (the "Disclosed Matters").
- 4. THE DISCLOSED MATTERS MAY ADVERSELY AFFECT (I) THE VALUE OF THE PROPERTY, AND/OR (II) THE USE, ENJOYMENT, AND/OR OWNERSHIP OF THE PROPERTY BY PURCHASER AND/OR PURCHASER'S HEIRS, SUCCESSORS, INVITEES, ASSIGNS AND LEGAL REPRESENTATIVES (THE "PURCHASER PARTIES").
- 5. Purchaser acknowledges that this Addendum (i) is not intended to, and does not, constitute a full disclosure of all conditions that might affect the Property or the Subdivision, and (ii) does not relieve Purchaser from its obligations to investigate the Property and the Subdivision to satisfy itself that the Property and the Subdivision are satisfactory to Purchaser. In addition, Purchaser acknowledges that Seller has no duty to update, and will not update, this Addendum or the information contained in this Addendum (including, without limitation, any references to reports or to telephone numbers set forth in Paragraph 2, above).

THE PURCHASER PARTIES HEREBY RELEASE THE SELLER PARTIES FROM ANY AND ALL CLAIMS, DEMANDS, LOSSES, COSTS, INJURIES OR DAMAGES, KNOWN OR UNKNOWN, THAT THE PURCHASER PARTIES MAY HAVE, AT ANY TIME, THAT ARE IN ANY WAY RELATED TO, CONNECTED WITH, OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THE DISCLOSED MATTERS OR THEIR EFFECTS, PRESENT OR FUTURE, ON THE HEALTH OR SAFETY OF THE PURCHASER PARTIES, THE PROPERTY OR ANY OTHER AREAS WITHIN OR AROUND THE SUBDIVISION. IT IS THE SPECIFIC INTENT OF THE PURCHASER PARTIES TO FULLY RELEASE AND DISCHARGE EACH AND ALL OF THE SELLER PARTIES FROM ANY AND ALL LIABILITY RELATED TO THE CBGR AND/OR TO ANY OF THE DISCLOSED MATTERS.

IN WITNESS WHEREOF, THE UNDERSIGNED, HAVING READ AND REVIEWED THIS ADDENDUM, HAVE SIGNED THIS ADDENDUM ON THE DATES SHOWN BELOW.

Purchaser:		Seller: D.R. Horton, Inc.	
HYLIN WIME JR.	6/29/2015	John J Capro	7/2/2015
Buyer: HYLAND WINNIE JR.	Date	John J Caprio	Date
		Officer, D.R. Horton	
		Sales Rep:  Sales Rep:  Lana W. Corway.	cianianir
•		3383.3257438472	6/29/2015
	· · ·	Sales Rep: Laura M Conway	Date

Conway Bombing & Gunnery Range Addendum

Buyor(s): MYLAND WINNIE JR., Community: Bradford Meadows, Platt. 72//2, Address: 308 Greenhaven Dr. Salos Rep: Laura M Comway

Job: **521380072** 



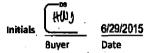
#### Pricing is Not Negotiable

The option pricing is set and not negotiable, please do not try to negotiate pricing with the Design agent, they are unable to alter pricing in the system.



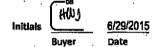
#### **Available Options**

Options for homes and communities are predetermined and pre-priced. Design does not have the ability to vary from these predetermined options. If you have specific questions, please contact your sales representative prior to attending design.



#### Daycare & Childcare

Our Design center does not have a designated area to keep young children safely unattended or entertained, please make arrangements for childcare so that you are able to fully dedicate your attention to the appointment.



#### Important Note

Your new home will not and cannot move to the next phase of construction prior to design being complete and signed off on by all buyers listed on the purchase Agreement. Not selecting all design options and signing off on paperwork will keep the home from moving forward.



Thank you for entrusting us to build your new DR Horton home. We appreciate your business!

Initials (H(U) Buyer

Date

tob: **521380072** Printed: 6/29/2015

# Exhibit A Included Features List Bradford Meadows

#### Architectural Artistry...

- Engineered Quick Tie® framing tiedown system
- Fiberglass 3-tab shingles with 30 year warranty
- Low maintenance aluminum wrapped cornice and vinyl soffit
- Low maintenance vinyl siding with lifetime-limited warranty
- Insulated fiberglass entry door per plan with satin nickel hardware
- Two freeze resistant hose bibs
- Two weather proof electrical outlets
- Engineered reinforced concrete foundation with wire mesh and rebar

#### Landscaping Elements...

- Professionally designed landscape plan
- Fully sodded yard
- Pinestraw bed around home and designated planting beds with plant material

#### Heart of the Home...

- Two panel colonial interior doors with satin nickel hardware
- Smooth ceilings throughout
- Quality vinyl flooring in foyer, bathrooms and laundry room per plan
- Mohawk® Stain-Resistant Carpet with 6 lb pad
- Designer Progress Lighting® brushed nickel lighting package in living areas
- Drywall paint-ready finish in garage

#### A Gourmet's Delight...

- Double bowl stainless steel kitchen sink with single lever chrome faucet
- Stainless steel GE® free-standing smooth top electric range
- Stainless Steel 4 cycle GE® dura wash dishwasher
- Stainless steel GE® microwave above range
- Powerful ½ HP garbage disposal
- Icemaker hook-up location provided
- Merillat®36" staggered birch recessed panel cabinets with crown molding
- Durable easy clean Wilsonart® laminate countertops

#### Thoughtful Details...

- Energy saving insulation package including sloped ceilings, cantilevers, flat ceilings, and walls
- Quality GreenGuard® House Wrap
- 13 SEER Carrier® electric heating and central air conditioning unit with digital thermostat
- 50 gallon electric high efficiency water heater (80 gal for 3 or more baths)
- Low E Energy efficient insulated vinyl windows with screens
- Ventilated shelving systems in closets and pantry
- Pre-wired for ceiling fan in living room
- · Pre-wire for garage door opener
- Energy code compliance testing and ratings provided by third party
- Choice of 2 Sherwin Williams® paint colors (white ceilings available)

### Technology Standard Features... Wiring package includes:

- 3 Phone line
- 2 Video or cable outlets (living room and master bedroom)

#### Safe and Secure...

- Deadbolts on all exterior doors with satin nickel hardware
- GFI outlets in kitchen, baths, garage and exterior
- Smoke detectors per plan

#### Bathroom Conveniences...

- Cultured marble vanity tops with Integrated sink
- Plate glass mirrors above vanities in bathrooms (optional powder room mirror per plan)
- Quality chrome faucets
- Sterling® 5' tub/shower combination in each bath per plan
- Water saver elongated toilets
- Linen closet per plan
- Exhaust fans in all baths

#### D.R. Horton's Personal Touch...

- Ask about closing cost assistance with use preferred lender and attorney\*\*
- One-year builder warranty from D.R. Horton
- 2/10 year RWC warranty
- Pre-construction orientation
- Pre-drywall orientation
- Pre-settlement orientation
- Full Service Customer Care Center
- Informative "Foundations" guide to Home Ownership and Warranty Services

Purchaser:		Seller:		
HUUND WINNE JR. 1483/04E/780F4A3	6/29/2015	D.R. Horton, Inc.  Dense Stand by:  John J (aprio	7/2/2015	
Buyer: HYLAND WINNIE JR.	Date	John 3 Caprio	 Date	-
	•	Officer, D.R. Horton		

Bradford Meadows

4:18-cv-01023-RBH Date Filed 04/13/18 Entry Number 1-2 Page 1 of 2



**Service of Process Transmittal** 

03/14/2018

CT Log Number 532968132

TO: David Morice

D.R. Horton, Inc. 1341 Horton Circle Arlington, TX 76011

RE: Process Served in South Carolina

FOR: D.R. Horton, Inc. (Domestic State: DE)

#### ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Hyland Winnie, Jr., on behalf of himself and others similarly situated, Pltf. vs. D.R.

Horton, Inc., Dft.

**DOCUMENT(S) SERVED:** Summons, Complaint, Exhibit(s)

COURT/AGENCY: Horry County Court of Common Pleas, SC

Case # 2018CP2601728

NATURE OF ACTION: Waiver of the implied warranty

ON WHOM PROCESS WAS SERVED: CT Corporation System, Columbia, SC

**DATE AND HOUR OF SERVICE:** By Process Server on 03/14/2018 at 14:54

JURISDICTION SERVED: South Carolina

APPEARANCE OR ANSWER DUE: Within 30 days after the service

ATTORNEY(S) / SENDER(S): Charles H. McDonald

McDONALD LAW, LLC P.O. Box96 Columbia, SC 29202 803-929-0096

ACTION ITEMS: SOP Papers with Transmittal, via UPS Next Day Air , 1ZX212780123931212

Image SOP

Email Notification, David Morice dmorice@drhorton.com

Email Notification, Cathy Hendrickson chendrickson@drhorton.com

Email Notification, Shari Hart SHart@drhorton.com

Email Notification, Nan McCosky nlmccosky@drhorton.com
Email Notification, Kimberly Bullard kmbullard@drhorton.com

Email Notification, Pam Jones pkjones@drhorton.com

Email Notification, LaDonna Sampsell LDSampsell@drhorton.com

SIGNED: CT Corporation System

Page 1 of 2 / SB

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

Date Filed 04/13/18 Entry Number 1-2 4:18-cv-01023-RBH Page 2 of 2

**Service of Process** 

CT Log Number 532968132

**Transmittal** 03/14/2018



TO:

David Morice D.R. Horton, Inc. 1341 Horton Circle Arlington, TX 76011

RE: **Process Served in South Carolina** 

FOR: D.R. Horton, Inc. (Domestic State: DE)

**ADDRESS:** 2 Office Park Court

Suite 103 Columbia, SC 29223 804-217-7255

TELEPHONE:

Page 2 of 2 / SB

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

### IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

	CE DIVISION
Hyland Winnie, Jr., on behalf of himself and others similarly situated,	) Civil Action No. 2:18-av-
Plaintiff,	)
vs.	) AFFIDAVIT OF
D.R. Horton, Inc.,	)
Defendant.	) )
Personally appeared before me, Charles	us C. Hull T. who, being duly sworn, states as
follows:	
1. My name is Charles C. Hull, Tr.	I am over eighteen years of age and competent to
give this affidavit.	
2. I work for D.R. Horton, Inc. as <u>Ea</u>	st Ragion CFO.
3. In that capacity, I have access to	information reflecting all homes sold by D.R.

D.R. Horton, Inc. has closed sales on thousands of homes in South Carolina in the

Horton, Inc. in South Carolina.

FURTHER AFFIANT SAYETH NOT.

, 2018.

Sworn to and subscribed before me this the day of april

My Commission Expires 7/02/202

4.

past three years.

Notary Public for 7

### **ClassAction.org**

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: <u>Lawsuit: D.R. Horton Unlawfully Requires Home Buyers to Waive Warranty of Habitability</u>