

AMERICAN HOMESMITH NC, LLC. - New Construction Addendum

****In the event of conflicting language between the Offer to Purchase and Contract and the New Construction Addendum, this Addendum shall always take precedence.****

1. Construction of Property:

(a) American Homesmith NC, LLC (“Seller”) reserves the right to make any changes or substitutions as Seller deems necessary or desirable in the plans and specifications, construction, materials, fixtures, and other integrals which are of substantially equal quality and utility and which meet the approval of the lender, the VA/FHA, and the appropriate local governmental authorities having jurisdiction. Seller covenants that all work to be performed shall comply with all local requirements for building permits, inspections, and zoning.

(b) Options selected by Buyer at time of contract shall be set forth on the Options/Upgrades Addendum B, attached. Unless conceded in the Purchase Price in paragraph 1(d) of the Offer to Purchase and Contract, all Upgrade Cash Options must be paid for and submitted to the Seller within ten (10) days of Contract execution or contingency removal. Any Upgrade Cash Options or additional work authorization not paid for within these ten(10) days will no longer be considered part of this Agreement. All Upgrade Cash Options paid to Seller are non- refundable. Any subsequent Options selected by Buyer and Seller shall be documented by a Change Order. Any subsequent Change Order listing options shall become part of this Agreement and shall state the method of payment for the options. Buyers acknowledge they have been advised of any options that may be changed at this point in construction. (see Hybrid Sales Addendum if home is currently under construction)

(c) Options that are normally “Cash Options” may be financed provided the loan limit is not exceeded and the appraised value is sufficient. In these instances Buyer agrees to pay Seller in full for all upgrades within ten (10) business days of completing selections and seller agrees to revise the total purchase price to include this amount, which will be reflected as a Builder Deposit on page 1 of the Offer to Purchase and Contract. In the event home doesn't appraise for the full, revised purchaser price, Buyer is responsible to pay shortage from the Builder Deposit. Any and all deposits in excess of balance due will be credited to Buyer at closing. In the event home appraises for the full, revised purchase price or more, the entire amount of Builder Deposit will be credited to Buyer at closing. In the event Seller collects a deposit from Buyer for financed cash options and Buyer DOES NOT CLOSE FOR ANY REASON, all parties agree that this deposit is non-refundable.

(d) **EXECUTION OF THIS NEW CONSTRUCTION ADDENDUM BY BUYER GIVES LENDER PERMISSION TO PROVIDE SELLER WITH A COPY OF THE BUYER(S) APPRAISAL** no later than date of closing. Buyer also authorized Lender to discuss with Seller or Seller’s agent details of the loan with regards to status of approval and closing.

(e) Trees/Grass: Seller reserves the right in its discretion to leave or remove any trees required for the completion of improvements on the Property. Seller disclaims any obligation to maintain, repair, or guarantee the health of any tree or shrub after the date of settlement. Buyer agrees that the grade of the property may be altered from the original grade during construction of the home in accordance with grading plans approved by the appropriate governmental authorities. Seller does not guarantee the germination of grass seed.

(f) An initial walk-through with the Seller's representative is required a minimum of 12 business days prior to Settlement Date and must be scheduled in advance between the hours of 10:00am - 3:00pm Monday - Thursday. Buyer understands the walk-through is to be conducted between the Seller's representative and ALL persons named on the purchase contract. No stand-ins or absentees allowed unless ALL buyers sign a waiver. Any defects agreed upon by the Seller's representative will be itemized on the Exception Report and substantially corrected prior to Settlement Date. Any defects that cannot be resolved prior to Settlement Date will be corrected within 45 days of Settlement, unless otherwise specified. Exception Report Repair items shall not delay Settlement.

(g) Any model home or sitting spec is shown for illustrative purposes only, and such display shall not constitute an agreement or commitment on the part of the Seller to deliver the Property purchased in exact accordance with any model or spec home. Details, features and finishes may be modified, added or deleted at Seller's sole discretion, therefore the current plan may vary slightly from a finished home as seen by buyer. Upgrades are sometimes added during construction, therefore, Buyers are to be reminded that the items they see in standing homes may NOT be standard items for their new home. None of the furnishings displayed in any model home are included in this Contract unless Seller specifically agrees in writing to deliver same as part of the Purchase Price.

(h) In the event that Buyer and Seller are unable to reach a mutual agreement on the resolution of any issue related to the construction and/or purchase of the property herein described, the Seller, in his sole discretion, may declare this agreement null and void and all earnest money (NOT builder deposit or due diligence fees) shall be refunded. It is further agreed that in the event the Seller invokes his rights under this clause, the Seller shall pay the Buyer the sum of One hundred dollars (\$100) which shall constitute the sole and total damages of any type to which Buyer is entitled.

(i) Selection - Depending on the construction status of the Property, the Buyer may have the opportunity to choose certain options from the Sellers selections. However, as construction progresses the home will reach several milestones, stages at which certain options are no longer available. Please see the HYBRID SALES ADDENDUM to determine at what point certain items may be changed. In cases where changes may still be allowed, the Buyer (or Buyer's Agent) will contact the Design Coordinator, Lindsey S. Kinton at lsmith@americanhomesmith.com within 3 days of execution of contract for a selection appointment. Failure to contact American Homesmith to schedule this appointment may result in some or all selections being made by Seller, as construction on-site will continue. ALL SELECTIONS MUST BE FINALIZED WITHIN 15 BUSINESS DAYS FROM EXECUTION OF CONTRACT. Seller reserves the right to decline any or all change order requests. Once selections have been finalized additional change order requests will be subject to a \$250 fee in addition to the cost of the upgrade item. Buyer will pay for all upgrades and applicable change order fees in FULL within ten (10) days, otherwise Seller will revert to original selection options and upgrade items will not be ordered or installed. PLEASE NOTE: all upgrade fees are non-refundable and will be reflected as "builder deposit" on the contract.

(j) Marketing Materials - All inquiries regarding the house and related improvements to be constructed on the property by Seller must be directed to Listing Agency/Agent (including contracts, floor plans, etc.). Any requests or answers received from any other source (site workers, etc.) WILL NOT be acknowledged by or binding upon Seller or Listing Agency/Agent. Floor plans vary with regard to square footage and details; photos, drawings and floor plans used in marketing are artist renderings or similar homes and are NOT to be considered 100% representative of actual constructed homes.

2. **Wetlands Disclosure:** Buyer(s) acknowledges that they have been informed that jurisdictional 404 Wetlands may have been identified by the U.S. Army Corps of Engineers on the Property they are purchasing and/or within the subdivision in which the Property they are purchasing is located. The Buyer(s) further acknowledges that they have reviewed the recorded plat of the subdivision in which the Property they are purchasing is located, if any, and are aware of the impact of the 404 Wetlands and its effects upon the Property, if any. They also acknowledge if they have any additional concerns about the said 404 Wetlands area, its effects upon the Property they are purchasing and/or any and all restrictions on the use of property designated as "wetlands" or "404 Wetlands," they must independently investigate said matters with the U.S. Army Corps of Engineers or any other entity governing same.

3. **Site Visits:** Buyer or Buyer's Agent shall NOT visit the job site without notice to Seller or Seller's Agent. Buyers shall not visit the job site between 6:00 AM and 6:00 PM weekdays, UNLESS accompanied by the Buyer's Realtor or Seller's representative. Any visit to construction site shall be at Buyer(s) **OWN RISK**. Seller, Seller's representative nor Seller's agents shall be responsible for injuries or damages incurred and are hereby released from liability. Buyers shall NOT perform work on the house or lot while the home is under construction.

Buyer Initials Buyer Initials

4. **Community Covenants and Restrictions:** Buyer acknowledges receipt of Restrictive Covenants, if any, affecting the Property.

Buyer Initials Buyer Initials

5. **Home Inspections:** The Buyer is welcome to independently obtain a home inspection at their sole expense. If the Buyer elects to obtain a home inspection they must coordinate the time of said inspection with the Seller and shall maintain responsibility for the home inspector's activity while in the home. Any home inspection obtained by the buyer shall be completed and any requested repairs delivered to the Seller in writing a minimum of Two (2) business days prior to the Orientation and Walk Through. **Delays in Settlement MAY occur if Buyer requests repairs less than Seven (7) business days prior to Settlement.**

6. **Buyers Failure to Comply:** If the Buyer(s) fails to comply with any of the Buyer's Obligations under this Contract or defaults or breaches the terms of the Contract (including attached Addendums), the Seller may either:

(a) Terminate the Contract and have the earnest money delivered to Seller as liquidated damages, or

(b) Treat this Contract as being in full force and effect, and institute an action for monetary damages and/or specific performance. Anything to the contrary herein notwithstanding, in the event of any litigation arising out of this Contract due to non-performance, breach or default by the Buyer, the Buyer shall pay all Seller's expenses of said action including attorney fees, court costs and litigation expenses. If Seller is in default the sole remedy of the Buyer is to terminate the contract and receive a refund of the earnest money deposit less any costs or fees applied toward lender required advance payments

(c) **Access to Property:** Upon receipt of Certificate of Occupancy, Seller shall provide reasonable access to the Property (including working, existing utilities) through date of Settlement or possession by Buyer, whichever occurs earlier. Buyer, Buyer's agents and contractors shall have the right to enter upon the Property for the purpose of appraising and evaluation of the Property and performing the test and inspections permitted in this Contract, provided they give reasonable notice to the Seller. Buyer shall, at Buyer's expense, promptly repair any damage to the property resulting from any activities of Buyer, Buyers' agents or contractors. Buyer will indemnify and hold Seller harmless from all loss, damage, claims, suits or costs which shall arise out of any contract, agreement, or injury to any person or property as a result of any activities of the buyer, Buyer's agents or contractor relating to the Property. This repair obligation and indemnity shall survive this contract and termination hereof.

7. **Survey:** The Seller does NOT provide a final survey. However, one can be obtained from Seller's surveyor for a fee of \$500.00. Payment will be collected at closing and the survey will be delivered to closing attorney. REQUEST FOR SURVEY MUST BE MADE TO SELLER(not attorney). Buyer is not required to use Seller's vendor and may contract with the vendor of Buyer's choice. **Should Seller order a survey on Buyer's behalf for a fee of \$500? Yes _____ No _____**

8. **Warranty:** Seller will provide a 6 year structural warranty from RESIDENTIAL WARRANTY COMPANY, LLC. (RWC) at a cost to be determined and paid for by Seller at Closing. Buyer acknowledges receipt of warranty booklet at or within 3 days of Settlement. Seller reserves the right to substitute with an equivalent warranty.

Validation of the Warranty is not guaranteed, but is conditioned on the satisfactory completion of any required inspections, upon Seller's compliance with all of RWC's enrollment procedures, and upon Seller remaining in good standing in the RWC Program. Purchaser understands and agrees that if the above Warranty is validated, it is provided by the Seller in lieu of all other warranties, verbal agreements or representations to the extent permitted by law; and Seller makes no warranty, express or implied, as to quality, fitness for a particular purpose, merchantability, habitability or otherwise, except as is expressly set forth in the Program or as required by law. Purchaser understands and agrees the warranties of all appliances and other consumer products installed in the home, detached garage, commercial building or remodeling project are those of the manufacturer or supplier and same are assigned to Purchaser, effective on the date of closing or completion of the home, detached garage, commercial building or remodeling project. In any event, Seller shall not be liable for any personal injury or other consequential or secondary damages and/or losses which may arise from or out of any and all defects. Except for purchasers of FHA or VA financed homes, Purchaser acknowledges and understands that the Warranty includes a provision requiring all disputes that arise under the Warranty to be submitted to binding arbitration.

This is not a warranty as to cosmetic appearance beyond those agreed to by the parties and noted in writing at the walk through and does not include those cosmetic items not noted at time of final inspection by the Buyer prior to occupancy. This warranty does not include a warranty against damages to the premises occurring after closing as a result of Buyer's negligence including, but not limited to: frozen pipes, frozen hose bibs, plants or tree damage due to the elements. In addition, cracks in concrete are specifically excluded from this warranty except as set forth in the American Homesmith NC, LLC warranty notebook provided at time of walk through. All disputes and controversies of every kind and nature between the parties to this Warranty shall be submitted to arbitration as outlined in the Warranty information. Seller shall assign and deliver to Buyer at closing all guaranties and warranties of all components comprising the Property to the extent the same are assignable.

9. Taxes and Fees: Notwithstanding anything in the Offer to Purchase and Contract to the contrary, Buyer shall pay at closing any state and county excise tax due upon recording of deed. Buyer shall also pay any fees charged by the owners association or management company in connection with the transfer of property to a new owner (including but not limited to any working capital contribution, new owner set up fee, transfer fee, demand statement fee, statement delivery fees, statement of account, etc.) **BUYER IS ADVISED TO NOTIFY LENDER IMMEDIATELY as these fees impact closing costs.**

Buyer Initials

Buyer Initials

10. Delay in Settlement Closing:

(a) The anticipated target Settlement Date shall be on or before _____

as set forth in paragraph 1(n) of the attached Offer to Purchase and Contract OR within Seven (7) days following issuance of the "Certificate of Occupancy" (the "CO") for the house and notification to Buyer, and/or Buyer's agent, whichever occurs later. Acceptable forms of communicating "CO" notification shall be: oral notification, in person or by telephone, email or facsimile. The construction completion advisory dates issued by Seller or Seller's agent are an estimate based upon Seller's experience and are ONLY APPROXIMATE. The Settlement Date specified in the Offer to Purchase and Contract is a TARGET date ONLY and may alter in accordance to construction production scheduling. In the event Buyer(s) fails to close the purchase of the property within seven (7) days following "CO" notification, the Seller may, at Seller's option, declare this Agreement null and void and thereupon Seller shall return to Buyer any earnest money deposits as outlined in paragraph 1(h) hereof, and Buyer's and Seller's right shall cease and terminate without further liability on the part of either party.

(b) The closing will be conducted by and at the offices of Attorney: _____.

Please note: Seller has negotiated a reduced settlement fee with the Law Office of Eugene B. Davis to close Seller's home sales to its clients and, in connection therewith, to close the mortgage loans of Seller's clients. If Buyer wishes to employ another attorney they may do so, and Buyer understands he/she will be responsible to pay the full settlement fee charged by such attorney. In any event, this transaction shall close in the offices of an attorney, licensed to practice in the State of North Carolina, who is not paid by or participating with a title insurance company or settlement company to achieve paid closing. No settlement service company or title insurance company shall perform paid closing.

BUYER: _____ Date: _____

BUYER: _____ Date: _____

SELLER: **American Homesmith NC, LLC.**

BY: _____ Date: _____

ADDENDUM B

Please indicate N/C (no charge) if cost of item is conceded in the purchase price in paragraph 1(d) of the Offer to Purchase and Contract. Otherwise, TOTAL below will require Advance Payment as outlined in paragraph 1(c) of the New Construction Addendum.

OPTIONS (at time of Contract - i.e. sunroom, screened porch, 3 car garage, etc.)

Buyer Initials Seller Initials

1)	_____	\$	_____	_____	_____
2)	_____	\$	_____	_____	_____
3)	_____	\$	_____	_____	_____
4)	_____	\$	_____	_____	_____
5)	_____	\$	_____	_____	_____

UPGRADES (at time of Contract - i.e. level 2 granite, ORB fixtures, tile backsplash, etc.)

1)	_____	\$	_____	_____	_____
2)	_____	\$	_____	_____	_____
3)	_____	\$	_____	_____	_____
4)	_____	\$	_____	_____	_____
5)	_____	\$	_____	_____	_____

TOTAL: \$ _____