

BROOKWOOD PLACE: AGREEMENT OF SALE

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Donegal Land Partners, LLC
Laurel Communities, LLC
2543 Washington Road
Pittsburgh, PA 15241

THIS AGREEMENT is entered into this _____ day of _____, 2019, by and between _____, _____, (“Buyer”) whose mailing address is _____ and DONEGAL LAND PARTNERS, LLC (“Seller”), whose mailing address is 2543 Washington Road, Pittsburgh, PA 15241.

1. LOCATION AND LOT

- (A) Seller hereby agrees to sell and convey to Buyer, by Special Warranty Deed, and Buyer agrees to purchase from Seller a dwelling house and real property (the “Dwelling House” and the “Property”). The Dwelling House shall be generally constructed in accordance with the Drawings and Specification prepared by Rothschild Doyno Collaborative, and identified as _____. The Dwelling House and Property are known as Brookfield Place Unit _____ and will have a street address of: _____.
- (B) The Dwelling House and Property shall be transferred to Buyer free and clear of all liens and encumbrances except for building restrictions, deed restrictions, easements of record, ordinances, restrictive covenants, rights of public utilities, title matters of record, or other items visible on the Property.
- (C) Title to the Property will be good and marketable and such as will be insurable by a reputable title company at market rates. If Seller cannot provide good and marketable title at settlement, Buyer may i) accept such title as Seller can provide without a change in the Contract Price; or ii) receive a refund from the Seller of the Deposits paid to Seller, in which case, upon the return of such Deposits, each party shall be released from any further obligations hereunder; or (iii) negotiate a mutually acceptable adjustment to the Contract Price to satisfy any outstanding liens and/or encumbrances.
- (D) All real estate taxes of any kind assessed as of the date of Settlement, Homeowner Association fees (with the exception of HOA Capitalization Fees), water and sewer charges, and the cost of any other municipal services for the Dwelling House and the Property shall be pro-rated as of the date settlement occurs. Buyer shall pay half of all of the real estate transfer taxes imposed as a result of the sale of the Property and Dwelling House. Seller will not pay any title company settlement fees. All filing, recording fees, and other fees associated with Buyer’s acquisition and financing of both the Dwelling House and the Property are to be paid by Buyer. Buyer is responsible for all customary settlement costs and accruals for both the Dwelling House and the Property pursuant to this type of transaction.

2. CONTRACT DOCUMENTS

The Contract Documents shall consist of this Agreement, the Exhibits to this Agreement, any Change Orders hereto, the Specifications, the Drawings and the Warranty. To the extent of any discrepancies between and among the Contract Documents, the following order of precedence shall control:

- A. Written Change Orders
- B. This Agreement
- C. The Selection Sheet
- D. The Drawing
- E. The Plot Plan
- F. The Limited Warranty.

Buyer 1 Initials _____

Seller Initials _____

Buyer 2 Initials _____

3. **CONTRACT PRICE**

Buyer agrees to pay to Seller for the Property and the Dwelling House, including the options listed on the Structural Selection Sheet, the Total Contract Price of _____ **Dollars**, together with any additional charges as described or provided for herein (the "Contract Price") which will be paid to Seller as set forth in this Agreement.

4. **PAYMENT TERMS**

- (A) Earnest Money Deposit in the amount of 2.5% of the base price and structural options at signing of this Agreement ("First Deposit"). \$ _____
- (B) Additional Earnest Money Deposit of 2.5% of the base price and structural options at the time of the Preconstruction Meeting ("Second Deposit"), which will take place approximately 3 weeks prior to the start of construction. \$ _____
- (C) Additional Earnest Money Deposit of 20% of the total of all decorative options (including, but not limited to, appliances, cabinetry, fixtures, flooring, and all other interior options) ("Options Deposit"), which will be added to the sales price. This Options Deposit is also due from Buyer at the Preconstruction Meeting. \$ _____
- (D) The First Deposit, Second Deposit, and Options Deposit are sometimes collectively referred to herein as "Deposits". The remaining balance of the Contract Price shall be paid to Seller at Settlement.
- (E) Buyer hereby acknowledges that the terms of this agreement are not contingent or reliant upon any other occurrences, such as but not limited to Buyer's qualification for financing, available financing terms, the sale or settlement of another property owned by Buyer, Buyer's employment or income status, or the results of any property appraisal performed on behalf of Buyer or its agents.
- (F) Buyer hereby acknowledges that no portion of the Contract Price will be placed into escrow for any reason as the work being performed by the Seller is on a custom basis and that each Dwelling Unit will have unique characteristics. This prohibition on escrow specifically prohibits the Buyer from escrowing funds for the completion of any item within this Agreement, or any Addendum thereto, including but not limited to driveway installation or landscaping. Any Agreement item not completed by Seller at the time of Settlement, including but not limited to driveway installation or landscaping, shall be completed by Seller in accordance with the time periods enumerated within this Agreement, Seller's Warranty and/or any Addendums thereto.
- (G) Any Deposit paid prior to the Settlement shall be **NON-REFUNDABLE** except as set forth in Paragraphs 1(C) and 23 hereof. The **ONLY** circumstance under which Buyer shall be entitled to a refund of the Deposit is a default by Seller as defined within this Agreement.

5. **SCHEDULE OF CONSTRUCTION**

- (A) **COMMENCEMENT DATE:** Seller estimates that Seller will commence construction on or about _____. Seller reserves the right to adjust the commencement of construction based on issuance of the building permit, availability of materials, weather, or other appropriate factors. Seller shall nevertheless exercise commercially reasonable efforts to achieve completion by the Estimated Completion Date set forth below.
- (B) **ESTIMATED COMPLETION DATE:** Seller estimates completion of construction to be approximately 9 months after the installation of the building footer. Buyer hereby acknowledges that the above estimated time of completion on the part of Seller is made as an accommodation to Buyer to assist Buyer in formulating future plans. Seller shall not be liable for any damages or claims resulting from any failure to meet the Estimated Completion Date.

Buyer 1 Initials _____

Seller Initials _____

Buyer 2 Initials _____

- (C) **SETTLEMENT:** Settlement hereunder will be held on a date that is within 10 days after Seller supplies Buyer with written "Notice of Settlement". Seller may provide Notice of Settlement at any time after the Dwelling House is "Substantially Complete" as defined herein. The Property and Dwelling House will be free of debris as of the date of Settlement.
- (D) Substantially Complete shall be defined as the issuance of an occupancy permit; whether temporary or permanent, by the local jurisdiction even if such items as landscaping, exterior concrete (including but not limited to footings needed for deck construction), driveways, final grading, and exterior painting may not be completed. Buyer agrees to sign any waiver that may be required by the local jurisdiction in order to obtain an occupancy permit prior to completion of the above listed items. Seller agrees that any such incomplete items shall be completed as soon as possible, weather permitting. Seller further reserves the right to enter onto the Property after Settlement to complete such items without the prior approval of Buyer.
- (E) The parties agree that until Seller is paid in full, the Dwelling House, either under construction or completed, and all materials and supplies stored or installed on the Property, shall remain the sole property of Seller. It is further agreed that until Seller is paid in full, Buyer shall not occupy or store furnishings or property in the Dwelling House. The parties agree that in the event that the Seller is not paid the balance of the Contract Price in full upon completion, as defined in this paragraph, the Seller will suffer damages in the nature of interest expense, lost opportunity cost, lost profits, administrative costs and other costs which are not readily ascertainable. Therefore, in the event that Seller is not paid in full upon completion, Buyer agrees the Buyer will pay to Seller, along with the full balance of the Contract Price, Liquidated Damages in the amount of \$200.00 per day for each day that the balance of the Contract Price remains unpaid. These liquidated damages constitute the parties' best present approximation of the damages the Seller is likely to incur in such event, and the parties agree that such liquidated damages are not, and shall not be construed as a penalty. It is further understood that in all warranties provided herein or within Contractor's Limited Warranty and Service Procedures shall be null and void the event that the Seller has not been paid in full.
- (F) Seller shall have the right to enter upon the Property at any time after Settlement for the purpose of making exterior changes to the Lot, including but not limited to grading and drainage system changes and the removal or planting of trees.
- (G) Neither Buyer, nor any agent of Buyer, is permitted to enter the Property for the purpose of doing any form of construction work or to make any alterations to the Dwelling House before Settlement. Any violation of this provision may, at the election of Seller, be considered a material breach of this Agreement and, in addition to any other remedies available to Seller, Seller may terminate this Agreement and retain all deposits.
- (H) Should Buyer violate paragraph G above, Buyer will be deemed to be trespassing and Seller assumes no liability or responsibility for any injuries suffered by Buyer or Buyer's agents while on the Property or construction site or for any losses to any property left thereupon. Buyer hereby agrees to indemnify and hold Seller harmless from any and all losses or damages arising therefrom. If Buyer violates paragraph G, all warranties from Seller, its subcontractors and/or suppliers will be void.
- (I) In the event Buyer or any of Buyer's representatives would like to enter upon the Property for any reason prior to Settlement and delivery of possession, Buyer shall schedule an appointment in advance with the Seller's representative between the hours of 8:30am and 3:30pm, Monday through Friday, so that the Buyer can be escorted through the Property. Any entry by Buyer or its representatives shall be at Buyer's sole risk, and Buyer agrees to indemnify and hold Seller and Seller's insurer harmless from any claims or damages resulting therefrom. Buyer understands and agrees that the construction on the Property poses a hazard, and that the likely risk of serious injury or death exists.
- (J) The Contract Price includes finished grading and the standard landscaping package as defined in the Selection Sheet.

Buyer 1 Initials _____

Seller Initials _____

Buyer 2 Initials _____

6. **INSPECTIONS**

(A) **Final Walk Through Inspection**

1. Buyer reserves the right to make a final walk-through inspection of the Dwelling House when Seller notifies Buyer that the Dwelling House is substantially complete. Seller will notify Buyer prior to settlement of the date and time of Buyer's final walk-through inspection of the Dwelling House.
2. At the final walk-through inspection, Buyer and Seller will complete and sign a list of open items (the "Punch List") to be completed, modified, or replaced within sixty (60) days after Settlement. Items that cannot be completed, modified or replaced within sixty (60) days of Settlement due to events beyond Seller's reasonable control will be completed by Seller as soon as reasonably possible, but not to exceed 180 days.
3. Buyer's failure to inspect the Dwelling House, or to complete and sign the final walk-through inspection, form constitutes a waiver of Buyer's rights to inspect the Dwelling House, and Buyer will accept the Dwelling House at Settlement in its then present condition without obligation of modification or replacement.
4. Seller will have air conditioning, heating and all utilities on for the final walk-through inspection.

7. **WOOD BORING INSECT INSPECTION REPORT**

Upon request by the Buyer or the Buyer's Lender, Seller will provide an inspection report from a reputable pest inspection company indicating that there are no wood boring insects in the Dwelling House, if required by Buyer's lender. Buyer agrees to reimburse Seller for the cost of the inspection at settlement. If the inspection report states that active infestation exists, Seller agrees, at Seller's expense and before Settlement, to treat for active infestation(s), in accordance with applicable laws.

8. **NATURALLY OCCURRING GASES**

A small percentage of homes in the United States experience elevated levels of radon gas and/or methane gas or other naturally occurring gases. These are naturally occurring gases that rise up and escape from the soil. This phenomenon can occur in any home, regardless of the type of home or who built it. Seller provides as part of the Contract Price a passive radon system consisting of 4" perforated pipe installed under concrete slabs and extended through the roof line. Seller makes no warranty as to the effectiveness or adequacy of this passive system.

Seller claims no expertise in the measurement or reduction of radon and/or methane gas or any other naturally occurring gas in Buyer's Dwelling House, nor does Seller provide any advice to Buyer as to acceptable levels or possible health hazards of the gases. As to radon, Buyer may wish to obtain a test kit that meets the EPA protocol for measuring the level of radon gas in the Dwelling House. The EPA publishes a list that provides information on EPA-approved suppliers of such test kits.

Buyer agrees that Buyer bears the risk associated with discovering and remediating all naturally occurring gases, including but not limited to radon gas, methane gas and/or carbon monoxide, and that the cost of remediating any such issues rests with Buyer. Buyer agrees that this Agreement is not conditioned upon testing results for naturally occurring gases, or the presence or lack of such gases affecting the Dwelling House. Upon Settlement, Buyer shall be deemed to have accepted the Dwelling House regardless of the presence of these gases now or in the future and Buyer hereby release Seller from any claims related to or arising from the presence of naturally occurring gases.

If Buyer wishes to obtain further information he should contact the U.S. Environmental Protection Agency or the Pennsylvania Department of Environmental Protection.

Buyer 1 Initials _____

Seller Initials _____

Buyer 2 Initials _____

9. **POSSIBLE BIOLOGICAL IMPURITIES**

- (A) Modern homes, including the Dwelling House, are built tightly to slow the escape of warm air in the winter and the escape of cool air in the summer. These tight construction techniques also help reduce the entrance into the home of certain naturally-occurring, organic, often airborne and often invisible contaminants such as (without limitation) animal dander, dust, dust mites, fungi, all forms of mold, bacteria and pollen (collectively, "Biological Impurities"). However, Biological Impurities brought into the home (through the natural circulation of air, generated by or carried into the home by or upon people, animals or things, including building materials) can become trapped and actively grow in tightly constructed homes unless they are affirmatively removed. Moisture, either from leaks or from exposure to the elements during the construction process or after occupancy by you can lead to additional Biological Impurities in the home. For instance, as an example of the foregoing and without limitation, moisture from leaks into or in the interior of the home and the resulting wood rot (to the extent such leaks and wood rot are not covered by Seller's Limited Warranty), either alone or in combination with certain variables such as the temperature and the type of cellulose wood products, can cause the development of mold and other Biological Impurities to develop.
- (B) Within the home, Biological Impurities can cause allergies or other more serious health effects for the occupants. According to some experts, Biological Impurities cannot be completely eliminated or excluded from residential construction. Notwithstanding the immediately preceding sentence, it is your sole responsibility after Settlement to implement periodic, careful inspections and maintenance procedures in an effort to minimize the existence and effect of Biological Impurities within the Dwelling House. Seller does not claim any expertise regarding the identification, remediation or possible health consequences of Biological Impurities: Buyer would like more information, Buyer should contact the U.S. Environmental Protection Agency, state or local authorities.
- (C) Seller has not made, created or invited (nor does it intend to make, create or invite) any warranty or any other expectancy, either express or implied, with respect to any Biological Impurities. Buyer agrees for himself/herself, and for his/her family, invitees, tenants, agents, heirs, successors, executors, subrogees, attorneys, assigns and any other persons who may have occasion to visit or reside in the Dwelling House (collectively "Buyer's Agents") that Seller shall not be liable for any damages (whether direct or consequential) or for any injury (including but not limited to personal injury) to Buyer, to the Dwelling House or to any of Buyer's agents, regardless of legal theory (including, but not limited to Seller's negligence) arising out of or relating to any real or alleged Biological Impurities located in the Dwelling House or on the Property. Accordingly, Buyer (for himself and the Buyer's agents) releases Seller, its subcontractors and suppliers, and any and all other persons and entities of and from any and all present and future claims, damages and causes of action, regardless of legal theory, that arise out of or in any way relate to the real or alleged presence of Biological Impurities in or on the Property or the Dwelling House (collectively "Biological Impurities Claims"). To the maximum extent permitted by law, Buyer (for himself/herself and for Buyer's agents) hereby waives (and is estopped to assert) all claims to the contrary. Buyer further acknowledges that nothing to the contrary has been promised by Seller or otherwise made any part of the basis of the bargain between the parties in regards to this transaction and, upon request, Buyer shall sign a separate confirmatory addendum and reaffirmation at Settlement to further memorialize that this Paragraph accurately states and shall remain the mutual intent of the parties. Buyer hereby expressly covenants and agrees to pay to and indemnify Seller and its subcontractors and suppliers, for any and all damages and/or costs (including, without limitation, attorneys' fees and court costs) incurred by Seller and/or its subcontractors or suppliers as a result of any Biological Impurities claims made or attempted to be made by Buyer or any of Buyer's agents.

10. **LANDSCAPING AND DRIVEWAY**

- (A) **Landscaping and seeding schedule of completion:** The topsoil, finish grading and seeding, if part of this Agreement, will be completed in a timely manner, but no later than **July 30** for those homes completed the previous year. If the home is completed between January and April of the

Buyer 1 Initials _____

Seller Initials _____

Buyer 2 Initials _____

current year, the completion date for topsoil, finish grading, and seeding will be completed by **August 30** of the current year. Topsoil, seed, and fertilizer will be applied according to the most accepted standards and at a time when weather conditions permit. Seller is not responsible for adverse weather conditions occurring after the lawn has been planted or after taking possession, whichever comes later.

- (B) Seller will attempt to preserve as many of the existing trees or shrubs as reasonably possible during construction of the Dwelling House. It is expressly agreed that Seller does not guarantee or warrant survival of any trees or shrubs existing on the Property prior to construction. Any existing trees or shrubs that may die after Settlement are not the responsibility of the Seller.
- (C) Buyer acknowledges that, due to adverse weather conditions and other events beyond Seller's reasonable control, items including the driveway surface, grading and seeding, exterior painting or staining, and exterior concrete surfaces may not be completed at time of Settlement. Unless otherwise agreed, no portion of the contract price or option payments will be placed in an escrow account or withheld from Seller at Settlement to compensate incomplete items. Seller will complete the items within a reasonable time after Settlement as weather conditions permit. This paragraph will survive Settlement.

11. SUBSTITUTIONS

BUYER AND SELLER ACKNOWLEDGE THAT THE MATERIALS USED IN THE DWELLING HOUSE WILL BE SUBSTANTIALLY SIMILAR TO THOSE IDENTIFIED ON THE SELECTION SHEET. BUYER ACKNOWLEDGES THAT MATERIALS MAY BECOME UNAVAILABLE AFTER SELECTION OR MAY INCREASE IN PRICE, AT NO FAULT OF SELLER, SUCH THAT THEY ARE NO LONGER FEASIBLE FOR INSTALLATION INTO THE DWELLING HOUSE. BUYER ALSO ACKNOWLEDGES THAT SELLER HAS THE RIGHT TO MAKE SUBSTITUTIONS OF MATERIALS OR PRODUCTS OF SUBSTANTIALLY EQUAL OR BETTER QUALITY AND THAT ACTUAL MATERIALS AND PRODUCTS MAY VARY FROM SAMPLE MATERIALS AND PRODUCTS.

12. RECORDING

Neither party shall have the right to record this Agreement.

13. ASSIGNMENT

This Agreement will be binding upon the parties, their respective heirs, personal representatives, guardians, successors and assigns. Buyer shall not have the right to assign this Agreement without the Seller's prior written consent. The Seller shall have the right to assign this Agreement without the Buyer's consent.

14. INSURANCE AND RISK OF LOSS

The Seller assumes the risk of loss or damage to the Dwelling House and Property by fire or other casualty until Settlement. If such loss or damage occurs, the Seller may terminate this Agreement and refund the Deposits to the Buyer without further liability to the Buyer. In such event, the Buyer has no right to or interest in fire or other casualty or hazard insurance proceeds.

15. RELEASE

BUYER HEREBY RELEASES, QUIT CLAIMS AND FOREVER DISCHARGES ALL BROKERS, THEIR LICENSEES, EMPLOYEES AND ANY OFFICER OR PARTNER OF ANY ONE OF THEM AND ANY OTHER PERSON, FIRM OR CORPORATION WHO MAY BE LIABLE BY OR THROUGH THEM, FROM ANY AND ALL CLAIMS, LOSSES OR DEMANDS, INCLUDING, BUT NOT LIMITED TO, PERSONAL INJURIES AND PROPERTY DAMAGE AND ALL OF THE CONSEQUENCES THEREOF. THIS RELEASE WILL SURVIVE SETTLEMENT.

Buyer 1 Initials _____

Seller Initials _____

Buyer 2 Initials _____

16. **REPRESENTATIONS**

- (A) Model homes, if any, and any advertising or promotional materials used or displayed by Seller are for display purposes only and are not the basis of the bargain between Seller and Buyer. The obligations of Seller under this Agreement shall be determined solely by reference to the Contract Documents identified above and the terms of this Agreement and any Addendums thereto.
- (B) Seller makes no representation with respect to Lot grades, Lot area, options, facades, home layouts, location of walks, driveways, personal property, fences, patios, decks, recreational facilities, landscaping, decorating items and other items in or about any model home and model home area (if any) which are for display purposes only and are not included in the Contract Price unless otherwise expressly provided herein. The Dwelling House to be erected hereunder may not necessarily conform to any model home or model home area (if any).
- (C) Seller makes no representation with respect to the home type, size, style, price range or location of other homes or buildings built in the vicinity of the Property. Buyer acknowledges that all site plans, generalized development plans, plats, or renderings which may have been exhibited showing or indicating home types, the siting of homes on lots, grading or landscaping are projections only and are not binding upon Seller, and no representative of Seller is authorized to make any representation with regard to these items. In addition, Seller makes no representation as to the location of utility transformers and utility pedestals on the Property as the location of these facilities is determined solely by the utility companies and not the Seller.
- (D) Attached hereto and incorporated as part of this Agreement is a Selection Sheet which includes all options selected by Buyer. Buyer acknowledges and agrees that the Selection Sheet accurately reflects all options selected by Buyer as of this date. Any changes or revisions to any items on the Selection Sheet, including but not limited to all structural and decorative options offered by Seller, shall be the subject of a written Change Order, which must be authorized by both parties to be a valid addition to this agreement.
- (E) Buyer will be notified by Seller in writing via email of deadlines by which final decisions must be made for both Structural (as defined by the Selection Sheet) and Non Structural (Decorative) items. Seller will give Buyer at least 14 days prior notice of said deadlines. Buyer agrees to accommodate these deadlines and promptly authorize paperwork signifying the finalization of Buyer's decisions. If Buyer does not fulfill this obligation, Buyer will be considered to be in default of this agreement and subject to penalties contained herein.
- (F) A pre-construction meeting shall be scheduled with the Buyer by Seller and shall occur prior to the commencement of construction by Seller. At the pre-construction meeting, the Selection Sheet shall be reviewed and any final alterations and/or modifications to Non Structural (Decorative) items, if any, shall be made at said time. No alterations and/or modifications to Structural or Non Structural (Decorative) items shall be made to the Selection Sheet after the pre-construction meeting or at any point during construction. In the event that Buyer fails to attend the pre-construction meeting, Buyer shall be bound by all selections contained on the Selection Sheet.
- (G) Buyer acknowledges that there are many accepted methods of calculating the square footage of structures. In its marketing brochures and documents, Seller may use different methods of calculating the square footage of the Dwelling House.
- (H) Buyer hereby acknowledges and agrees that certain dimensions contained on the drawings and/or blueprints for the construction of the Dwelling House, including but not limited to room sizes/dimensions, floor to ceiling heights, perimeter dimensions of the Dwelling House, deck dimensions, concrete slab and/or porch dimensions and porch roof dimensions, may vary from the dimensions of the Dwelling House as actually constructed. Provided any such variations are within generally accepted standards for the construction industry, any such variations shall not be considered a material change and/or modification to the drawings and/or blueprints and Seller shall not be responsible to Buyer for any such changes and/or modifications.

Buyer 1 Initials _____

Seller Initials _____

Buyer 2 Initials _____

- (I) The location of fixtures, including, but not limited to, the furnaces, condensers and/or water heaters may vary from the drawings and/or blueprints. It is agreed that Seller has the exclusive right to determine the actual location of said fixtures.
- (J) Buyer acknowledges that the determination of where and at what elevation to situate the Dwelling House on the property is the sole responsibility of Seller.
- (K) Buyer acknowledges that any Model / Architectural Drawings prepared by or on behalf of Seller shall remain the sole and exclusive property of Seller.
- (L) It is acknowledged that there are to be no substitutes with regards to subcontractors. It is expressly acknowledged and agreed that Seller, as the builder of the Dwelling House, shall select all subcontractors, material-men and suppliers to be used in the construction of the Dwelling House, including but not limited to electricians, plumbers, heat ventilating, and air conditioning, carpet and tile suppliers and installers, painters and landscapers. It is also agreed that Buyer may not directly hire or pay any subcontractors of the Seller to perform any additional work during the time the home is under construction. All communications or questions from Buyer regarding the construction of the home should be directly to Seller and not to any of Seller's subcontractors.

17. RELEASE OF LIENS

At the Settlement, Seller shall furnish Owner with a complete release of liens and an affidavit that, to the best of Seller's knowledge, said release includes all of the labor and materials for which a lien could be filed.

18. LIMITED WARRANTY

Buyer acknowledges that Buyer has been afforded the opportunity to review Seller's limited warranty the ("Limited Warranty"), which is incorporated by reference herein, prior to execution of this Agreement. Buyer also acknowledges that it has received a copy of the Limited Warranty, and further agrees to accept the Limited Warranty as the sole warranty being given to Buyer. **THE LIMITED WARRANTY IS THE ONLY WARRANTY APPLICABLE TO THE DWELLING HOUSE. NO IMPLIED WARRANTY (WHETHER OF MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE) IS GIVEN ON ANY PORTIONS OF THE DWELLING HOUSE OTHER THAN CONSUMER PRODUCTS. SELLER HAS NOT AUTHORIZED ANY PERSON TO MODIFY THE TERMS OF THE WARRANTIES DESCRIBED HEREIN. SELLER ASSUMES NO LIABILITY OR OBLIGATIONS ON ACCOUNT OF REPRESENTATIONS MADE BY ANY OTHER PERSON. THE OBLIGATIONS OF SELLER ARE LIMITED SOLELY TO THE REPAIR OR REPLACEMENT OF THE DEFECTIVE COMPONENT AND DO NOT EXTEND TO ANY DAMAGE OR HARM RESULTING THEREBY OR THEREFROM. SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO COSTS OF SHELTER, TRANSPORTATION, FOOD, MOVING, STORAGE OR OTHER INCIDENTAL EXPENSES RELATED TO RELOCATION DURING REPAIR OR ANY OTHER COSTS DUE TO LOSS OF USE, INCONVENIENCE OR ANNOYANCE, OR ANY PERSONAL INJURIES ARISING FROM A BREACH OF ANY OF THE LIMITED WARRANTIES DESCRIBED IN THIS AGREEMENT. IF ANY DEFECT IS DISCOVERED DURING THE APPLICABLE WARRANTY PERIOD, SELLER SHALL HAVE THE EXCLUSIVE RIGHT TO DETERMINE WHETHER THE DEFECT SHALL BE CORRECTED BY REPAIR, ADJUSTMENT OR REPLACEMENT. NO LIMITED WARRANTY CONTAINED HEREIN COVERS A DEFECTIVE PORTION OF THE DWELLING HOUSE THAT HAS BEEN SUBJECT TO MISUSE, ALTERATION OR ACCIDENTAL DAMAGE (CAUSED BY PERSONS OTHER THAN SELLER'S EMPLOYEES AND AGENTS) OR HAS NOT BEEN AFFORDED REASONABLE CARE.**

Buyer 1 Initials _____

Seller Initials _____

Buyer 2 Initials _____

19. **HOMEOWNERS ASSOCIATION**

- (A) Purchaser acknowledges that the Property is part of the **BROOKWOOD PLACE HOMEOWNERS' ASSOCIATION**, and that Purchaser has received the following Homeowners' Association documents:
- Declaration of Covenants, Conditions, and Restrictions
 - Bylaws of Association
 - Public Offering Statement
 - Operating Budget
- (B) Purchaser acknowledges that they are obligated to pay a one time initial capital account assessment contribution, collected at Settlement, in the amount of \$1000.00 and an estimated monthly assessment of \$130.00, made payable to the Brookfield Place Homeowners' Association.

20. **TIME OF THE ESSENCE**

Except as otherwise stated in this Agreement, the date established for the occurrence of the Settlement at the time of substantial completion of the Dwelling House and the Property, and all other times referred to for the performance of any obligations of this Agreement, are hereby agreed to be of the essence.

21. **REASONABLE DELAY**

Seller shall not be liable for any delay in the prosecution or completion of the work caused by the act, delay, neglect or default by Buyer, or by damage from fire, earthquake or other casualty for which Seller is not responsible, or by weather conditions, strike, walkouts or other acts of employees or suppliers of labor or materials over which Seller has no control or for which Seller is not responsible. In any such event the time herein fixed for the completion of the work shall be extended for a period equivalent to the time lost by reason of any of the causes aforesaid and Buyer shall be prohibited from claiming that time is of the essence.

22. **BUYER DEFAULT**

Buyer shall be in default under the terms of this Agreement upon the occurrence of any of the following:

- (A) Buyer's failure to make timely payment of any amounts due hereunder;
- (B) Buyer's failure to finalize selections by the deadlines set for by Seller, and to authorize all documents needed by Seller to signify the finalization of these decisions;
- (C) Buyer's violation of or failure to perform any of the terms and/or conditions of this Agreement or any Addendum thereto; or
- (D) Buyer's failure to pay the balance of the Contract Price on the Settlement Date.

In the event of a default by Buyer, Seller shall provide Buyer with written notice of such default and ten (10) days to cure the same. If Buyer has failed to timely cure, then Seller, in addition to all other rights and remedies in law and in equity available to Seller, at the sole option of Seller, be entitled to:

- (A) Recover the entire unpaid balance of the Contract Price;
- (B) Recover all damages incurred by the Seller as a result of Buyer's default, including the liquidated damages set forth in Paragraph 5E, and Seller's attorneys' fees and costs incurred in enforcing its rights hereunder; and/or
- (C) Retain the Deposits as Liquidated Damages.

23. **SELLER'S DEFAULT**

- (A) A breach by Seller in the performance or observance of any of the covenants of Seller in this Agreement and any Addendums thereto, and the failure of Seller to cure such breach within 30 days after written notice to do so is given by Buyer to Seller, shall constitute an event of default by Seller. Provided however, that if the nature of the event of default is not curable within such

Buyer 1 Initials _____

Seller Initials _____

Buyer 2 Initials _____

time period, and Seller is diligently proceeding in its efforts to cure the breach, then the cure period shall be extended for a reasonable period of time for the Seller to diligently cure such event of default.

- (B) During the pendency of any cure period, Seller shall not be liable to Buyer for any event of default, and Buyer shall not have the right to enter into any agreements for the correction of a breach with any other contractor or repairman. In addition, Buyer shall not have the right to withhold any payments to Seller regarding said breach.
- (C) If Seller fails to timely cure and event of default, Buyer's sole remedy shall be to recover its actual out of pocket costs associated with repairing any defective work. The cost of repairing defective work shall not include the cost of gaining access to such defective work, or of removing, repairing or replacing any other portions of the Dwelling House or the Property in order to perform such repairs.
- (D) In the event that for any reason Seller fails to commence construction within 6 months of the estimated commencement date set forth in Paragraph 5(A) above, Buyer's sole remedy shall be to recover the total of all Deposits paid to Seller, and upon the return of such funds to Buyer, both parties shall be released from the terms and obligations of this Agreement.

24. TIMING OF CLAIMS AND DISPUTE RESOLUTION

THE PARTIES AGREE THAT ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT, SETTLEMENT HEREUNDER, OR IMPROVEMENTS TO THE DWELLING HOUSE OR PROPERTY, REGARDLESS OF LEGAL THEORY, EXCEPT ANY CLAIMS UNDER THE LIMITED WARRANTY ("CLAIMS"), SHALL BE SUBJECT TO A ONE (1) YEAR LIMITATION OF ACTION PERIOD AND BAR DATE. SUCH CLAIMS BASED ON MATTERS OCCURRING BEFORE THE SETTLEMENT DATE SHALL BE DEEMED TO HAVE ARISEN AND ACCRUED, IF AT ALL, AND THE ONE (1) YEAR LIMITATION OF ACTION PERIOD FOR ALL SUCH CLAIMS SHALL BEGIN TO RUN ON THE ACTUAL SETTLEMENT DATE. ALL APPLICATION OF THE SO-CALLED "DISCOVERY RULE" IS MUTUALLY WAIVED BY THE PARTIES. BY EXECUTING THIS AGREEMENT, SELLER AND BUYER ACKNOWLEDGE THEIR UNDERSTANDING AND AGREEMENT TO THESE TERMS AND THAT THE SAID ONE (1) YEAR PERIOD IS COMPLETELY REASONABLE IN ALL RESPECTS. NOTWITHSTANDING THE FOREGOING, THESE BAR DATE TERMS SHALL NOT APPLY TO CLAIMS FOR INDEMNITY AND/OR CONTRIBUTION BY SELLER AGAINST BUYER AND/OR ANY OTHER PERSON. THESE RIGHTS MAY ONLY BE ENFORCED BY SELLER AND BUYER AND NOTHING HEREIN SHALL BE CONSTRUED TO CREATE ANY THIRD PARTY BENEFICIARY RIGHTS IN ANY OTHER PERSON OR ENTITY.

ALL DISPUTES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE RESOLVED BY BINDING ARBITRATION. THE PARTIES AGREE THAT THEY SHALL EACH SELECT AN ARBITRATOR, AND THAT THE TWO SELECTED ARBITRATORS SHALL CHOOSE A THIRD ARBITRATOR. ANY ARBITRATION HEARING SHALL BE HELD IN PITTSBURGH, PENNSYLVANIA.

25. COAL NOTICE

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT TO SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This notice is set forth in the

Buyer 1 Initials _____

Seller Initials _____

Buyer 2 Initials _____

manner provided in Section 1 of the Act of July 17, 1957, P.L. 984, as amended, and is not intended as notice of unrecorded instruments, if any). Unless this notice is stricken, the deed for the Property will contain this notice and will also contain, and Purchaser will sign, the notice specified in the Bituminous Mine Subsidence and Land Conservation Act of 1966.

26. SEWAGE FACILITIES NOTICE

The Pennsylvania Sewage Facilities Act of January 24, 1966, No. 537 P.L. 1535, as amended, requires that there be a statement regarding the availability of a community sewage system. The Property is currently serviced by a public sewage system. Connection of the Dwelling House and the property to such system is the responsibility of Seller.

27. REPRESENTATIONS AND DISCLOSURES

- (A) Unless oral statements or promises are written into this Agreement, they are not enforceable under law. By executing this Agreement, the parties agree that there are no oral statements or promises that are not contained in this Agreement. Additionally, the Parties agree that this Agreement may not be modified or amended unless such modification is made in writing and signed by all of the parties.
- (B) Unless previously registered with the Seller at the time of referral or first contact with Seller, Buyer is not represented by a Broker that will require the payment of a commission. Buyer agrees to indemnify Seller for any commission or fee claimed by any broker, solicitor or finder on behalf of Buyer.
- (C) A Real Estate Recovery Fund exists to reimburse any person who has obtained a final civil judgment against a Pennsylvania real estate licensee owing to fraud, misrepresentation, or deceit in a real estate transaction and who has been unable to collect the judgment after exhausting all legal and equitable remedies. For complete details about the Fund, call (717) 783-3658.
- (D) Access to a public road may require issuance of a highway occupancy permit from the Department of Transportation. Seller shall arrange for any required highway occupancy permits.
- (E) The Property may be located in an area of Pennsylvania where Marcellus shale drilling and/or other deep gas shale exploration and drilling activity occurs regularly or may occur in the future. In Pennsylvania, ownership and the right to use the subsurface of property, including ownership and rights to extract coal, gas, oil and other minerals, is not always transferred with the right to use the surface of the property. The title to the surface of the Property may be conveyed without any ownership rights to coal, gas, oil and other minerals. Such rights may be vested in third parties and such third parties may also have rights to use the surface of the Property to test for, explore, drill and/or otherwise remove the coal, gas, oil and other minerals. In some instances, the coal, gas, oil and other minerals can be removed even if the surface is not accessed. Seller makes no representations to you regarding the ownership of any subsurface rights. Buyer should consult with an attorney experienced with these issues if the Buyer has questions regarding subsurface rights. For additional information regarding deep shale gas ownership, exploration and drilling, Buyer may also contact the Pennsylvania Bureau of Oil and Gas Management (http://www.portal.state.pa.us/portal/server.pt/community/office_of_oil_and_gas_management/20291), Pennsylvania Department of Natural Resources, Oil and Gas Resources (www.dcnr.state.pa.us/topogeo/oilandgas/index.aspx) or similar online resources.
- (F) Any warranty of title set forth in the Agreement does not pertain to any subsurface rights, including, but not limited to, coal, oil, gas and/or mineral rights. Seller shall have no obligation to defend title to these rights, and Seller does not covenant that Buyer will have quiet enjoyment of these rights. Buyer hereby releases Seller from any liability relating to the removal of coal, gas, oil or other minerals by third parties.

Buyer 1 Initials _____

Seller Initials _____

Buyer 2 Initials _____

(G) All notices and communications under this Agreement shall be in writing, and shall be deemed duly given on the date such notice is (i) mailed by U.S. postal service certified mail, first class postage prepaid, (ii) delivered to an overnight courier for next day delivery, (iii) sent by facsimile or electronic mail with transmission verification, or (iv) delivered by personal delivery. All communication to Seller shall be sent to the Seller's office as provided on the first page of this Agreement.

(H) The parties agree to recognize electronic or PDF signatures as legally binding upon them.

NOTICE: THIS IS A LEGALLY BINDING CONTRACT. READ AND UNDERSTAND ALL PROVISIONS PRIOR TO SIGNING. IF YOU DO NOT UNDERSTAND, SEEK LEGAL OR OTHER COMPETENT ADVICE. IF YOU SIGN BELOW, IT SHALL BE CONCLUSIVELY PRESUMED THAT YOU HAVE FULLY READ AND UNDERSTOOD ALL OF THE TERMS OF THIS AGREEMENT. YOU ACKNOWLEDGE THAT THIS AGREEMENT, AS SIGNED BY YOU ALONE, CONSTITUTES AN OFFER TO PURCHASE AND THAT THIS AGREEMENT SHALL NOT BE BINDING UPON US UNTIL EXECUTED BY THE SELLER.

WITNESS:

BUYER:

Printed Name: _____
Date: _____
Phone _____
Email _____

WITNESS:

BUYER:

Printed Name: _____
Date: _____
Phone _____
Email _____

ATTEST:

DONEGAL LAND PARTNERS, LLC

By: _____
Its: _____
Dated: _____

Buyer 1 Initials _____

Seller Initials _____

Buyer 2 Initials _____