

**Addendum A-1 To Offer to Purchase and Contract Between Capital Asset Topsail Development, LLC “Seller” and
“Buyer”**

This Addendum amends and supplements the Purchase Agreement referred to above. In the event of any conflict between the terms of the Purchase Agreement and this Addendum, the terms of this Addendum shall supersede the Purchase Agreement. Capitalized terms in this Addendum have the same meaning as set forth in the Purchase Agreement, unless otherwise defined herein.

- 1. Building Deposit.** The Building Deposit, if any, referred to in Paragraph 1(d) of the Purchase Agreement is not Earnest Money and will be used by Seller in the construction of the dwelling and other improvements to the Property. The Building Deposit shall be paid to Seller by cash or immediately available funds, such as official bank check or wire transfer, within one (1) business day following the last day of execution of the Purchase Agreement and this Addendum by Seller and Buyer, and will be credited to the Purchase Price at Settlement. The Building Deposit shall be non-refundable other than in the event Seller fails to complete subject property or refuses to close. Delays in settlement related to construction do not constitute a failure by Seller and are not grounds for a deposit refund under any circumstances. Should Buyer fail to deliver the Building Deposit in accordance with the terms of this paragraph, Seller shall have the right to terminate the Purchase Agreement upon written notice to Buyer.
- 2. Selections.** Buyer/Buyer’s Agent shall supply Seller with Buyer’s contact information including email address and phone number for purposes of coordinating interior and exterior selections when applicable in sales contract. Seller’s staff will contact Buyer to supply information, software access, and meeting coordination for any necessary interactions. Seller’s staff will remain as point-of-contact to interface transparently with Buyer for accurate communications regarding contract, options, change orders, updates, and timeline to project completion. Buyer’s agent may contact Seller’s agent for information flow and updates, but will not substitute or disrupt direct communication between Seller and Buyer for purposes of selections coordination and job execution, including generating official punch list, walk through, scheduling closing/settlement, and warranty completion coordination.
- 3. Punch List.** (i) Seller shall notify Buyer when the Certificate of Occupancy has been issued by the appropriate governing authority, and shall schedule a mutually agreeable date and time, not later than five (5) days after issuance of the Certificate of Occupancy, on which Buyer shall inspect the Residence. Prior to Settlement, Buyer and Seller shall agree upon a written list of all deficiencies in workmanship and material that are detectable by visual examination (“Punch List Items”). Seller shall correct Punch List Items at Seller’s cost within a reasonable period of time. AFTER ISSUANCE OF A CERTIFICATE OF OCCUPANCY, SELLER’S FAILURE TO CORRECT A PUNCH LIST ITEM PRIOR TO SETTLEMENT WILL NOT BE GROUNDS FOR DELAYING SETTLEMENT OR THE IMPOSITION OF ANY CONDITIONS ON SETTLEMENT; PROVIDED, SETTLEMENT SHALL NOT RELIEVE SELLER FROM THE OBLIGATION TO CORRECT ANY PUNCH LIST ITEM.
- 4. Change Orders.** The Purchase Price set forth in the Purchase Agreement includes the cost of construction of the Residence to be built on the Property and the standard selections as provided in the Plans and Specifications for the Residence. Buyer may request certain construction or architectural changes following the date of execution of the Purchase Agreement (“Change Orders”). All Change Orders must be detailed and priced on written Change Order Requests and indicated on a floor plan, submitted for approval, and are subject to Seller’s written acceptance and a non-refundable payment to Seller of the total Change Order amount. Change Orders will not be effective in the absence of such payment. Change Orders are not effective in any regard unless approved, in writing, by Seller. The total charges for any Change Orders approved by Seller shall initially be evidenced by a change in the Building Deposit on Form 4-T, Agreement to Amend Contract. The final closing Purchase Price will be equal to the original Purchase Price, plus the total charges for all Change Orders. Prior to closing, Buyer agrees to execute a new Agreement to Amend Contract, Form 4-T, reflecting this change in the Purchase Price as required by any lenders, closing attorneys or agents as needed. If two or more persons are identified as “Buyer” in the Purchase Agreement, any one of them shall have authority to bind the other(s) in all matters relating to the Purchase Agreement and this Addendum. Seller may, in its own discretion, decline to approve any Change Order request. Any additional costs for engineering, surveying, site work, fill, tree removal, retaining walls and/or other necessary work as a result of an approved Change Order, will be the sole responsibility of Buyer.
- 5. Closing and Possession.** Closing is defined as the date and time of recording the deed. Closing shall occur on the date and at a time designated by Seller within five (5) days after notification from Seller to Buyer that the Certificate of Occupancy has been issued by the appropriate governing authority (the “Closing Date”). If Buyer fails to close on the Closing Date, Buyer agrees to pay to Seller the sum of \$500 per day for each day beyond the Closing Date before the actual closing.

Buyer shall pay the balance of the Purchase Price at Closing in immediately available funds, by overnight transfer, cashier's check or other form acceptable to Seller.

6. **Ownership of Plans and Specifications.** Buyer acknowledges that Buyer has no ownership rights in any of the Plans and Specifications used in connection with the Purchase Agreement, and that Buyer will be liable to Seller or other owner of the Plans and Specifications in the amount of any lost profits, consequential damages, and other applicable damages for any reuse, sale or dissemination of such Plans and Specifications.
7. **Climate Control.** Seller shall construct the Residence in compliance with the NC Residential Building Codes. The Residence will be energy efficient and independently tested to ensure it meets the requirements by the appropriate governing bodies. The allows for lower energy usage and savings on utility bills. The climate in southeastern North Carolina has more humidity than other parts of the country. Due to the nature of the environment it is recommended that Buyer maintain a relatively consistent temperature in the Residence for optimal performance. Failure to maintain a consistent temperature in the Residence may create unwanted humidity to build up in the Residence potentially causing ill effects such as mold or mildew. **This is not a warrantable item and Seller shall have no liability for any mold or mildew in the Residence.**
8. **Seller's Limited Warranty.** Seller shall provide to Buyer a one-year warranty ("Seller's Warranty") against defects in construction of the Residence at Closing. Buyer agrees to accept Seller's Warranty in lieu of any and all other representations and warranties, expressed or implied. Buyer acknowledges that Seller is relying on this waiver as part of the consideration for entering into the Purchase Agreement. Seller disclaims any other warranty of any kind, either expressed or implied, including warranties as to the physical condition of the Property or as to the condition or existence of improvements, services, appliances or systems serving the Property or as to the merchantability, habitability, suitability, quality or fitness for a particular purpose of the Property or improvements thereon. Seller makes no warranties in connection with the exactness of the square footage of the Residence to be constructed, which such information is only approximated and is believed to be accurate, it is subject to verification by the Buyer based upon the receipt of an appraisal report as Buyer may choose to have performed prior to Settlement.
9. **Delays in Construction.** If Seller is delayed at any time in the progress of construction by (i) any act or neglect of Buyer; (ii) written Change Orders; (iii) shortages of materials, adverse weather conditions, or delays in transportation which were not reasonably anticipated; (iv) shortages or delays in labor or (v) acts of God, Seller shall give as much notice as possible of the delay to Buyer and the time for Substantial Completion of construction of the Residence and the Settlement Date shall be extended by a reasonable time to account for the delay(s) experienced. BUYER ACKNOWLEDGES AND UNDERSTANDS THE IMPORTANCE OF COOPERATING FULLY WITH SELLER IN ORDER TO HELP EXPEDITE THE CONSTRUCTION OF THE DWELLING AND TO AVOID OR MINIMIZE ANY DELAY IN SETTLEMENT, INCLUDING BUT NOT LIMITED TO TIMELY COMMUNICATION OF ANY REQUESTED CHANGES IN THE CONSTRUCTION OF THE DWELLING. SELLER RETAINS THE RIGHT, AT SELLERS SOLE DISCRETION, TO SUBSTITUTE MATERIALS FOR SIMILAR ALTERNATIVES OR COLORS DUE TO MATERIAL SHORTAGES.
10. **Customer Visitation Policy.** (a) Any site visits to the Property during construction must be scheduled in advance with Seller to ensure Seller or Seller's representative is available to be on site. (b) Buyer must be accompanied by Seller or Seller's representative while the residence is under construction at all times. (c) If there are contractors working in or at the residence (ex. framers, roofers, plumbers, etc.) – do not enter the site. (*Contractors have been instructed to stop working while clients are in the residence so any unscheduled visits may cause unwanted delays in construction.*) (d) Protective safety equipment may be required before you enter the residence to satisfy OSHA requirements (ex. hard hats, safety glasses, etc.) (e) Our vendors and contractors have been instructed specifically by Seller not to take instructions, other than directly from Seller. ***** Any items that are of concern to Buyer must be directed to Seller and documented in writing.** (f) Buyer hereby agrees to indemnify and save Seller, its directors, officers and agents, harmless from any and all liability, loss, damage, claim, injury or expense which might arise out of Buyer's access or visits to the Property. (g) Final walkthrough will take place only after issuance of CO unless otherwise determined by Seller at the sole discretion of Seller.
11. **Unrecorded Plat.** (a) Attached hereto and/or incorporated herein by reference is a final or preliminary plat showing the Property. In the event plat is preliminary, (b) Buyer acknowledges that a final subdivision plat describing the Property has not been recorded or approved at the time of execution of the Agreement, that no governmental body or Seller will incur any obligation to Buyer with respect to the approval of the final plat, and that changes to the preliminary plat to obtain approval of the final plat are possible. (c) Seller makes no guarantees of approvability and is not liable for changes to regulatory rules, alternate interpretation of regulations by regulators or acts of God that may impact approvability or lack thereof of the primary dwelling or ancillary improvements referenced in section (12d).

12. Right to Terminate. The parties acknowledge that this is a Fixed Price Construction Contract pursuant to which Seller is to construct a dwelling on the Property for the agreed Purchase Price.

- (a) Due to Covid-19 and other causes, the prices of materials have significantly increased over the past few months and the Purchase Price set forth in the Purchase Agreement was based on the costs of materials at the time this Purchase Agreement was signed.
- (b) In the event that material costs increase from the date this Purchase Agreement is signed to the date construction is to begin, Seller shall have the right to terminate this Purchase Agreement and will return to Buyer any Deposit paid. Once terminated, neither party shall have any further rights hereunder except Buyer's right to the Deposit.
- (c) Seller shall not be required to provide to Buyer any documentation of any price increases, but may, at Seller's option, provide Buyer with a revised price of construction, which Buyer may accept with a change order signed at that time.
- (d) Seller's right of termination shall exist until the Certificate of Occupancy of the dwelling is issued, notwithstanding that Seller has obtained all required permits.
- (e) At such time of Certificate of Occupancy issuance noted above, then Seller shall proceed with the Closing for the Purchase Price set forth in the Purchase Agreement and this right of termination shall expire.
- (f) If Buyer intends to obtain a loan for all or any portion of the purchase price, Buyer shall use Buyer's best efforts, immediately following complete execution of the Purchase Agreement and this Addendum, to secure a lender's customary loan commitment letter and to satisfy all terms and conditions of the loan commitment letter at least sixty (60) days prior to the Settlement Date. Buyer shall notify Seller, in writing, of the receipt of such loan commitment within five (5) days following issuance thereof. Seller may request in writing from Buyer a copy of the loan commitment letter, or letters if multiple letters are determined to be needed at Seller's discretion. If Buyer fails to provide Seller a copy of the loan commitment letter or a written waiver of the loan condition, including proof of funds if requested, within five (5) days of receipt of Seller's request, Seller may terminate the Purchase Agreement by written notice to Buyer at any time thereafter, provided Seller has not then received a copy of the letter or the waiver.

13. Miscellaneous Provisions.

- (a) The Property is a townhouse or a residence within a Planned Unit Development, or other subdivision governed by a homeowner's association, or otherwise subject to a Declaration of Restrictive Covenants. Title to the Property will be conveyed subject to such Declaration, By-Laws, homeowners' association Articles of Incorporation, restrictions and other documents governing the use and maintenance of common property, and to the extent applicable, the use and maintenance of the Property. Buyer will be obligated to pay homeowners' dues and/or assessments (which are currently set at \$ _____ per month) and such homeowner's dues and assessments will be prorated as of the date of Closing. Upon Closing, Buyer will automatically become a member of the homeowners' association, agrees to hold the Property subject to the Declaration, By-Laws, Articles of Incorporation, restrictions and other documents, and shall be liable for future homeowners' dues and/or assessments set by the homeowners' association. Buyer acknowledges that Seller is not responsible for construction or maintenance of any amenities in the Planned Unit Development or other development, subdivision or neighborhood in which the Property may be located, and that any issues relating to such amenities are the responsibility of an entity other than Seller.
- (b) The Purchase Agreement and this Addendum may be assigned by Seller or Buyer without the prior written consent or approval of the other party, however no such assignment shall relieve the assigning party of its obligations under the Purchase Agreement or this Addendum, unless otherwise provided in writing.
- (c) The Purchase Agreement and this Addendum (including any documents incorporated herein by reference) embodies the entire agreement between the parties and no prior or subsequent agreements or representations shall be binding upon either party, unless hereafter reduced to writing and signed by all parties to the Purchase Agreement. No agent or representative of Seller is authorized to make any representation, agreement or promise on behalf of Seller other than the signatory to the Purchase Agreement and this Addendum, and the parties hereto agree and acknowledge that there are no oral agreements, representations, or promises which have been made by or on behalf of Seller.
- (d) Buyer acknowledges that any improvements illustrated on referenced plot may require separate regulatory approvals or permits. Pools, sheds, sundecks, beach walkways or any other structures not attached to the primary dwelling are subject to change of size, location, specification or omission at builders' discretion as needed to obtain approvals (or lack thereof) or complete development. Buyer acknowledges that completion of such improvements are independent of the primary residence and may survive closing. In no event shall delays in completion or denial of approvals of additional improvements from regulatory approvals/permitting or any other event outlined in section 8 prevent closing on the primary dwelling at the terms set forth in the original Offer to Purchase.
- (e) Buyer acknowledges that Seller may, at its discretion, hold title to the property under a subsidiary or different legal entity. Buyer agrees to make all earnest money deposits, due diligence deposits, builder deposits or upgrade proceeds

payable directly to Sellers's building entity (Capital Asset Topsail Development LLC) as per this agreement, via check or wire transfer instructions provided by Seller.

- (f) Closing attorney shall be Dewey Edwards, Jr. of Gaylor Edwards & Vatcher, P.A., PO Box 1057, 219 New Bridge Street, Jacksonville, NC 28540 and can be reached at (910) 455-9494.
- (g) To the extent there are any conflicts between the Purchase Agreement, Purchase Addendums, or Addendum 1-A, the terms in Addendum 1-A shall serve as the prevailing document.

14. Dispute Resolution.

- (a) Seller and Purchaser agree that all disputes between the parties to this Purchase Agreement arising out of or related to the terms and conditions hereof, or any breach or alleged breach of this Purchase Agreement that cannot be resolved by the parties will be first submitted to a mediation conference with a certified mediator acceptable to each party.
- (b) Claims not resolved by mediation shall be decided by arbitration unless the parties otherwise mutually agree in writing. Unless the parties mutually agree otherwise, the arbitration shall be in accordance with the operative sections of the North Carolina Revised Uniform Arbitration Act (Article 45C of Chapter I of the North Carolina General Statutes), or its equivalent or successor statute then in effect, and shall be engaged when either the Seller or the Purchaser delivers written notice of demand for arbitration to the other party consistent with N.C. Gen. Stat. §1-569.9.
- (c) A demand for arbitration shall be made within a reasonable time after the claim has arisen and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim would be barred by the applicable statute of limitations or statute of repose.
- (d) The party serving a notice of demand for arbitration must assert in the demand all claims then known to that party on which arbitration is permitted to be demanded.
- (e) Any arbitration arising out of or relating to this Purchase Agreement may include, at the option of either party, any additional person or entity affected by or having any interest in any claim, dispute, or other matter in question arising out of or relating to this Purchase Agreement, or to performance of any obligation which is the subject of this Purchase Agreement.
- (f) The parties will attempt to reach agreement on one arbitrator to conduct the arbitration and resolve all claims and counterclaims arising from or related to the demand.
- (g) If the parties cannot agree on a single arbitrator within thirty (30) days Of the receipt of written notice of demand, either party may petition the North Carolina Superior Court, New Hanover County, to appoint the arbitrator pursuant to N.C. Gen. Stat. §1-569.11.
- (h) The exclusive venue for the Arbitration proceedings shall be New Hanover County, North Carolina.
- (i) The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.
- (j) All fees and expenses for administration of the mediation and the arbitration shall be divided and borne by the parties equally. However, each party shall bear the expense of said party's own counsel, experts, witnesses, and preparation and presentation of proofs. Only in the case of extreme abuse of the procedure may the arbitrator reallocate such costs and expenses among the parties or award attorneys' fees.

Read and agreed to:

Buyer

(Date)

Buyer

(Date)

Capital Asset Topsail Development, LLC - Seller

By: _____
Name & Title:

(Date)