

**Atlanta Fine Homes Sotheby's**  
*A Licensed Georgia Real Estate Brokerage Company*

**PURCHASE AND SALE AGREEMENT**

**FOR**

**AVALON**

**Row Homes Lots 12 - 16**

**MJH Homes, LLC**

This **PURCHASE AND SALE AGREEMENT** (“Agreement”) is made by and between **MJH Homes, LLC** (the “Seller”) and \_\_\_\_\_ (the “Buyer”), as of the Binding Agreement Date, as follows:

**1. Property.** The Seller agrees to sell and the Buyer agrees to purchase the real property, including the improvements thereto and structures thereon, described as follows: All that tract of land lying and being in Land Lots **802, 803, 804, 854, 853, 855, 1<sup>st</sup> District, 2<sup>nd</sup> Section of Fulton** County, Georgia, the current address of which is \_\_\_\_\_, being more particularly described as Lot \_\_\_\_\_, as recorded in **Plat Book 371, Page 40**, in the office of the Clerk of the Superior Court for **Fulton** County, Georgia, together with all buildings, fixtures, landscaping, improvements, and appurtenances thereon (the “Property”). The residence and related improvements, including the garage, now existing or under construction, or to be constructed, on the Property by the Seller are referred to herein as the “Home.”

**2. Plan Title And Specifications.** The Home’s Plan title is **Row Home** (the “Plan Title”), and the Home will be constructed [check the box beside either (a) or (b)]  (a) on an unfinished, stubbed-for-bath basement, or  (b) on a slab. The improvements to the Property shall be constructed substantially in conformance with the Specifications identified in Exhibit “A” and the Plan Title; provided, however, that the Buyer acknowledges and agrees that (a) specifications identified in Exhibit “A” supersede the plan title, (b) the Plan Title reflects standard plans representative of homes being built by the Seller in the Subdivision, (c) the Seller offers homes for sale in the Subdivision at various stages of completion and (d) the Seller may have modified the Home, as compared with the Plan Title or Specifications, before the Binding Agreement Date such that the as-built condition of the Home differs from the Plan Title or Specifications, or both, on the Binding Agreement Date. In the event of any inconsistency or differences between the Plan Title, the Specifications and the as-built condition of the Property on the Binding Agreement Date, the as-built condition of the Property on the Binding Agreement Date shall be deemed to supersede the Plan Title and the Specifications and govern as to the agreed-upon improvements to the Property on the Binding Agreement Date. The Buyer acknowledges and agrees that the Plan Title may indicate a reverse, or mirror image, of the Home under construction, or to be constructed, on the Property.

**3. Purchase Price.** The Buyer shall pay to the Seller at the Closing the “Purchase Price” of Dollars (\$ \_\_\_\_\_), as indicated on the Purchase Price Worksheet attached hereto as Exhibit “B,” subject to increases or decreases to the Purchase Price pursuant to the terms of this Agreement.

**3.1 Financing Contingency.** Yes; No. If checked (√) “Yes” this Agreement is subject to a financing contingency (if neither “Yes” nor “No” is checked, the financing contingency does not apply to this Agreement), and this Agreement shall terminate, and all Earnest Money shall be refunded to the Buyer, if the Buyer provides to the Seller (a) written notice within fourteen (14) days of the Binding Agreement Date that the Buyer cannot qualify to obtain a loan, based upon customary and standard underwriting criteria of lenders, in the principal amount of \_\_\_\_\_ percent ( \_\_\_\_\_ %) of the Purchase Price, with an interest rate at par of not more than \_\_\_\_\_ percent ( \_\_\_\_\_ %) per annum on the unpaid balance of the Purchase Price, to be paid in consecutive monthly installments of principal and interest over a term of not less than thirty (30) years and (b) a letter from the lender that denies the loan and states the basis for the loan denial. This financing contingency shall not apply if (a) the loan is denied, or Buyer becomes unqualified to obtain a loan, because the Buyer lacks sufficient cash to close excluding the amount of the loan, or (b) the Buyer intentionally makes or causes any material change in the Buyer’s financial or other condition after the Binding Agreement Date that precludes the Buyer’s qualification for a loan, or (c) the Buyer has not sold or leased other real property unless, but only to the extent, the sale or lease of the Buyer’s other real property also is a contingency of this Agreement.

**3.2** The Buyer shall promptly, diligently and in good faith make application for a loan and pursue qualification for and approval of a loan with terms consistent with this Agreement including, but not limited to, the satisfaction of the financing contingency, if any.

**3.3** The Buyer shall seek to obtain a loan that is:  Conventional,  FHA, or  VA.

**4. Earnest Money.** The Buyer has paid to the Seller \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), the receipt of which is hereby acknowledged by the Seller, as Earnest Money to be deposited into the Seller’s general account, not in a separate escrow or trust account or segregated in any manner. The Earnest Money shall be applied as part payment of the Purchase Price at the Closing, or otherwise shall be refunded to the Buyer or retained by the Seller as provided in this Agreement. The Seller shall refund the Earnest Money to the Buyer, if and as provided in this Agreement, (a) within thirty (30) days of written notice of the event that entitles the Buyer to such refund and (b) after the Buyer has signed the Seller’s Termination and Release Agreement.

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_  
Initials of Seller \_\_\_\_\_  
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5. **Non-Refundable Construction Deposit.** A “Non-Refundable Construction Deposit” is an amount, paid as required by this Agreement, in addition to, and separate from, the Earnest Money that is intended to cover all, or a part, of the price increase associated with (a) modifications to the Seller’s intended improvement of the Property that are agreed upon as of the Binding Agreement Date, or (b) Changes to the Plan Title, as-built condition of the Property or Specifications, as provided in the Seller’s Policies for Changes (Exhibit “D”) or the Seller’s Policies for Selections (Exhibit “C”), after the Binding Agreement Date, or both (a) and (b), and either (a) or (b) of which may not increase the value of the Property and may negatively impact the Seller’s ability to market or sell the Property to a third-party. The Buyer accepts the risks associated with the payment to the Seller of any Non-Refundable Construction Deposit. The Buyer acknowledges and agrees that any Non-Refundable Construction Deposit is not refundable to the Buyer under any circumstances except as provided in Subparagraphs 6.2 and 6.7. Any Non-Refundable Construction Deposit shall be applied as part payment of the Purchase Price at the Closing. As of the Binding Agreement Date, the Buyer has paid to the Seller \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), the receipt of which is hereby acknowledged by the Seller, as a Non-Refundable Construction Deposit to cover all or part of the price increase associated with modifications to the Seller’s intended improvement of the Property as of the Binding Agreement Date, as indicated in Exhibit “B.”

6. **Closing And Closing Date.** The Closing shall be the event after Substantial Completion of the Home when the purchase of the Property is consummated by the Seller’s transfer of title of the Property to the Buyer in exchange for the Buyer’s payment of the Purchase Price for the Property to the Seller. The Closing shall occur on the Closing Date. As of the Binding Agreement Date, the Closing Date is established as \_\_\_\_\_, 20\_\_\_\_; provided, however, that the Closing may be delayed and the Closing Date may be extended for any of the reasons identified in Paragraph 19 or Subparagraphs 19.1 or 19.2. The Buyer shall not take any possession of, furnish or move any property or persons into the Home before the Closing.

6.1. **Warranty Of Title.** The Seller warrants that, at the Closing, the Seller will convey good and marketable title to the Property by limited warranty deed, subject only to (a) zoning, (b) general utility, sewer, and drainage easements of record on the Binding Agreement Date upon which the improvements to the Property do not encroach, (c) declarations, covenants, restrictions, and easements of record on the Binding Agreement Date, (d) matters shown on the recorded Subdivision plat and (e) any other encumbrances identified in this Agreement (subparts (a) through (e) of which are referred to as “Permitted Exceptions”). The Buyer hereby acknowledges receipt of a copy of the (1) part of the Subdivision plat that shows the Property and (b) declarations, covenants and restrictions affecting the Property or the Subdivision, or both, on the Binding Agreement Date.

6.2. **Examination Of Title.** Prior to the Closing, the Buyer may examine title to the Property and shall provide the Seller with written notice of all encumbrances or other matters affecting good and marketable title other than the Permitted Exceptions. The Seller shall exercise its best efforts to satisfy or cure all encumbrances or other matters identified by the Buyer that affect the marketability of title prior to the Closing; otherwise, the Buyer may terminate this Agreement by providing the Seller with written notice of termination, and upon such termination the Buyer’s Earnest Money and Non-Refundable Construction Deposits, if any, shall be refunded. Good and marketable title as used herein shall mean title which a title insurance company licensed to do business in Georgia will insure at its regular rates, subject only to standard exceptions and the Permitted Exceptions.

6.3. **Real Estate Taxes And Utility Services.** Real estate taxes on the Property for the calendar year in which the Closing occurs shall be prorated as of the Closing Date. The Buyer shall pay State of Georgia property transfer tax. The Seller shall cause all necessary utility services to be operational prior to the Closing Date. The Buyer shall be responsible, and pay any and all costs and deposits required by the utility service companies, for having all utility services started, transferred, or re-instituted, in the Buyer’s name by the Closing Date.

6.4. **Transfer Of Warranties.** At the Closing, the Seller shall transfer to the Buyer the Seller’s interest, if assignable, in any manufacturer’s warranties, service contracts, termite bond or treatment guarantee and other similar warranties.

6.5. **Closing Certifications.** The Buyer and the Seller agree to execute and deliver such certifications, affidavits, and statements as are required at the Closing to meet the requirements of the lender and federal, state and local law.

6.6. **Soil Treatment Bond.** At the Closing, the Seller shall provide the Buyer with a current Soil Treatment Certification/Bond. The Buyer shall pay all costs of any additional inspections or reports, or both, requested by the Buyer or the Buyer’s lender.

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_  
Initials of Seller \_\_\_\_\_  
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**6.7. Risk Of Loss.** The Seller bears the risk that the Property may be destroyed or substantially damaged by fire or other casualty prior to the Closing. If the Property is destroyed or substantially damaged by fire or other casualty prior to the Closing, (a) the Seller shall notify the Buyer of such fire or other casualty in writing, (b) the Seller shall have the right to repair and restore the Property to its previous or intended condition and, (c) the Closing Date shall be extended as necessary to accommodate such repair and restoration; provided, however, that in the event such destruction or substantial damage to the Property cannot be repaired and restored so that the Closing can occur within sixty (60) days of the Closing Date as scheduled prior to the fire or other casualty, then the Buyer shall have the right to terminate this Agreement by notifying the Seller in writing of such termination within five (5) business days after the Buyer's receipt of written notice of the fire or other casualty. If the Buyer timely exercises the right to terminate this Agreement, as provided in this Subparagraph 6.7, the Seller shall refund the Earnest Money and any Non-Refundable Construction Deposits to the Buyer.

**6.8. Dues And Fees.** The Buyer acknowledges and agrees that the following dues and fees are required related to the Subdivision or the Property, or both: (a) homeowner association dues in the approximate amount of **\$435 per month**; (b) and initiation fee in the approximate amount of **\$870**.

**7. Substantial Completion.** The construction of the Home shall be deemed to have achieved Substantial Completion, and shall be ready for the Closing, when the Home is sufficiently complete that the Buyer can enjoy beneficial use of the Home and a certificate of occupancy (either temporary, partial, interim or final) for the Home is issued by the governing authority.

**8. Compliance With Codes And Other Requirements.** The improvement of the Property shall be completed in accordance with all applicable governmental regulations, ordinances, and codes, and shall be in compliance with all applicable restrictions, covenants, and conditions including, but not limited to, any public or private architectural controls and restrictions of the Subdivision.

**9. Homeowner Limited Warranty.** Once the Closing has been completed, the limited warranty concerning the Property, as provided in and governed by the Seller's Homeowner Limited Warranty (the "Warranty"), shall become effective as of the "Commencement Date" as described or defined in the Warranty. The Buyer shall comply with all terms and conditions of the Warranty and, upon such compliance, the Seller shall fulfill all duties and responsibilities as provided in the Warranty. The Buyer and the Seller agree that this Paragraph 9 and the Seller's duties of performance as provided in the Warranty are expressly conditioned upon the Buyer's compliance with all requirements of this Agreement and all requirements of the Warranty. In the event that the Buyer materially breaches any provision of this Agreement or the Warranty, the Warranty shall be void and shall not bind, or be enforceable against, the Seller. To the extent there is any inconsistency between Paragraphs 21, 22 or 23 of this Agreement and any provision or part of the Warranty, Paragraphs 21, 22 and 23 of this Agreement shall govern. The Buyer hereby acknowledges receipt of the Warranty.

**10. Means And Methods.** All work to be performed, and materials to be supplied, under this Agreement, shall be by the Seller or the Seller's contractors, subcontractors, employees, agents, materialmen, vendors and suppliers. The Buyer shall not have the right to have any work performed on, or supplies delivered to, the Property prior to the Closing.

**11. Changes And Change Orders.** Changes to the Plan Title, or the as-built condition of the Property or Specifications may be accomplished after the Binding Agreement Date and without invalidating this Agreement. After the Binding Agreement Date, Changes to the Plan Title, or the as-built condition of the Property or Specifications shall be performed under applicable provisions of this Agreement pursuant to a Change Order. A Change Order is a written modification to this Agreement after the Binding Agreement Date signed by the Seller and the Buyer, stating their agreement upon all of the following: (a) the Change to the Plan Title, or the as-built condition of the Property or Specifications; (b) the amount of the adjustment, if any, to the Purchase Price resulting from the Change; and, (c) the extension, if any, to the Closing Date resulting from the Change. The Buyer acknowledges that any Change may not increase the appraised value of, or the resulting available loan for, the Property. The Seller has the right to refuse to make any Change to the Plan Title, or the as-built condition of the Property or Specifications. The Buyer acknowledges and agrees that any Changes proposed or desired by the Buyer, including the pricing thereof or otherwise, shall not inhibit, restrict or interfere with the Seller's continuation of the work schedule and sequence for completing the improvements to the Property. The Buyer agrees to pay the Seller for any such Changes, including the remittance of any required Non-

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Refundable Construction Deposit, as provided in the Seller's Policies For Selections or the Seller's Policies For Changes.

**12. Allowances.** This Agreement includes "Allowances," which are defined as items or units of materials or services, or both, with an assigned dollar value that is part of the Purchase Price, but that are dependent upon the Buyer's ultimate choice of the specific item or unit, the actual price of which may be more or less than the assigned dollar value. All assigned dollar values for Allowances include all applicable taxes, installation, overhead and profit. The Buyer's choice of specific items or units that causes an overage to the assigned dollar value of an Allowance shall (a) be deemed a Change, (b) require a Change Order, (c) increase the Purchase Price by the amount in excess of the assigned dollar value of the Allowance, and, (d) require payment of a Non-Refundable Construction Deposit by the Buyer to the Seller as provided in the Seller's Policies For Changes. The Buyer acknowledges and agrees that the Buyer understands the term Allowances as used in this Agreement, and further acknowledges and agrees that the Purchase Price reflects an amount that includes Allowances. The Buyer agrees to pay the Seller the price (including all applicable taxes, installation, overhead and profit) over and above any assigned dollar value of any Allowance as part of the Purchase Price as provided in the Seller's Policies for Changes. The Buyer agrees that the net amount of any decrease in the Purchase Price caused by the Buyer's choice that results in an Allowance underage shall be credited to the Buyer at the Closing. The Allowances, and corresponding assigned dollar values, are identified in Exhibit "A."

**13. Selections.** The Buyer specifically recognizes, acknowledges and agrees that the Buyer may have certain duties to make, and submit to the Seller, various selections of materials, finishes or other items ("Selections") that will be used or installed on or in the Home. Exhibit "C" contains a schedule of all required Selections and the "Due Date" by which the Selections must be finalized by the Buyer. The Buyer specifically recognizes, acknowledges and agrees that any delay by the Buyer in finalizing and submitting Selections to the Seller in a timely fashion, or modifications to Selections previously submitted, will delay the process, sequence or schedule for commencing or completing the improvements to the Property. The Buyer shall cooperate with the Seller to make, finalize and submit all Selections to the Seller in a timely fashion, as provided in Exhibit "C." The Buyer's Selections shall constitute a Change and require a Change Order if such Selection either (a) causes an increase or decrease in the Purchase Price or (b) delays Substantial Completion of the Home or the Closing. The Buyer shall pay the Seller for any Selections that are Changes as provided in the Seller's Policies For Selections and the Seller's Policies For Changes. The Buyer shall not have the right to make any Selections of materials, finishes or other items that have already been installed or that are scheduled to be installed, in whole or in part, in or on the Home as of the Binding Agreement Date. At the Seller's option and in the Seller's sole discretion, the Seller may permit the Buyer to modify or revise materials, finishes or other items that have already been installed or that are scheduled to be installed, in whole or in part, in or on the Home; provided, however, that such modification or revision shall be a Change requiring a Change Order and shall require the Buyer's payment of liquidated damages as provided in the Seller's Policies For Selections. The Seller specifically agrees that the timely completion and submission of Selections is a material obligation of the Buyer under this Agreement. At the Seller's option and upon written notice to the Buyer, the Seller may make any late or incomplete Selections on the Buyer's behalf so as to mitigate damages and avoid delays to Substantial Completion of the Home or the Closing.

**14. Standards.** The Buyer and the Seller agree that the quality standards applicable, without exception, to the work performed and the materials furnished for all improvements on or to the Property (the "Standards") shall be either (a) the "CONSTRUCTION QUALITY STANDARDS" contained in the Warranty or (b) the generally accepted standards in the industry for the location of the Property if not addressed in the "CONSTRUCTION QUALITY STANDARDS" contained in the Warranty. The Buyer acknowledges and agrees that the Seller shall not be required to perform or complete any improvements on or to the Property to any quality level greater or higher than that established by the Standards. The "CONSTRUCTION QUALITY STANDARDS" of the Warranty shall survive the termination of this Agreement for the purpose of establishing the Standards.

**15. Buyer's Property Visits.** After the Binding Agreement Date, the Buyer shall have a revocable license to enter upon the Property, at Buyer's sole risk and expense, at reasonable times during the Seller's normal business hours to observe, inspect, examine, test, and survey the Property. The Buyer and any accompanying party is required to wear a hard hat and close-toed shoes at all times on the construction site. The Seller may limit, restrict, condition or revoke the Buyer's license to enter upon the Property by giving the Buyer written notice, at any time, of any such limitations, restrictions, conditions or revocation. The Buyer shall not interfere with the work being, or to be, performed, or materials being, or to be, supplied under this

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_

Initials of Seller \_\_\_\_\_

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Agreement, and the Buyer shall not provide any direction or instruction to the Seller's subcontractors, employees, agents, materialmen, vendors and suppliers. The Buyer agrees to indemnify and hold harmless the Seller, Seller's employees, members, insurers, subcontractors and invitees ("Indemnified Parties") from any and all injuries, losses, liens, claims, judgments, liabilities, costs, expenses or damages (including reasonable attorney's fees and court costs) sustained by or threatened against Indemnified Parties which arise out of or are related to the exercise of the Buyer's license to observe, inspect, examine, test, and survey the Property.

**16. Inspection By A Third-Party.** Subject to and conditioned upon the provisions of this Paragraph 16, the Buyer may engage, at the Buyer's sole cost and expense, the services of a third-party inspector to assist the Buyer with the Buyer's inspection, examination, testing or surveying of the Property as provided in Paragraph 15. The Buyer agrees that the Buyer's engagement of a third-party inspector shall be subject to all of the following conditions: (a) The Buyer shall notify the Seller in writing of the proposed third-party inspector's name and qualifications at least ten (10) days prior to the proposed third-party inspector's desired inspection; (b) the Seller, in its sole and unilateral discretion, may reject the proposed third-party inspector by giving the Buyer written notice of such rejection within five (5) days of the Seller's receipt of the Buyer's written notice of the proposed third-party inspector's name and qualifications; (c) any proposed third-party inspector shall be qualified minimally as either (1) a member in good standing of the American Society Of Home Inspectors, Inc., (2) a member in good standing of the Georgia Association Of Home Inspectors, Inc., or (3) a registered professional engineer in Georgia; (d) prior to the inspection, the proposed third-party inspector shall provide proof of (1) general liability insurance in an amount not less than \$1,000,000.00 per incident and (2) a current valid business license; (e) any third-party inspector shall act in good faith and shall conduct any inspection consistent with and subject to the Standards; (f) any third-party inspector shall provide the Seller with a written list of specific items that fail to comply with the Standards, including specific identification of any and all code provisions that are not met and the reasons therefor, and all findings, observations and conclusions related thereto, at least ten (10) days prior to the Closing Date, and any further or follow-up inspection by any third-party inspector shall be limited to an inspection only of those specific items previously identified that failed to comply with the Standards; (g) any inspection by any approved third-party inspector shall be scheduled with the Seller at least seven (7) days in advance of such inspection; (h) no third-party inspector shall have the right to attend the New Home Orientation or the Pre-Closing Acceptance without the Seller's prior written consent; (i) the Seller shall have the unrestricted right to be present for and observe any inspection by any third-party inspector; and, (j) the findings, recommendations or conclusions of any third-party inspector shall not prevent or delay the Closing unless such constitutes a Closing Defect, as defined in Paragraph 18.

**17. New Home Orientation.** At least seven (7) days prior to the Closing Date, the Buyer and the Seller together shall walk the Property for purposes of (a) orienting the Buyer with functional aspects of the Home and (b) establishing a written and agreed-upon list that identifies all items that fail to comply with the Standards (the "Punch List"). The Buyer acknowledges the importance of attending the New Home Orientation, and hereby agrees that (a) all persons that signed this Agreement as "Buyer" shall attend the New Home Orientation and (b) only those persons that signed this Agreement as "Buyer" shall attend the New Home Orientation. The Seller will make its best effort to timely complete or repair all items identified in the Punch List prior to the Closing. As of the Binding Agreement Date, the Buyer acknowledges the receipt of the Seller's Homeowner Handbook that describes, among other things, the processes and procedures of the New Home Orientation.

**18. Pre-Closing Acceptance.** After the New Home Orientation and prior to the Closing, the Buyer and the Seller together shall re-walk the Property for the purpose of (a) reviewing the status of the Punch List created during the New Home Orientation and (b) obtaining the Buyer's acceptance that all improvements to the Property comply with the Standards. If necessary, the Seller and the Buyer will annotate the Punch List with any specific items that continue to fail to comply with the Standards, if any; provided, however, that items on the Punch List that continue to fail to comply with the Standards shall not prevent or delay the Closing, and shall not constitute a valid reason for the Buyer to fail or refuse to complete the Closing, unless one or more of the items constitutes a "Closing Defect." A Closing Defect is defined exclusively as any condition that prevents achievement of Substantial Completion of the Home. The Seller shall correct or complete all items that constitute a Closing Defect prior to the Closing. The Seller shall correct or complete all items that remain on the annotated Punch List that continue to fail to comply with the Standards, but that do not constitute a Closing Defect, within a reasonable time after the Closing.

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Initials of Seller \_\_\_\_\_  
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**19. Delays And Extensions Of The Closing Date.** The Buyer recognizes, acknowledges and agrees that the process of constructing the Home and improving the Property is subject to delays that may be caused, or contributed to, by numerous factors including, but not limited to, Changes, weather, strikes, availability of materials or labor, schedules or sequencing of the work, permitting, government regulation, or acts of God or nature. The Seller shall have no liability for any delays to the construction of the Home or improvement of the Property, delays in achieving Substantial Completion, delays to the Closing Date or delays to the Closing caused by Changes, weather, strikes, availability of materials or labor, schedules or sequencing of the work, permitting, government regulation, or acts of God or nature. In the event of any such delays, the Closing Date may be extended, in the sole discretion of the Seller, by the number of delay days caused by such delay. The Seller shall notify the Buyer of the new Closing Date.

**19.1 Untimely Selections.** If the Buyer fails to make any Selections in timely fashion, the Seller may, without prejudice to any other available rights or remedies, stop all activities related to the construction of the Home until such time as the Buyer submits the Selections to the Seller. The Buyer expressly acknowledges and agrees that if the Selections are not timely made and submitted, the Seller shall be entitled to (a) an extension of the Closing Date and (b) liquidated damages as provided in the Seller's Policies For Selections.

**19.2 Thirty Day Extension.** In addition to the extension of the Closing Date provided in elsewhere in this Agreement, and notwithstanding anything to the contrary contained elsewhere in this Agreement, the Seller shall have the right, at the Seller's option and in the Seller's sole discretion, to extend the Closing Date by up to thirty (30) days by written notice to the Buyer.

**19.3 Third-Party Rights Subordinated.** The Buyer acknowledges and agrees that Seller's right to extend the Closing Date pursuant to Paragraph 19 and Subparagraphs 19.1 and 19.2 shall not be affected, limited or reduced by, and the Seller shall have no liability for, any commitment by, between or among the Buyer and any third party including, but not limited to, actual or potential mortgagees, landlords, or purchasers of Buyer's other properties. Buyer shall have the duty to make appropriate arrangements with such third parties to allow for the Seller's exercise of the Seller's rights provided in Paragraph 19 and Subparagraphs 19.1 and 19.2.

**20. Termination By Seller For The Buyer's Default.** If the Buyer refuses or fails to cooperate with the Seller or refuses or fails to timely select, finalize and submit any Selections, or otherwise materially breaches this Agreement, then the Seller may, without prejudice to any other right or remedy, terminate this Agreement for the Buyer's default by providing the Buyer with written notice that this Agreement shall terminate unless the Buyer totally and completely cures such default within five (5) days. Except as otherwise expressly stated in this Agreement, upon any such termination of this Agreement pursuant to this Paragraph 20, the Seller shall not be required to refund to the Buyer the Earnest Money or Non-Refundable Construction Deposits previously paid by the Buyer to the Seller. The Seller may retain the Earnest Money as liquidated damages as provided in Part B.3 of Exhibit "B." Upon such termination, the Seller may market and sell the Property to any third-party, and the Buyer's rights under this Agreement shall cease and shall not be enforced against the Seller, except as to the refund of Earnest Money if such refund is specifically required by an express provision of this Agreement notwithstanding the default by the Buyer.

**21. Limitations Of Remedies And Liability.** The Buyer acknowledges and agrees that the Seller makes no warranties, express or implied, concerning the Property except as expressly stated in this Agreement or the Warranty. The Buyer acknowledges and agrees that neither the Seller nor any of the Seller's officers, directors, members, shareholders, employees, principals, affiliates or subcontractors is a "manufacturer" of any part, item, or the whole of any improvements to the Property, and that neither the Seller nor any of the Seller's officers, directors, members, shareholders, employees, principals, affiliates or subcontractors shall be subject to, or liable for, strict liability or product liability. The Buyer hereby covenants and agrees that the Buyer shall not make any claim, in arbitration or in a lawsuit, personally against the Seller's officers, directors, members, shareholders, principals, employees, agents, or representatives; provided, however, that the Buyer may make such personal claims for bodily injury or damage to personal property other than damage to the improvements to the Property if such bodily injury or damage to personal property is directly and proximately caused by such person. The Buyer hereby covenants and agrees that the Buyer shall not seek, and in no event will be entitled to recover, damages for emotional distress from the Seller. The Buyer and the Seller acknowledge and agree that the provisions of this Paragraph 21 are intended to benefit the third parties referenced herein, and may be relied upon and enforced by such third parties. Neither the Buyer nor the Seller shall be liable to the other for, and the Buyer and the Seller hereby waive any right they may otherwise have to recover, incidental, consequential, indirect, punitive or exemplary damages arising out of, resulting from or relating to this Agreement or the

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Initials of Seller \_\_\_\_\_

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breach thereof, the Property or the improvements to the Property, whether sounding in contract, tort, or otherwise, and no arbitrator shall have authority to award such damages. Nothing contained in this Paragraph 21 shall be deemed to preclude, limit, reduce or affect an award of liquidated damages in accordance with the terms of this Agreement. To the fullest extent permitted by law, the total liability of the Seller to the Buyer for any and all claims, losses, costs or damages whatsoever arising out of, resulting from, or relating to this Agreement or the breach thereof, the Property or the improvements to the Property, whether sounding in contract, tort, or otherwise, shall be limited to the Buyer's direct damages. In the event of any dispute between the Buyer and the Seller arising out of, resulting from, or relating to this Agreement or the breach thereof, the Property or the improvements to the Property, the Seller shall have the right, but not the obligation, to re-purchase the Property from the Buyer at the Purchase Price, and such right of the Seller shall be enforced by the arbitrator(s) or the court, or both, upon the demand of the Seller. The Buyer agrees that if the Seller exercises the right to re-purchase the Property, as provided herein, that such act and transaction shall make the Buyer whole, and that the Buyer shall not be entitled to recover any different, other or additional damages from the Seller.

**22. Mandatory Dispute Resolution Procedures.** The Buyer is advised of, and agrees to, the mandatory procedures for dispute resolution, contained in O.C.G.A. §§ 8-2-35 through 8-2-43, that must be followed before the Buyer files a demand for arbitration, lawsuit or other action:

**GEORGIA LAW CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A DEMAND FOR ARBITRATION, LAWSUIT OR OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE SELLER WHO CONSTRUCTED, IMPROVED, OR REPAIRED YOUR HOME. NINETY DAYS BEFORE YOU FILE YOUR DEMAND FOR ARBITRATION, LAWSUIT OR OTHER ACTION, YOU MUST SERVE ON THE SELLER A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE. UNDER THE LAW, THE SELLER HAS THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS OR BOTH. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE SELLER. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A DEMAND FOR ARBITRATION, LAWSUIT OR OTHER ACTION.**

**23. Arbitration.** IF NOT RESOLVED THROUGH THE PROCEDURES REFERENCED IN PARAGRAPH 22, THEN ANY AND ALL DISPUTES, CONTROVERSIES OR CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT, OR THE BREACH THEREOF, THE PROPERTY, THE HOME OR THE WARRANTY, WHETHER ARISING IN LAW OR EQUITY AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, SHALL AND MUST BE RESOLVED BY BINDING ARBITRATION IN THE AMERICAN ARBITRATION ASSOCIATION ("AAA") OFFICE IN ATLANTA, GEORGIA, IN ACCORDANCE WITH THE CONSTRUCTION INDUSTRY ARBITRATION RULES OF THE AAA THEN IN EFFECT AND IN STRICT ACCORDANCE WITH THIS AGREEMENT. THE BUYER AND THE SELLER AGREE AND DIRECT THAT THIS AGREEMENT SHALL CONTROL, DIRECT, LIMIT AND BIND THE PARTIES AND THE AUTHORITY OF THE ARBITRATOR(S). THE AWARD OF THE ARBITRATOR(S) SHALL BE FINAL AND BINDING ON THE PARTIES AND JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION. NOTICE OF DEMAND FOR ARBITRATION SHALL BE FILED IN WRITING WITH THE OTHER PARTY TO THIS AGREEMENT AND WITH THE AAA. SUBJECT TO THE PROVISIONS OF O.C.G.A. §§ 8-2-35 THROUGH 8-2-43, EACH PARTY SHALL BEAR ITS OWN ATTORNEY FEES AND RELATED COSTS. SUBJECT TO THE PROVISIONS OF O.C.G.A. §§ 8-2-35 THROUGH 8-2-43, ALL FEES AND EXPENSES OF THE ARBITRATOR(S), ALL ADMINISTRATIVE AND FILING FEES ASSESSED BY AAA, THE EXPENSES FOR THE HEARING FACILITIES, COURT REPORTERS, AND ANY OTHER COSTS OF CONDUCTING THE ARBITRATION SHALL BE SHARED AND BORNE EQUALLY BY THE PARTIES. SUBJECT TO THE PROVISIONS OF O.C.G.A. §§ 8-2-35 THROUGH 8-2-43, THE ARBITRATOR(S) SHALL HAVE NO AUTHORITY TO MAKE AN AWARD TO EITHER PARTY OF ANY OF THE FOREGOING FEES AND COSTS, AND EACH PARTY SHALL BEAR SUCH EXPENSES, AS PROVIDED ABOVE, REGARDLESS OF RESULT OR OUTCOME. THIS PARAGRAPH 23 SHALL SURVIVE THE CLOSING OR TERMINATION OF THIS AGREEMENT.

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_

Initials of Seller \_\_\_\_\_

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\_\_\_\_\_, \_\_\_\_\_  
Initials of Buyer

\_\_\_\_\_, \_\_\_\_\_  
Initials of Seller

**24. Notices And Communications.** All notices and other communications required by this Agreement shall be in writing, signed by the party giving the notice or delivering the communication and delivered either (a) in person by hand-delivery, (b) by a prepaid overnight delivery service, (c) by facsimile transmission (provided that the sender orally confirms receipt by the other party) or (d) by registered or certified mail, return receipt requested, through the United States Postal Service, with all postage prepaid by the sender. The Buyer and the Seller agree that a facsimile signature shall constitute an effective and binding signature. Notice or communication shall be deemed to be effective as of the date and time actually received; provided, however, that notice or communication by facsimile shall be deemed to be effective as of the date and time of transmission if a written confirmation is generated indicating the date, time and telephone number to which the notice or communication was sent and if the sender orally confirms receipt by the other party.

**25. Closing Attorney.** The Closing shall be conducted by the law firm of either of:

(a) Neel and Robinson, LLC  
Suite 400 - 5555 Glenridge Connector  
Atlanta, GA 30342  
Phone: 404-705-7981 or 404-459-9600

**26. Binding Effect / Assignment.** This Agreement shall be for the benefit of, and be binding upon, the Buyer and the Seller, their heirs, successors, estates, legal representatives and permitted assignees. The Buyer agrees that the Buyer cannot assign any rights, duties or obligations arising out of or related to this Agreement without first obtaining the written consent of the Seller, and that any such purported assignment without the Seller's prior written consent shall be ineffective and shall not bind or affect the Seller.

**27. Survival Of All Terms And Conditions.** Unless otherwise expressly provided in this Agreement, all rights, remedies, duties, conditions, requirements, limitations and stipulations of this Agreement shall survive, and remain enforceable after, the Closing.

**28. Counterparts / Governing Law.** This Agreement may be signed in multiple counterparts, is intended as a contract for the purchase and sale of real property and shall be governed by the laws of the State of Georgia, without reference to conflict of law principles.

**29. Time Of Essence.** All limitations and expressions of time set forth in this Agreement are of the essence and shall be strictly construed, applied and enforced.

**30. Terminology.** As the context may require in this Agreement: (a) the singular shall mean the plural and vice versa; (b) all pronouns shall mean and include the person, entity, firm, or corporation to which they relate; and, (c) any reference to a Paragraph or Part shall be inclusive of any and all applicable Subparagraphs and Subparts thereof, and vice versa.

**31. Responsibility To Cooperate.** The Buyer and the Seller agree to timely take such actions and produce, execute, and deliver such information and documentation as is necessary or required by the terms of this Agreement.

**32. Brokers.** ("Listing Broker"), including Listing Broker's affiliated licensees, has a client relationship with the Seller and has acted as the agent for the Seller concerning the Property.

("Selling Broker"), including Selling Broker's affiliated licensees, has entered into a client relationship with the Buyer and has acted as either (a) the agent for the Buyer or (b) the agent for the transaction concerning the Property. The Buyer acknowledges that Listing Broker's representation of Seller has been disclosed to the Buyer in a timely manner and that there is no brokerage or agency relationship between Listing Broker and the Buyer, even though Listing Broker may perform ministerial acts for the benefit of the Buyer. No broker to this transaction shall owe any duty to the Buyer or the Seller greater than is set forth in the Brokerage Relationships in Real Estate Transactions Act, O.C.G.A. § 10-6A-1, *et seq.* The Buyer acknowledges that, if the Buyer has entered into a client relationship with a Selling Broker, the Selling Broker has previously disclosed (a) the types of brokerage relationships offered by the broker, (b) any other brokerage relationship which would conflict with the client's interest, and (c) the compensation of the Selling Broker and whether commissions will be shared with other brokers. The Buyer and the Seller acknowledge that they have not relied upon any advice, representations or statements of Listing Broker or

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_  
Initials of Seller \_\_\_\_\_

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Selling Broker and waive, and shall not assert, any claims against Listing Broker or Selling Broker involving the same. The Buyer and the Seller agree that neither Listing Broker nor Selling Broker shall be responsible to advise the Buyer or the Seller on any matter including, but not limited to, the following: (a) any matter which could have been revealed through a survey, title search or inspection of the Property; (b) the condition of the Property, any portion thereof, or any item therein; (c) building products and construction techniques; (d) the necessity or cost of any repairs to the Property; (e) hazardous or toxic materials or substances; (f) termites and other wood destroying organisms; (g) the tax or legal consequences of this transaction; (h) the availability and cost of utilities or community amenities; (i) the appraised or future value of the Property; (j) any condition existing off the Property which may affect the Property; (k) the terms, conditions and availability of financing; and (l) the uses and zoning of the Property whether permitted or proposed. The Buyer and the Seller acknowledge that neither Listing Broker nor Selling Broker are experts with respect to the above matters and that, if any of these matters or any other matters are of concern to them, they should seek independent expert advice relative thereto. The Buyer further acknowledges that in every neighborhood there are conditions which different buyers may find objectionable. The Buyer shall therefore be responsible to become fully acquainted with neighborhood and other off site conditions that could affect the Property. The Buyer acknowledges that the Buyer has not relied upon the advice of Listing Broker or Selling Broker in deciding to pay Earnest Money to the Seller. The Seller and the Buyer acknowledge and agree that: (a) neither Listing Broker nor Selling Broker have any responsibility for, or control over, the Earnest Money; (b) neither Listing Broker nor Selling Broker have any ability or obligation to insure that the Earnest Money is properly applied or deposited; and, (c) the disposition of the Earnest Money is the sole responsibility of the Seller and the Buyer.

**32.1 Commissions.** Listing Broker and Selling Broker, if any, have performed valuable services in negotiating this Agreement and are made parties hereunder to enforce their commission rights. Payment of commission to a broker shall not create an agency or subagency relationship between Selling Broker and either the Seller or Listing Broker. If the Closing occurs in accordance with the terms hereof, the Seller shall pay the Listing Broker a commission at the Closing based on the Purchase Price; provided, however, that for purposes of determining the commission payable by the Seller, the Purchase Price shall not include any closing costs, items paid outside of closing, pools, or . In the event that the Closing occurs in cooperation with a Selling Broker, the total commission payable by the Seller to the Listing Broker shall be divided, and the Listing Broker shall pay the Selling Broker a share of the commissions as provided in the commission agreement signed by Listing Broker and Selling Broker. If the Closing does not occur for any reason whatsoever in accordance with the terms hereof, the Seller shall not be obligated to pay any real estate commission or similar fee to any person or entity.

**32.2. No Other Brokers.** Except as set forth in Paragraph 32 of this Agreement, the Buyer and the Seller represent and warrant that they have not dealt with, and have not been and are not represented by, any other agent or broker, or other person or entity, in connection with this Agreement or the Property, and each party agrees to indemnify and hold the other party harmless from any and all claims, losses, damages, costs and expenses, including, without limitation, attorneys' fees and court costs, incurred or suffered because of any claim for any fee or commission with respect to this transaction made by the other party or by an agent or broker, or other person or entity, claiming to represent the other party.

**33. Severability.** The Buyer and the Seller agree that if any provision, paragraph, or subparagraph of this Agreement is determined by a court or arbitrator(s) to be invalid, void, illegal or unenforceable, then such determination shall not affect the validity and enforceability of any and all other provisions, paragraphs or subparagraphs of this Agreement, all of which other provisions, paragraphs or subparagraphs shall remain valid and enforceable.

**34. N/A**

**35. No Third-Party Beneficiaries.** Except as expressly provided in this Agreement as to the rights of third-parties, there are no other third-party beneficiaries to, or of, this Agreement.

**36. Included Exhibits And Other Documents.** This Agreement constitutes the sole and entire agreement between the parties hereto and no modification of this Agreement shall be binding unless the modification is written and signed by the Buyer and the Seller. No representation, promise, or inducement not included in this Agreement shall be binding upon any party hereto. The Agreement includes only this written instrument, Exhibits "A," "B," "C," "D," "E," "F" , "G", "H", and (if any, and if initialed by the Buyer and the Seller), all of which are attached hereto, and the Warranty, all of which are incorporated by reference and made a part hereof.

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_

Initials of Seller \_\_\_\_\_

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37. **Offer And Expiration.** This written instrument shall constitute an offer by the first party to sign below, and shall remain open for acceptance by the other party until \_\_\_\_\_ o'clock p. m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. Upon the signing hereof by both the Buyer and the Seller, the Agreement is formed and is effective as of the date signed by the last party (the "Binding Agreement Date").

**BY THE BUYER:**

*[Buyer's Name – Printed]*

\_\_\_\_\_  
*[Buyer's Signature] [date]*

*[Buyer's Name – Printed]*

\_\_\_\_\_  
*[Buyer's Signature] [date]*

*[Selling Broker –Printed]*

H-  
*[Firm License Number] [FMLS Off. Code]*

*[Affiliated Licensee Name – Printed]*

\_\_\_\_\_  
*[Broker or Affiliated Licensee Signature]*

*[License Number]*

*[Bus. Phone No.] [Facsimile No.]*

**BY THE SELLER:**

**MJH Homes, LLC**

*[Seller's Name – Printed]*

\_\_\_\_\_  
*[Seller's Signature] [date]*

*[Title of Signatory]*

*FMLS # (if applicable):*

**Atlanta Fine Homes Sotheby's**

*[Listing Broker]*

**H-57502 ATFH02**  
*[Firm License Number] [FMLS Off. Code]*

**Sarah Wilkins/Helen Fuller**  
*[Affiliated Licensee Name – Printed]*

\_\_\_\_\_  
*[Broker or Affiliated Licensee Signature]*

**129911/145537**

*[License Number]*

**770-442-7300 770-442-7317**  
*[Bus. Phone No.] [Facsimile No.]*

\_\_\_\_\_  
*[Binding Agreement Date]*

**Avalon**  
**Row Home Specifications, Units 1-12**  
**MJH Homes, LLC**  
**Exhibit "A" – page 1 of 3 pages**  
**10/1/2014**

**Exterior**

- Architectural Control – color schemes and designs
- Exterior Treatments – 4 side brick with cast stone accents (painted)
- Engineered Floor Systems – Engineered open web trusses
- Subflooring – ¾" tongue and groove Edge Gold or equal, screwed and glued
- Ceilings – first floor 9', second floor 10', third floor 9'
- Roof – flat membrane (light grey)
- Facia – Per Detail
- Soffit – Fiber cement Soffit
- Roof decking – 7/16" osb
- Front Door – Wood per plan
- Rear doors – Wood (style and locations vary per plan and lot conditions)
- Windows – Simulated divided light insulated Low E window (styles vary per plan)
- Gutters – ½ round paint grip gutters with round downspouts
- Garage doors – (1) 16x7 flat slab garage door with opener
- Iron Balconies w/Sunbrella awning

**Plumbing**

- Water heater – Electric 66 gallon
- Kitchen sink – Zero radius Urban Place ZS300
- Kitchen Faucet – Signature hardware Lannister #923976-chrome
- Bath sinks - under mount sink- Square Basin in white
- Vanity faucets –Delta Ashlyn 3564 chrome widespread
- Master bath shower valves – Delta Ashlyn T17264-1 - chrome
- Secondary bath shower values – Delta Ashlyn T14464 - chrome
- Master bath shower – Tile pan with tile enclosure, Chrome trim with clear frameless glass door (\$15.00 tile Allowance)
- Secondary bathtubs –Porcelain on Steel in white with tile enclosure (\$12.00 tile Allowance)
- Accessories – 1 recessed niche
- Pedestal sink – Kohler Reve white (per plan)
- Laundry sink – Zero radius Urban Place ZS600
- Laundry faucet – Delta Trinsic 4159-DST-chrome
- Freestanding bathtub – Signature hardware Eaton 67" #920511
- Freestanding tub filler – Delta Trinsic T4759-FL-chrome
- Commodes – Two Piece Elongated in White
- Supply lines – PEXS
- Drain lines – PVC
- Main supply line – Polyethylene

**Electrical**

- Panel box – 200 amp
- Cable outlets – every bedroom and family room
- Phone jacks – Cat 6 wire in every bedroom, family room and kitchen
- Recessed LED cans – kitchens, hallways and other locations per plan
- LED under counter lighting
- Door chimes and smoke detector – white locations per code
- Ceiling fan pre-wire – family room and bedrooms
- Switches – white Toggle, dimmers in family room, kitchen and dining room
- Outlets - white duplex
- Security system – all accessible openings and 2 key pads 3 camera prewires
- Audio prewire- one room of surround and 3 rooms of speaker prewire

**Lighting**

- Interior Lighting and fan allowance - \$4,000

**HVAC**

- Air conditioner – 14 SEER dual systems
- Furnace – 90% AFUE dual system gas forced air
- Thermostats – white remotely programmable

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_

Initials of Seller \_\_\_\_\_

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EXHIBIT "A" – page 2 of 3 pages

**Fireplace**

- Box unit – Birmingham 42" Herringbone Insert
- Combustible air – outside
- Hearth- Marble, Tile or Limestone
- Mantle – None

**Insulation**

- House wrap - Perma Pro
- Ceiling - R - 30
- Vaulted ceiling - R - 19 (blown)
- Exterior Walls - R - 13 blown cellulose
- Common Walls-R-13 Batt
- Attic Rafters- Spray foam

**Sheetrock**

- Radius outside corners

**Interior Trim**

- Base Boards- 1x8 with 43 panel mold
- Window and door casing – LOI2
- Casing on all non-walk in closets and garage 366
- 1 pc RBI 505 Cove crown w/full round pencil mold Kitchen, Foyer, Family, Breakfast, Dining, Study and Master
- 1 pc RBI 653 secondary bedrooms
- Interior doors – 5 panel

**Stairs**

- Main floor and terrace - oak treads with painted riser
- Riser – painted
- Handrail – Round wall rail Iron per detail

**Hardware**

- Multipoint Entry – Emtek Brass Modern 1.5" x 11" w/Helios lever – flat black
- Entry knob with single cylinder deadbolt – Emtek Norwich Knob w/rectangle rosette-flat black
- Privacy knob – Emtek Norwich Knob w/rectangle rosette-flat black
- Passage and dummy –Emtek Norwich Knob w/rectangle rosette-flat black
- Hinges – Black
- Bumps- Hinge or half dome

**Cabinets**

- Cabinets - \$25,000 allowance
- Kitchen, Master & Key Drop – Shaker style w/slab drawer fronts-Wellborn painted
- Bath Vanities – Shaker style w/slab drawer fronts-Legacy painted
- Master Bath, Kitchen, Butlers Pantry counters – Level 4 Granite with under mount bowls/sinks
- Wet Bar & Key Drop Counters (optional per plan)- Level 4 granite
- Secondary Vanity tops – Level 4 Granite with under mount rectangular bowl
- Backsplash - \$2,000 Allowance

**Floor covering**

- 3 ¼" engineered site finished oak – Garage entrance foyer
- 3 ¼" site finished oak- Main floor and Up hall
- Tile- all secondary bathroom and utility room floors (\$12.00 Allowance)
- Carpet – \$22/yr Allowance with 8lbs. pad

**Mirrors**

- Master bath – plate to 10'
- Secondary bath – 42" plate

**Paint**

- Exterior siding – Duron Deluxe Exterior flat acrylic latex
- Exterior trim – Weather Shield Exterior semi-gloss acrylic latex
- Interior walls – Duron Masterpiece interior flat, 2 White based colors (2 coats)
- Stain – Minwax standard colors

**Appliances GE**

- ZDP366N 36" Monogram Range
- ZDT800SP Dishwasher
- ZE2160S Built in Microwave
- ZV950S 36" Monogram Hood

**Landscaping**

- \$3,000 Allowance – includes design fee, sprinkler system, trees, shrubs and Bermuda sod on four sides with pine straw areas

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_

Initials of Seller \_\_\_\_\_

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The Buyer hereby acknowledges and agrees that the Seller has the right to make such changes in the Plan Title or the Specifications as may be required by any governmental authority or as may be required by job conditions as long as the size, overall quality and appearance of the Home are substantially equal, or superior, based on price, to that indicated in the Plan Title or Specifications. The Buyer acknowledges and agrees that indications on the Plan Title or the Specifications as to the locations for such things as outlets, fixtures, switches, windows and similar items are for quantitative purposes and may not reflect the actual, as-built location. The Buyer acknowledges and agrees that (a) the as-built condition of the Home as of the Binding Agreement Date may differ from the Plan Title or the Specifications, or both, (b) the Plan Title and Specifications are deemed modified to be consistent with the actual as-built condition of the Home as of the Binding Agreement Date and (c) any modification desired to the actual as-built condition of the Home as of the Binding Agreement Date shall be reflected, if at all, in Part B.2 of Exhibit "B". The Buyer acknowledges and agrees that the Plan Title, and all rights related thereto, are the property of the Seller, and the Buyer shall not re-use, sell, transfer, distribute or otherwise exercise any use or right of ownership regarding the Plan Title except for the improvement of the Property and as provided in this Agreement.

**END OF EXHIBIT "A"**



**B.3. Liquidated Damages For Buyer's Default.** The Seller and the Buyer acknowledge and agree that the Seller would suffer damages if the Buyer fails or refuses to consummate the purchase of the Property or otherwise defaults for any reason other than those identified in this Agreement as entitling the Buyer to a refund of the Earnest Money, and that such damages to the Seller would be impossible, impractical and difficult to ascertain or calculate on the Binding Agreement Date with requisite legal certainty. Therefore, the Seller and the Buyer agree that the damages to the Seller would reasonably be expected to be equal to or exceed the amount of the Earnest Money. Accordingly, if (a) all conditions precedent to the Buyer's obligation to consummate the purchase of the Property have been waived by the Buyer or have been satisfied, and (b) the Seller has performed the Seller's obligations hereunder, but (c) the Buyer has failed or refused to consummate the purchase of the Property or otherwise defaults, then the Seller shall be entitled to terminate this Agreement and retain the Earnest Money not as a penalty, but as liquidated damages pursuant to O.C.G.A. § 13-6-7. In lieu of retaining the Earnest Money as liquidated damages, the Seller shall have the right to seek specific performance of this Agreement.

**B.4. Co Contribution Of Loan And Transaction Costs.** If Seller is contributing funds for the closing and transaction costs, the funds will be for (a) preparation of the limited warranty deed and owner's affidavit by the Closing Attorney, (b) at the Buyer's discretion, closing costs, survey costs, and insurance premiums (including flood insurance, if applicable) relating to the Property or loan and, (c) at the Buyer's discretion, other costs to close including escrow establishment charges and prepaid items, if allowed by lender. The Buyer shall pay all costs, fees and amounts, and fulfill all lender requirements, to otherwise complete the Closing.

**END OF EXHIBIT "B"**

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_  
Initials of Seller \_\_\_\_\_  
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**EXHIBIT "C"**  
**Selection Schedule / Seller's Policies For Selections**

Plan Review Date:

If checked "Yes," the following Selections shall be completed by the Buyer by the Due Date and submitted on the "MJH Homes Custom Selections" worksheet with the Buyer's signature:

<u>Selection</u>	<u>Selection Required</u>	<u>Due Date</u>
All Exterior Colors and Materials	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Stairs (pine or oak) / Stair parts	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Tub(s), Shower pan(s), Valves	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Fireplace treatment(s)	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Appliances	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Plumbing Fixtures	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Cabinets*	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Tile	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Hardwood Floors	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Built-in Bookshelves*	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Interior Paint	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Countertops & Vanity Sinks	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Light Fixtures	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Carpet	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Kitchen Backsplash	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Hardscapes	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Flatwork	Yes <input type="checkbox"/> No <input type="checkbox"/>	
All Landscaping*	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Basement Finish	Yes <input type="checkbox"/> No <input type="checkbox"/>	

\*Note that items marked with an \* will, or may, require design or various approvals (of price, regulatory entities, etc.), or both, prior to final decisions or order. Some of these items are custom or may not be part of standard stock, requiring long lead-times on orders to assure timely delivery that does not delay the sequence or schedule for installation. The Due Dates indicated are for submittal of final decisions, after all design and preparatory work. The Buyer must schedule and diligently complete all design and preparatory work for these Selections in order to submit final Selections by the Due Date. The Buyer shall make all required Selections in a timely fashion so as not to delay the Closing.

**Seller's Policies For Selections**

**C.1. Selections.** Subject to the Seller's discretion, the Buyer shall make all Selections from the available colors, materials or other items offered by the Seller, any or all of which may increase or decrease or may be discontinued at any time. Except as to Allowances that are governed by Paragraph 12 of this Agreement, Selections that are already identified specifically in the Specifications or in Exhibit "B," Part B.2 as of the Binding Agreement Date are included in the Purchase Price and shall not be a Change or require a Change Order. Selections that are not already identified specifically in the Specifications or in Exhibit "B," Part B.2 as of the Binding Agreement Date are not included in the Purchase Price and shall (a) be deemed a Change, (b) require a Change Order and, (c) require payment by the Buyer as provided in the Seller's Policies For Changes. Prices for Selections are subject to change until such time as the Buyer submits its Selection to the Seller. Notwithstanding anything to the contrary contained elsewhere in this Agreement, the Buyer recognizes and acknowledges that the Seller has the right and the discretion to (a) refuse to accept any Selection that is not identified in the Specifications or in Exhibit "B," Part B.2 on the Binding Agreement Date or (b) require that the Buyer pay the Seller a Non-Refundable Construction Deposit of any amount up to 100% of the price of any Selection that is not identified in the Specifications or in Exhibit "B," Part B.2 on the Binding Agreement Date.

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_  
 Initials of Seller \_\_\_\_\_  
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**C.2. Due Date For Selections.** All Selections that are required of the Buyer in this Exhibit “C” shall be made, finalized and submitted by the Buyer to the Seller by the Due Date indicated for such Selections. Any failure to submit timely final Selections as required by the applicable Due Date, or any change, modification or revision to any Selection after the Buyer has submitted such Selection to the Seller, shall result in an increase in the Purchase Price by the liquidated damages described in Part C.3, below, and may delay achieving Substantial Completion of the Home and the Closing.

**C.3. Liquidated Damages For Late Or Modified Selections.** In addition to any change in the Purchase Price resulting from the price of any Selection, the Buyer agrees to pay the Seller the following liquidated damages, if and as applicable: (a) failure to submit final Selection by Due Date -- \$75.00 for each day after Due Date; and, (b) modification or revision after the Due Date, or modification or revision of materials, finishes or other items that have already been installed or that are scheduled to be installed, in whole or in part -- \$250.00 per modification or revision. The Buyer and the Seller mutually recognize and agree that time is an essential element of this Agreement, and that any delays in achieving Substantial Completion and the Closing will result in damages to the Seller due to (a) delays in the Seller’s ability to realize revenues and profits, (b) the Seller’s continued obligation to pay real property taxes, interest, utilities and other carrying costs, and (c) other damages resulting from delays. It is therefore agreed that in view of the difficulty of precisely ascertaining such damages, if the Buyer fails to make any Selection by the corresponding Due Date, or if the Buyer modifies or revises any Selection after the Due Date or makes any modification of materials, finishes or other items that have already been installed or that are scheduled to be installed, in whole or in part, the Buyer shall pay to Seller the applicable amounts, as provided above, not as a penalty but as liquidated damages at or before the Closing. The Buyer hereby agrees that the liquidated damages amounts and the basis for assessment thereof are reasonable.

**C.4. Policy Revisions.** The Buyer acknowledges and agrees that the Seller’s Policies For Selections may be revised or modified from time to time, at the sole discretion of the Seller, and that such modifications or revisions shall become effective and binding as to the Buyer upon written notice to the Buyer describing such modifications or revisions.

**END OF EXHIBIT “C”**

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_  
Initials of Seller \_\_\_\_\_  
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**EXHIBIT “D”  
SELLER’S POLICIES FOR CHANGES**

**D.1. Payment For Changes.** After the Binding Agreement Date, the price of a Change shall be added to the Purchase Price and require payment by the Buyer to the Seller of 100% of the price of the Change as a Non-Refundable Construction Deposit at or before the time the Change Order for such Change is signed by the Seller and before any work required by such Change is performed by the Seller. Notwithstanding anything to the contrary contained elsewhere in this Agreement, the Buyer recognizes, acknowledges and agrees that the Seller has the right and the discretion to refuse to make any Change.

**D.2. Policy Revisions.** The Buyer acknowledges and agrees that the Seller’s Policies For Changes may be revised or modified from time to time, in the sole discretion of the Seller, and that such modifications or revisions shall become effective and binding as to the Buyer upon written notice to the Buyer describing such modifications or revisions.

**END OF EXHIBIT “D”**

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_  
Initials of Seller \_\_\_\_\_  
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**EXHIBIT “E”  
Other Matters**

The **PURCHASE AND SALE AGREEMENT** by and between **MJH Homes, LLC** (the “Seller”) and (the “Buyer”) (the “Agreement” as of the Binding Agreement Date) is subject to the following:

**END OF EXHIBIT “E”**

**EXHIBIT “F”**

Pre-qualification letter from CBC National Bank or proof of funds letter is required at time of offer.

To obtain pre-qualification for financing, please contact the following:

DC Aiken  
CBC National Bank  
3010 Royal Boulevard South, Suite 125  
Alpharetta, GA 30022  
[DC.Aiken@cbtnationalbank.com](mailto:DC.Aiken@cbtnationalbank.com)  
770-596-6746  
www.dcaiken.com

**END OF EXHIBIT “F”**

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_  
Initials of Seller \_\_\_\_\_  
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**EXHIBIT "G"**

By initialing below, \_\_\_\_\_ (the "Buyer") acknowledges that I/we have downloaded a copy of the Declaration of Protective Covenants for Avalon Residential.

**END OF EXHIBIT "G"**

Initials of Buyer \_\_\_\_\_, \_\_\_\_\_  
Initials of Seller \_\_\_\_\_  
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