

**BUILDER'S ADDENDUM TO  
PURCHASE AND SALE AGREEMENT**  
(Use with NWMLA Form 21)

THIS BUILDER'S ADDENDUM between \_\_\_\_\_ ("Buyer") and MASTON PROPERTIES & CONSTRUCTION, LLC, a Washington Limited Liability Company ("Seller"), is an addendum to a Real Estate Purchase and Sale Agreement dated this \_\_\_ day of \_\_\_\_\_, 20\_\_, between Buyer and Seller (the "Purchase and Sale Agreement") relating to \_\_\_\_\_ ("Lot/Address") and the improvements (the "Improvements") to be constructed upon this Lot/Address (together, the Lot/Address and the Improvements are hereafter referred to as the "Property"). The Property is legally described on Exhibit A. Except as specifically set forth herein, this Builder's Addendum shall be in addition to and not in lieu of the provisions set forth in the Purchase and Sale Agreement or NWMLS Form 21.

1. **CLOSING DATE.** Assuming all contingencies to the Purchase and Sale Agreement have been satisfied or waived, this transaction shall close within seven (7) days after substantial completion of, and issuance of a certificate of occupancy for, the Property (the "Closing Date"); provided that if Buyer does not close on or before the Closing Date, (a) Buyer may extend the Closing Date up to a maximum of twenty (20) days at a cost of \$150 per day (beginning on the seventh (7<sup>th</sup>) day following substantial completion of, and issuance of a certificate of occupancy for, the Improvements), and (b) in all events the Closing Date shall occur on or before \_\_\_\_\_, 20\_\_ (the "Outside Date"), unless the Outside Date is extended by Seller up to 90 days by written notice to Buyer (the "Termination Date"). In no event shall the Termination Date, as it may be extended, be more than 24 months after the date of the Purchase and Sale Agreement. In the event Seller defaults under the Purchase and Sale Agreement, Buyer shall have the remedies provided in the Purchase and Sale Agreement. In the event Buyer defaults under the Purchase and Sale Agreement (*i.e.* Buyer fails, without legal excuse, to complete the purchase of the Property), then that portion of the Buyer's earnest money deposit which does not exceed 5% of the purchase price shall be forfeited to the Seller as the sole and exclusive remedy available to Seller for Buyer's default. If, in connection with Buyer's default, there is a dispute over whether Buyer's earnest money deposit shall be forfeited to Seller, Seller may sell the Property to a third party free and clear of any claim by Buyer. Buyer shall have no right to a Lis Pendens against the Property.

Buyer Initials: \_\_\_\_\_  
Seller Initials: \_\_\_\_\_

2. **BUYER'S ACCESS PRIOR TO CLOSING.** Prior to closing, Seller or Seller's agent must accompany Buyer whenever Buyer inspects or visits the Property. Only employees and contractors of Seller, acting pursuant to written instructions of Seller, are authorized to work on the Property prior to closing. Buyer shall request access with Seller's agent at least twenty four (24) hours prior to any inspection or visit of the Property.

3. **SPECIFICATIONS; MODEL HOME; ARTIST'S RENDERING.** The floor plan of the Improvements is attached to this Builder's Addendum. Seller may offer Buyer two or more packages for interior finishes, relating primarily to surface colors and designs, materials and layout. From the delivery to Buyer of the options for interior finishing packages, Buyer shall have \_\_\_\_\_ days to deliver to Seller its written notice of the package it has selected as a whole without modification and with no change in the Purchase Price. Buyer may not make alterations from the choices provided by Seller without a Change Order. Buyer's selection shall be non-revocable and shall be attached to this Agreement as an addendum. Buyer's failure to timely deliver notice of its selection shall be a waiver of its right to do so and Seller shall be authorized to make a selection in Buyer's stead. Seller shall construct the Improvements substantially in accordance with that floor plan and those specifications, provided that Seller reserves the right to make changes to the plans and specifications for appliances and finishes to accommodate Seller's changes made during the design and construction process, or to substitute materials or other items, so long as the

Buyer Initials: \_\_\_\_\_/\_\_\_\_\_

Improvements constructed do not substantially differ from that described on the attached floor plan, and the appliances and finish specifications do not differ in terms of their overall size, function and appearance. Seller does not represent or warrant to Buyer that any materials, fixtures, equipment, appliances, finishes, design or other items in the sales center or in any model home viewed by Buyer will be identical to the construction of the Improvements; and Buyer may only rely on those items set out in that floor plan and the specifications for appliances and finishes (as they may be amended by Seller from time to time) with respect to the Improvements. Furthermore, Buyer acknowledges that the artist's rendering of the Improvements or the Property on any promotional materials is an artist's impression of architectural elevation drawings and should not be considered as an accurate representation.

4. NOISE; VIEWS; NEIGHBORHOOD DEVELOPMENT. Buyer acknowledges that Seller makes no representation or warranty as to any sounds audible within the Improvements or Property which may arise from activities outside the Property. Buyer further acknowledges that Seller makes no representation or warranty that the view from the Property, as of the date the Purchase and Sale Agreement is signed or as of closing, will not be obstructed or changed in whole or in any part at any time in the future. Buyer acknowledges that Seller undertakes no obligation to investigate or disclose real estate developments in the area that are possible, planned, permitted or under construction, nor does Seller undertake any duty to protect views. This means that even though Seller may know of developments that could affect views, Buyer acknowledges that Buyer is not relying on Seller to disclose such developments, and Buyer acknowledges that Buyer is releasing Seller from any duty Seller might otherwise have to disclose such developments known to Seller.

5. BUYER'S WALK-THROUGH INSPECTION. Upon three (3) days' notice from Seller's Customer Service Representative that the Improvements are ready for inspection, Buyer will inspect the Improvements with a designated agent of Seller and accept the Improvements as constructed subject only to any Punch-List items. Buyer may be accompanied by Buyer's real estate agent, but no others shall be permitted to attend the walk through. Seller shall not be responsible for any damage or injuries caused by Buyer's lack of knowledge or understanding of the components of the Unit or home therein. Buyer is strongly advised to read any printed material, notices or warnings on any equipment, appliances, smoke detector, and all other mechanical devices within the home prior to Closing. Buyer should make sure all heating, electrical, and plumbing workings of the home have been reviewed and understood at the time of walk through inspection with Seller's Representative. All Property and Improvements are inspected by local authorities and must receive a certificate of occupancy or final inspection prior to closing, certifying that the Property and Improvements meet or exceed current laws or codes. Therefore, the purchase of the Property shall not be conditioned upon an independent inspection. The Buyer may, at Buyer's expense, have the Improvements inspected but the Seller shall not be bound in any way to the findings of Buyer's inspection. Buyer agrees to close this sale if the Improvements are substantially completed even though mutually agreed upon defects, "Punch-List" items and similar work remain to be corrected and completed by Seller after Closing. Buyer's failure to participate in the inspection shall constitute Buyer's acceptance of the Punch List as determined by Seller or Seller's representative. Seller shall complete the items on the Punch List after Closing. Buyer acknowledges that construction will also continue on the adjacent properties, which may cause some inconveniences to Buyer. Buyer further acknowledges that alterations of the Property and Improvements by Buyer are governed in part by any covenants, codes, restrictions or easements, articles of incorporation, bylaws or rules and regulations of the Homeowners Association and other governing documents, as they may change from time to time.

6. LIMITATION OF WARRANTIES. Buyer agrees that the limited warranty arising out of this Purchase and Sale Agreement will be as set forth in the 2-10 Home Buyers Warranty ("2-10 HBW") written limited warranty provided by Seller. Seller agrees it shall provide to the Buyer, at Seller's expense, a Limited Warranty Agreement to be issued by 2-10 HBW. Buyer acknowledges that Buyer has received and has been given an opportunity to review a sample of the 2-10 HBW Booklet including, but not limited to, Section VIII – Exclusion (pertaining to the Limited Warranty.) Buyer has had the opportunity to seek and obtain the aid of legal and financial

advisors as deemed appropriate by Buyer. It shall be Buyer's responsibility to notify Seller if these documents are not supplied in their entirety. Buyer shall have seven (7) days from receipt of the 2-10 HBW Booklet to accept or to reject the terms of the Limited Warranty, provided that, if Buyer rejects the Limited Warranty, this Purchase and Sale Agreement shall be null and void and Buyer shall receive a refund of Buyer's earnest money. If Buyer does not notify Seller that it rejects the 2-10 HBW Limited Warranty, then Buyer shall be deemed to have accepted said Limited Warranty and the purchase and sale of the Property pursuant to the Purchase and Sale Agreement and this Addendum shall proceed to Closing as specified herein.

Buyer acknowledges and agrees that Seller has made no representations and provides no warranties other than those set forth in the 2-10 HBW Limited Warranty. There are no other agreements, representations or warranties, expressed or implied, that have been made part of the Purchase and Sale Agreement or the transactions contemplated thereby, except as set forth in the 2-10 HBW Limited Warranty, the Purchase and Sale Agreement and this Addendum. Plans and Specifications provided to Buyer are not to be construed as a guarantee of any performance as noted in any portion of the Purchase and Sale Agreement. All other express or implied warranties, including any oral or written statements or representations made by the Seller of the home, or any other person, and any implied warranty of habitability, merchantability or fitness, are hereby disclaimed by the Seller and are hereby waived by the Buyer. In addition, Buyer waives the right to seek damages or other legal or equitable remedies from Seller, Seller's subcontractors, agents, vendors, suppliers, design professionals and material men, under any other common law or statutory theory of liability, including but not limited to negligence and strict liability. The only remedy of Buyer in the event of defect in or to the home or in or to the real property on which the home is situated is the coverage provided under the 2-10 HBW Limited Warranty. Buyer agrees that all requests for warranty performance must be made in writing as set forth in the 2-10 HBW Limited Warranty. This waiver shall not be applicable to any express written warranty issued by the manufacturer of any appliance that is included in the home. Buyer acknowledges this limitation of remedy is integral to Seller's acceptance of the terms of this Purchase and Sales Agreement, and Seller would not have accepted this Purchase and Sale Agreement without Buyer's agreement as set forth herein.

The disclaimer and limitation of warranties as set forth herein is in lieu of any other right, claim or liability founded in law or equity, including without limitation damages or injuries of any kind whether they be to property or person, direct, incidental or consequential, arising out of all aspects of the Purchase and Sale Agreement. This limitation in remedy is binding on the Buyer, the Buyer's heirs, legal representatives, successors and/or assignees.

Buyer Initials: \_\_\_\_\_  
Seller Initials: \_\_\_\_\_

7. BINDING ARBITRATION AGREEMENT. It is hereby agreed that any and all claims, disputes and controversies by or between Buyer and Seller arising from or related to the subject home identified herein, or to any defect in or to the subject home or the real property upon which the subject home is situated, or the sale of the subject home by the Seller, including without limitation, any claim of breach of contract, negligent or intentional misrepresentation or nondisclosure in the inducement, execution or performance of any contract, including this arbitration agreement, and breach of any alleged duty of good faith and fair dealing, shall be submitted to binding arbitration by and pursuant to the rules of Construction Arbitration Services, Inc. in effect at the time of the request for arbitration, or by such other similar arbitration service as is mutually agreeable to the parties, and pursuant to the rules of that arbitration service in effect at the time of the request for arbitration. The decision of the arbitrator shall be final and binding and may be entered as a judgment in any State or Federal court of competent jurisdiction.

Further, the parties agree that although FHA/VA have requirements to the contrary or the provisions of the 2-10 HBW Limited Warranty, they have contracted to resolve all disputes by arbitration and should either party seek relief by any means of dispute resolution other than agreed arbitration procedure, including the commencement of litigation, then the party violating the agreement to use binding arbitration shall pay all reasonable attorney fees and costs incurred by the non-violating

party in seeking relief from such improperly commenced action, including fees and costs incurred in connection with any appeal. This obligation shall survive the closing of Purchase and Sale Agreement.

8. NOTICE REGARDING LITIGATION. CHAPTER 64.50 RCW CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST THE Seller OR BUILDER OF YOUR HOME. FORTY-FIVE DAYS BEFORE YOU FILE YOUR LAWSUIT, YOU MUST DELIVER TO THE Seller OR BUILDER A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE YOUR Seller OR BUILDER THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE BUILDER OR Seller. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT.

9. MAINTENANCE. Buyer agrees to comply with and perform any and all maintenance recommendations provided by any contractors working on the Property or any manufacturer, and any and all maintenance obligations provided to Buyer in connection with the sale of the Property. Buyer acknowledges and agrees that in the event Buyer fails to perform such ongoing maintenance, Buyer waives and releases Seller and contractor from any damage, loss, personal injury, claim or defect which was in whole or part caused by, resulted from, or otherwise arose from Buyer's failure to perform such ongoing maintenance.

Buyer Initials: \_\_\_\_\_  
Seller Initials: \_\_\_\_\_

10. PARKING/STORAGE. Each Property shall have an enclosed garage for parking of automobiles. There is no separate storage area for the Buyer's use.

11. ASSESSMENTS. Buyer shall pay at closing an amount equal to two (2) months' assessments, which will be treated as an initial contribution to the working capital of the Association plus, if assessments have commenced, a pro rata portion of the current month's assessment. If Seller has previously paid such contribution with respect to the Property, the escrow agent shall pay Buyer's contribution to Seller. Buyer acknowledges that the initial level of assessments is an estimate only which may be changed prior to and after closing. Seller may elect to pay all actual costs of the Association and delay commencement of monthly assessments. Buyer acknowledges that the initial level of assessments is based on a budget which is only an estimate of the future expenses of the Association and that they are subject to change before and after Closing.

12. REAL ESTATE TAXES. Real estate taxes shall be prorated between Seller and Buyer as of the date of closing. If real estate taxes have not been segregated among the various Lots within the development, by the time of Closing, the proration shall be based on Seller's allocation among the various Lots of the total non segregated taxes for the development. If during the year in which closing occurs, the real estate taxes due for that year are increased after closing because of completion of construction, any tax increase shall also be prorated as of the date of closing, provided that no adjustment shall be made unless the amount of the adjustment would exceed fifty (\$50) dollars.

13. COMPLETE AGREEMENT; REPRESENTATIONS: There are no other express or implied agreements, promises or representations except as set forth herein or in another document signed by Buyer and Seller. Buyer and all agents acknowledge that no agent has the authority to make, or has made, any agreement, promise, or representation on behalf of Seller and that Buyer may not rely on any representations or agreements that are not contained in this Addendum and the Purchase and Sale Agreement provided to Buyer. Statements on any flyers, brochures, renderings, advertisements or listing information, or representations made by any field superintendents, subcontractors and real estate agents, shall not in any way constitute representations made by Seller. Buyer agrees that no verbal representations shall modify this Addendum or the Purchase and Sale

Agreement and that the full understanding shall be limited to those written agreements together with any clarification made by Seller in writing.

14. ASSIGNMENT. Buyer may not assign Buyer’s rights under the Purchase and Sale Agreement without the prior written consent of Seller at Seller’s sole discretion. Seller may assign its rights under this Agreement to any person, including mortgagees, that become an owner of the property or Seller may pledge or hypothecate this Agreement, and Seller’s rights hereunder shall inure to any person who acquires title to the Property or Seller by foreclosure, deed in lieu of foreclosure or power of sale.

15. UPGRADES AND MODIFICATIONS. The Purchase Price is based on Seller’s standard color scheme for the Property’s floor plan, carpet, appliance and finish work specifications, as they may have been modified and agreed to by Seller and Buyer in a separate addendum at the time of entry into the Purchase and Sale Agreement. Any upgrades or modifications to Seller’s standard plans and specifications, other than those agreed to by Seller and Buyer in a separate addendum at the time of entry into the Purchase and Sale Agreement shall be addressed on a Change Order Amendment, if any, to the Purchase and Sale Agreement (the “Upgrades”). All Upgrades shall be at Buyer’s expense. Payment for the Upgrades shall be in the form of a non-refundable cash prepayment, known as an Interior Finish Option Payment, paid to the escrow agent for disbursement, upon request of Seller, to Seller or to Seller’s contractor, subcontractor or supplier prior to Seller placing orders for such upgrades and modifications. The Interior Finish Option Payment is not an earnest money deposit and is immediately non-refundable in any event. The amount of the interior finish upgrades shall be added to the Purchase Price in a Final Price Addendum and the Interior Finish Option Payment shall be credited to Buyer at Closing. In the event Buyer fails to close for any reason, including failure of Buyer to waive a contingency in the Purchase and Sale Agreement, the Interior Finish Option Payment shall be retained by Seller. Seller shall have no obligation to execute any additional changes after the initial Change Order Addendum(s) are mutually agreed upon. Any additional Change Order Addendum mutually agreed upon and executed after the completion of the design appointment and mutual approval of the initial Change Order Addendum will include a minimum administrative fee of \$250 per item in addition to costs of the upgrades or modifications. In the event Seller agrees to provide any Upgrades without Buyer’s payment of the Interior Finish Option Payment, then Buyer’s earnest money shall become non-refundable (other than for Seller’s default) at the time Seller agrees to provide such Upgrades.

16. OTHER PROVISIONS.  None.  As set forth below.

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17. DISCLOSURE STATEMENT. Buyer understands under Chapter 64.06 RCW they have the right to receive a property disclosure statement. Notwithstanding Buyer’s rights to receive said statement, Buyer hereby expressly waives all rights thereto.

18. TITLE COMPANY AND CLOSING AGENT/ESCROW COMPANY. The Title Insurance Company for this transaction shall be Pacific Northwest Title. The Closing Agent shall be Galvin Realty Law Group (contact person is Julie Banta), with an address of: 21907 - 64th Avenue West, Suite 200, Mountlake Terrace, WA 98043, and phone number of: 425.921.2035; and fax of: 425.712.1673. Seller reserves the right to change the title company and the escrow company at any time before closing upon notice to Buyer.

19. SURVIVAL OF PROVISIONS. The following provisions of this Builder’s Addendum shall survive closing: 3, 4, 5, 6, 7, 8, 9, 13, 19, and 24.

20. PREFERRED LENDER/BUYER BONUS/PREQUALIFICATION FOR LOAN: Buyer has the right to select any mortgage company of their choice.

Buyer shall deliver to Seller the lender's approval letter within ten (10) days of mutual acceptance of the Purchase Agreement. If Buyer is using the service of a mortgage broker to secure financing, then the approval letter must be from the underlying lender. A letter from a mortgage broker that is not the actual lender will not be accepted.

If Seller at any time determines that Buyer is unlikely to qualify for financing, Seller may elect to terminate by written notice to Buyer or Buyer's Agent. Upon such termination, Buyer's earnest money deposit shall be returned and this Agreement shall be null and void. Buyer also agrees to provide Seller with all relevant information and documentation on Buyer's loan and to instruct Buyer's lender to release to Seller or his agent any and all information relevant to Buyer's ability to qualify for said loan.

As set forth in paragraph 1 above, in the event Buyer fails to close on or before the Closing Date, Buyer may extend the Closing Date up to a maximum of twenty (20) days at a cost of \$150 per day. Seller understands that, if Buyer selects Preferred Home Loans (contact person is Daniel Martin – (425) 870-4663) as its lender and the transaction fails to close as a result of delays caused by Preferred Home Loans, then Preferred Home Loans will pay the \$150 extension fee to Seller on Buyer's behalf. Buyer should confirm this with Preferred Home Loans.

21. LENDER'S FEES: Seller shall pay no part of any fees connected with the Buyer's loan, including but not limited to, document preparation fees, underwriting fees, courier fees, computer fees, express mail fees, and/or miscellaneous fees, without the Seller's prior written approval. Buyer hereby agrees to pay all of Buyer's allowable fees and costs. If Buyer is financing this purchase with a VA or FHA insured loan, it is hereby agreed that Seller will only pay for the following loan and closing costs:

- a.) Real Estate Selling Commission
- b.) Any closing Costs agreed to in the Addendum "A"
- c.) Washington State Excise Tax
- d.) Standard Title Insurance as described in Paragraph 1
- e.) Seller's half of the Escrow fee
- f.) Builder's warranty registration fee
- g.) FHA/VA "Flood" certification

All other fees charged by Buyer's lender of choice shall be at the expense of Buyer or Buyer's lender of choice.

22. ONE BUYER'S SIGNATURE. Any and all amendments, addenda or exhibits to the Purchase and Sale Agreement signed by one Buyer shall be deemed authorized and approved by all persons who have signed the Purchase and Sale Agreement and this Builder's Addendum as Buyer.

23. SEWAGE CAPACITY CHARGES. All sewer capacity charges shall be assumed by the Buyer.

24. SEVERABILITY. In the event that any provision of this Addendum or the Purchase and Sale Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Addendum and Purchase and Sale Agreement shall continue in full force and effect without said provision; provided that no such severability shall be effective if it materially changes the economic benefit of this Agreement to any party.

25. ADDENDUM CONTROLS. The provisions of this Builder's Addendum shall control over any conflicting provisions of the Purchase and Sale Agreement or any other written document.

Seller:

Maston Properties & Construction, LLC, a  
Washington Limited Liability Company

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

Buyer:

By: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Dated: \_\_\_\_\_

## EXHIBIT A