

**PRECONSTRUCTION RESERVATION AND ESCROW AGREEMENT FOR  
NORTH HILLS AT FAIRHOPE PHASE 2**

This **AGREEMENT** is made this the \_\_\_\_\_ day of \_\_\_\_\_, 202\_ by and between **NORTH HILLS AT FAIRHOPE, LLC, AN ALABAMA CORPORATION**, hereinafter referred to as **SELLER** and \_\_\_\_\_, hereinafter referred to as **PURCHASER**.

**RECITALS:**

- A. **SELLER** has contracted to purchase certain real property located in **BALDWIN COUNTY, ALABAMA**, which is currently being developed and which will be known as **NORTH HILLS AT FAIRHOPE, A PLANNED UNIT SUBDIVISION**, as per the plat thereof a copy of which is attached hereto as **EXHIBIT "A"**. This **AGREEMENT** is specifically contingent upon the completion of the purchase of the property described on the plat attached hereto as **EXHIBIT "A"**.
- B. **SELLER** will subject the property to the terms and conditions of the **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** of the property, hereinafter referred to as the **DECLARATION**.
- C. **SELLER** proposes to develop the property in one more phase or unit, in accordance with the **DECLARATION**.
- D. **SELLER** does not commit to submit any additional phase to the property. Any additional phase to the property and all improvements thereon are not completed and **"NEED NOT BE BUILT"**.
- E. An association of **OWNERS** for the operation of the **COMMON AREAS** and facilities of the property may be formed as a not for profit corporation under the Laws of the **STATE OF ALABAMA** and shall be known as **NORTH HILLS AT FAIRHOPE PROPERTY OWNER'S ASSOCIATION, INC.**, hereinafter referred to as **NORTH HILLS AT FAIRHOPE ASSOCIATION**.

NOW THEREFORE, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties do hereby agree and bind themselves as follows:

- 1. **RESERVATION OF LOT.** Subject to the terms and conditions of the **AGREEMENT**, **SELLER** hereby agrees to reserve and **PURCHASER** hereby agrees to purchase the lot known as **LOT \_\_\_\_\_**, in **NORTH HILLS AT FAIRHOPE PHASE 2, A PLANNED UNIT DEVELOPMENT**, located in **BALDWIN COUNTY, ALABAMA**.
- 2. **PURCHASE PRICE, ESCROW MONEY AND TERMS OF PAYMENT.** **PURCHASER** agrees to pay the purchase price in the following manner:
  - A. Purchase price of **LOT \_\_\_\_\_**: \$ \_\_\_\_\_
  - B. Escrow Money Deposit to be paid upon the execution of this **AGREEMENT**, which shall be held by **SELLER** in accordance with the terms and condition of this **AGREEMENT**: \$ 10,000
  - C. Balance of purchase price at closing, as defined by this **AGREEMENT**, to be paid in cash or other bankable funds: \$ \_\_\_\_\_
  - D. **TOTAL PURCHASE PRICE**: \$ \_\_\_\_\_
- 3. **MORTGAGE FINANCING.** This **AGREEMENT** is not subject to the ability of **PURCHASER** to obtain mortgage financing. **PURCHASER** does not require mortgage financing for the purchase of said lot.

\_\_\_\_\_  
Initials of **PURCHASER**

\_\_\_\_\_  
Initials of **PURCHASER**

- 4. **ESCROW MONEY DEPOSIT.** The Escrow Money Deposit required to be made to **SELLER** by the **PURCHASER** shall be held by **NORTH HILLS AT FAIRHOPE, LLC** in accordance with the terms and conditions of this **AGREEMENT** until: (i) credited to **SELLER** at closing (as defined by

this **AGREEMENT**); (ii) credited to **SELLER** because of the default of **PURCHASER** under this **AGREEMENT** to purchase said lot; or (iii) refunded to **PURCHASER** in accordance with this **AGREEMENT**. **NORTH HILLS AT FAIRHOPE, LLC** shall hold the funds representing the Escrow Money Deposit, in an interest bearing escrow account for the benefit of **SELLER**. **PURCHASER** shall have no right to the Escrow Money Deposit and no right to any interest or benefits accruing from the Escrow Money Deposit except the right to receive a refund of the Escrow Money in accordance with the provision of this **AGREEMENT**.

5. **DISCLOSURE.** **PURCHASER** acknowledges that said lot will be subject to the following:
  - A. **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.**
  - B. **PLAT** of subdivision property.
  - C. **ARTICLES OF INCORPORATION** of the **ASSOCIATION**.
  - D. **BY-LAWS** of the **ASSOCIATION**.
  - E. **PROJECTED OPERATING BUDGET** for the **ASSOCIATION**.
  - F. **RULES, REGULATIONS AND ARCHITECTURAL GUIDELINES;** and
  - G. This **AGREEMENT**.
  
6. **RIGHT OF TERMINATION.** **SELLER** agrees to complete the construction of the improvements on the property within one (1) year from the effective date of this **AGREEMENT**. The property shall be deemed complete upon the substantial completion of the construction of the contemplated improvements. The substantial completion of construction of the improvements shall be evidenced by a certification by the engineer retained by the **DEVELOPER** that the contemplated improvements are substantially complete. **SELLER** shall have the right to terminate this **AGREEMENT**, at the election of the **SELLER**, in the event of the inability of the **SELLER** to complete the purchase of the property described in **EXHIBIT "A"** or complete the construction of the improvements on the property and obtain the certification from the engineer as provided in this **PARAGRAPH 6** or as the result of the refusal of any governmental entity to issue any approval, permit or license necessary to the completion of the construction of the improvements on the property or the withdrawal by any such governmental entity of any such approval, permit or license, the filing of any legal proceedings against the **SELLER** challenging the right of **SELLER** to commence or complete such construction or the imposition by any governmental entity of any act, regulation, rule, law or ordinance that would prohibit **SELLER** from completing such construction. **PROVIDED, FURTHER, SELLER and PURCHASER** may mutually agree to extend the aforesaid one (1) year period for completion of construction within a reasonable period of time to be agreed on by **SELLER and PURCHASER**, in the event that **SELLER** is delayed in the completion of the construction of the improvements on the property by casualty, hurricane or other natural disaster or act of **GOD**, strike or similar act of work stoppage, legal proceedings filed against **SELLER** with respect to the said construction, or the refusal by any governmental entity to issue any approval, permit or license necessary to the said construction or completion of said construction, or the withdrawal by any such governmental entity of any such approval, permit or license.  
In the event of the election by **SELLER** to terminate this **AGREEMENT** pursuant to the provisions of this **PARAGRAPH 6**, then the improvement referred to in the **AGREEMENT "NEED NOT BE BUILT"**.
  
7. **LOT AND COMMON AREA DIMENSIONS.** The **LOT** and **COMMON AREA** dimensions as shown on **EXHIBIT "A"** attached hereto are approximate. **PURCHASER** acknowledges that in the course of construction of the improvements on the property and the **LOT** and **COMMON AREA**, certain changes, deviations or omissions may be required by the **SELLER**, an engineer or architect, or required by governmental authorities. Therefore, any changes, deviations or omissions that may be required are authorized, provided said changes; deviations or omissions do not materially affect the rights of the **PURCHASER**, size or location of the **LOT**. The **PURCHASER** understands that certain items and improvements to the **LOT**, property or the property in the **PLANNED UNIT DEVELOPMENT** are subject to design or engineering change from that shown to the **PURCHASER** on **EXHIBIT "A"** attached hereto.
  
8. **COMMON AREA.** The **COMMON AREA** designated on the plat of the property is not donated, dedicated nor granted to the public, but will be conveyed by the **DECLARANT** to the **ASSOCIATION** for the use as **COMMON PROPERTY** of the **ASSOCIATION** as more particularly described in the **DECLARATION**. The streets shown on the plat of the property are not **COMMON AREA** but, when the plat is properly executed and recorded, shall constitute public streets dedicated to the public.
  
9. **CLOSING.**
  - A. **DATE OF CLOSING.** The **CLOSING DATE** shall be on or before thirty (30) days after substantial completion of construction of the improvements and recording of the subdivision plat. Closing shall take place at the offices of **STEWART TITLE, 24190 US HWY 98, Suite A, FAIRHOPE, ALABAMA** at a specific time and date to be agreed upon by **SELLER and PURCHASER**. **PROVIDED, HOWEVER** should the **SELLER and PURCHASER** mutually

agree to extend said **CLOSING DATE**, the **CLOSING DATE** may be extended for a reasonable period of time to be agreed upon by the **SELLER** and the **PURCHASER**.

If on the **CLOSING DATE**, **PURCHASER**, without default on the part of the **SELLER**, fails to pay such sums that are required to be paid on the **CLOSING DATE**, or fails to execute the instruments required by the **PURCHASER**, then all Escrow Money (including all interest accruing on the Escrow Money, if any) shall be paid to the **SELLER** as liquidated and agreed upon damages, as a result of the default provisions of this **AGREEMENT** and this **AGREEMENT** shall be null and void and shall be terminated.

If on the **CLOSING DATE**, **SELLER**, without default on the part of the **PURCHASER**, fails to convey good and marketable title of said lot to the **PURCHASER** or for any other reason cannot convey said lot to **PURCHASER** in accordance with the terms and conditions of this **AGREEMENT**, then all Escrow Money (including all interest accruing on the Escrow Money, if any) shall be paid to the **PURCHASER** as liquidated and agreed upon damages, as provided in the default provisions of this **AGREEMENT** and this **AGREEMENT** shall be null and void and shall be terminated.

**PROVIDED, HOWEVER**, anything else contained in this **AGREEMENT** to the contrary, no interest in the lot may be conveyed until the plat is recorded and the lot is substantially completed, as provided for in this **AGREEMENT**. Until such time as the plat shall be recorded and the lot is substantially completed, and the **CLOSING DATE** is set, this **AGREEMENT** shall merely constitute a “**PRECONSTRUCTION RESERVATION**” of Lot \_\_\_\_\_ by the **PURCHASER**.

10. **DEFAULT.** Should **PURCHASER** fail to make any of the payments coming due under this **AGREEMENT** or fail or refuse to execute the instruments required to close this transaction, or refuse to pay the cost or other sums required by this **AGREEMENT**, or otherwise default under this **AGREEMENT**, **SELLER** may declare this **AGREEMENT** terminated and all Escrow Money (including all interest accruing on the Escrow Money, if any) shall be forfeited to **SELLER** as liquidated and agreed upon damages which **SELLER** has sustained and suffered as a result of default by **PURCHASER**, and thereupon the parties will be released and relieved from all obligations under this **AGREEMENT**. The provisions contained in this **AGREEMENT** for liquidated and agreed upon damages are bona fide provisions for such and are not a penalty, the parties understanding that by reason of **PURCHASER** binding **SELLER** to the sale of the lot, and by reason of the withdrawal of the lot from sale at a time when other parties would be interested in purchasing the lot, the **SELLER** will have sustained damages, if **PURCHASER** defaults, which damages will be substantial but will not be capable of determination with mathematical precision, and therefore, as aforesaid, the provisions for liquidated and agreed upon damages has been incorporated in this **AGREEMENT** as a provision beneficial to both parties.

Except as set forth in this paragraph, should default under this **AGREEMENT** occur due to the failure of **SELLER** to comply with or tender compliance with the obligations of **SELLER** under this **AGREEMENT** on the **CLOSING DATE**, or should **SELLER** elect to terminate this **AGREEMENT** for any reason provided for in **PARAGRAPH 6** of this **AGREEMENT**, then all Escrow Money (including all interest accruing on the Escrow Money, if any) shall be forfeited to the **PURCHASER** as liquidated and agreed upon damages and thereupon the parties hereto shall be released and relieved from all obligations under this **AGREEMENT**.

11. **CLOSING EXPENSES.**

1. The following **CLOSING EXPENSES** will be paid by **SELLER**:
  - a. Warranty Deed from **SELLER** to **PURCHASER**.
  - b. Cost of Owner's Title Insurance Policy in the amount of the purchase price.
  - c. Fees of the Attorney representing **SELLER**.
2. **PURCHASER** shall pay all other costs of the **CLOSING**, including, but not limited to:
  - a. Recording of the deed, including all deed taxes.
  - b. All costs required to be paid by the Mortgagee if the lot is to be mortgaged by **PURCHASER**.
  - c. Proration of all ad valorem taxes which shall be applicable to the lot.
  - d. Utility deposits apportioned or assigned to said lot.
  - e. Fees of the Attorney representing **PURCHASER** and the fees for services of any other parties engaged by the **PURCHASER**.
  - f. Any expenses charged by the title agent for the handling of the **CLOSING**.
  - g. Any other expenses or charges specified in this **AGREEMENT** to be paid by the **PURCHASER**.

12. **OBLIGATIONS AT CLOSING.** At the **CLOSING** the following will take place:
1. **PURCHASER** shall execute and deliver to **SELLER** such documents which may be necessary to give effect to this **AGREEMENT**.
  2. **PURCHASER** will pay the balance of the purchase price to **SELLER**.
  3. **PURCHASER** will pay to the **ASSOCIATION** the assessment for **COMMON EXPENSES** commencing as of the **CLOSING DATE**. Said assessments shall be in the amount specified by the **ASSOCIATION** for the lot. The first payment shall be made at **CLOSING** and shall be prorated for the remainder of the year during which **CLOSING** takes place. In addition, the **PURCHASER** will pay the **ASSOCIATION**, at closing, \$200 as a non-refundable contribution to the initial working capital of the **ASSOCIATION**, which shall not be considered an advance on the assessments due to the **ASSOCIATION**.
  4. **SELLER** will execute and deliver to **PURCHASER** a Warranty Deed conveying the lot, subject to the matters and things set forth in this **AGREEMENT**. The acceptance of said Warranty Deed by **PURCHASER** shall be deemed to be full performance and discharge of every agreement and obligation on the part of **SELLER** to be performed pursuant to the provisions of the **AGREEMENT**.
  5. **SELLER** will credit to **PURCHASER** all Escrow Money deposited by **PURCHASER** with **SELLER** without interest.
  6. **SELLER** will provide from a title insurance agent chosen by **SELLER** a **STANDARD AMERICAN LAND TITLE ASSOCIATION (ALTA) OWNER'S TITLE INSURANCE COMMITMENT** in the usual form listing **PURCHASER** as proposed insured in the amount of the purchase price. The Owner's Title Insurance Commitment will contain the standard exceptions and shall further contain the same exceptions as the Warranty Deed.
13. **NON-ASSIGNABILITY.** **PURCHASER** shall not assign this **AGREEMENT** or the rights of **PURCHASER** under this **AGREEMENT** without the proper written consent of **SELLER**. This **AGREEMENT** shall be binding upon the parties to this **AGREEMENT** and their personal representatives, heirs, successors and assigns.
14. **AGREEMENT NOT AN ENCUMBRANCE.** No encumbrance shall arise against the property as a result of this **AGREEMENT**. **PURCHASER** agrees that the provisions of this **AGREEMENT** are and shall be subject and subordinate to any lien of any mortgage, including, but not limited to, any mortgage, heretofore or hereafter made, and any advances heretofore made thereon and any payments or expenses already made or incurred or which hereafter may be made or incurred, pursuant to the terms of this **AGREEMENT**. This subordination shall apply whether such advances are voluntary or involuntary and whether made in accordance with any schedule of payments or accelerated by virtue of the right of the lender to make advances before they become due in accordance with the schedule or payments. **SELLER** shall, at the option of **SELLER**, either satisfy such mortgage or obtain a release of the lot from the lien of such mortgage on or prior to the **CLOSING DATE**. The existence of any mortgage or mortgages encumbering the property, or portions thereof, shall not constitute an objection to title or excuse **PURCHASER** from completing payment of the purchase price or performing all of his other obligations under this **AGREEMENT** or be the basis of any claim against, or liability of, **SELLER**, provided that such mortgage is subordinated to the declaration or that the lot is released from the lien of such mortgage at closing.
15. **SPECIAL RIGHTS.** The **DECLARATION** reserves certain special rights to the **DECLARANT** which rights are more specifically set out in the property documents. Reference is made to the **DECLARATION** for those special rights. In general and not by way of limitation, the **DECLARANT** has the right to: (i) add real estate to the property; (ii) create lots, combine lots or common property; (iii) subdivide lots or convert lots or on common property in the property; (iv) maintain sales offices, management offices and models on lots or on common property in the property; (v) maintain signs on the property; (vi) create and/or use easements throughout the property for purposes of making improvements within the property or within real estate that may be added to the property including, but not limited to, dedicating the common property as provided for in the **DECLARATION**; and (vii) appoint or remove the officers and Members of the **BOARD OF DIRECTORS** of the **ASSOCIATION**.
16. **MERGER.** All understandings and agreements made between the parties are merged in this **AGREEMENT** and expresses the entire **AGREEMENT**, and no representations, oral or written, not contained in this **AGREEMENT** shall be considered a part of this **AGREEMENT**. This **AGREEMENT** may not be altered, enlarged, modified or changed except by an instrument in writing executed by the parties to this **AGREEMENT** and **PURCHASER** understands that the authority of any sales representatives is limited and confined to securing **PURCHASERS** for the property upon the terms and conditions set out in this **AGREEMENT**, and that sales representatives have no power or authority to make any change, alteration, modification, stipulation, inducement, promise or representation whatsoever other than those stated in this **AGREEMENT** and that said sales representatives are acting as special representatives, and all representations of **SELLER** not specifically set forth in this **AGREEMENT** are deemed waived by **PURCHASER**.

17. **EFFECTIVE DATE.** This **AGREEMENT** shall not be binding upon **SELLER** until signed by a duly authorized agent of **SELLER**. However, once executed by **SELLER**, this **AGREEMENT** shall be effective as of the date executed by **SELLER** as said date is set out next to the signature of **SELLER**.
18. **NOTICE.** All notices, statements, demands or other communications (“**NOTICE**”), to be given under or pursuant to this **AGREEMENT**, shall be in writing, and addressed to the parties at their respective addresses, as provided in this **AGREEMENT** and shall be delivered in person, or by certified or registered mail, post pre-paid or by telegram or cable, charges pre-paid. If mailed or telegraphed, such **NOTICE** shall be deemed to have been given twenty-four (24) hours after the date of mailing or twenty-four (24) hours after the date of delivery to the telegraph or cable company.

The address of the **SELLER** is:  
**NORTH HILLS AT FAIRHOPE, LLC**

24190 US HWY 98, Suite B  
 FAIRHOPE, ALABAMA 36532

The address of the **PURCHASER** is:

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19. **MISCELLANEOUS.** When the context permits within this **AGREEMENT**, use of the plural shall include the singular, use of the singular shall include the plural, and the use of any gender shall be deemed to include all genders. All terms used in this **AGREEMENT** shall have the meaning given to them in the **DECLARATION** and are incorporated by reference and made a part of this **AGREEMENT**.

**IN WITNESS WHEREOF**, the parties to this **AGREEMENT** have duly executed this **AGREEMENT** or caused this **AGREEMENT** to be executed to be effective as of the **EFFECTIVE DATE**.

\_\_\_\_\_  
**PURCHASER**

\_\_\_\_\_  
**PURCHASER**

**WITNESSES:**

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**PURCHASER** executed this **AGREEMENT**  
 on this the \_\_\_\_\_ day of \_\_\_\_\_, 202\_.

**PURCHASER** desires that title be taken in the name of:

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**SELLER:**

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**SELLER** executed this **AGREEMENT**  
 on this the \_\_\_\_\_ day of \_\_\_\_\_, 202\_.