

J&S HOMES, LLC
Portico Heights Purchase Agreement

THIS OFFER TO PURCHASE AND AGREEMENT (“Agreement”) is made between J&S Homes LLC (“Seller”) and (PRINT NAMES AS THEY WILL APPEAR ON DEED)

_____ and _____ (“Buyer”)
First Middle Last First Middle Last

For the consideration hereinafter set forth, Buyer offers and agrees to buy and Seller agrees to sell the following described real property, now existing or hereafter to be constructed by Seller, subject to the terms and conditions herein provided.

1. Buyer shall purchase Lot # _____ of Portico Heights and improvements thereon (the “Unit”), at the following address: _____, Greensboro, Guilford County, North Carolina. Buyer acknowledges that, to the extent the Unit is now constructed, Buyer has inspected the Unit.

2. PURCHASE PRICE: The total purchase price for the Unit is \$ _____, and shall be paid by Buyer to Seller as follows:

\$ _____ (the “Earnest Money”), to be paid to Seller with the delivery of this Agreement and retained by Seller or refunded to Buyer pursuant to the terms of this Agreement.

\$ _____ (the “Option Deposit”), to be paid to Seller with the delivery of this Agreement as a non-refundable deposit for optional upgrades selected by Buyer and listed on the Options Deposit Addendum, if any, which is attached hereto and incorporated herein by reference, and

\$ _____, the balance of the purchase price, to be paid by certified check delivered at Closing, as hereinafter defined.

3. FINANCING: [] (Check **if applicable** –if not checked, then this paragraph 3, is NOT part of this Agreement) Within (5) business days of acceptance of this Agreement by Seller, Buyer shall complete, execute and deliver to _____ (“Lender”) a mortgage loan application for a [] Conventional [] FHA [] VA mortgage loan in the principal amount of \$ _____ for a term of _____ years (the “Loan”). Buyer agrees to use Buyer’s best efforts to secure a commitment for the Loan and thereafter to obtain the Loan. Buyer shall provide in a timely manner, all documents, records, verifications and information required by Lender to secure a commitment for the Loan. If the Buyer is unable to obtain a commitment for the Loan from Lender, Buyer, at Seller’s request, shall make application to at least one additional mortgage lender acceptable to Seller. If necessary for Buyer to obtain financing, Seller may require that Buyer apply for a different type of loan than that initially requested. If Buyer is unable to obtain financing after exercising reasonable efforts, Buyer shall have the right to terminate this Agreement and all Earnest Money shall be refunded to Buyer. Seller reserves the right to terminate this Agreement if the commitment for the Loan is approved subject to contingencies which are unsatisfactory to Seller or if Buyer has failed to obtain commitment for the Loan by the earlier of: (i) sixty (60) days from the Seller’s acceptance of this Agreement or (ii) the date of Closing. If Seller exercises this right, all Earnest Money shall be refunded to Buyer. Buyer hereby represents and warrants to Seller that Buyer reasonably believes that Buyer [] WILL [] WILL NOT **(CHECK ONE)** be required, in order to obtain the Loan, to sell or refinance Buyer’s current residence or other real property owned by Buyer. If Buyer reasonably believes that Buyer will be required to sell or refinance Buyer’s current residence or other real property in order to obtain the Loan, a Contingent Sale Addendum to this Agreement is executed by Buyer and Seller and is attached hereto. The terms of any such Addendum are herein incorporated by reference. It is expressly understood and agreed that, except as otherwise set forth in any attached Contingent Sale Addendum, the sale or refinance by Buyer of property

owned by Buyer shall not be a condition precedent to Buyer's obligations under this Agreement, and accordingly, the foregoing financing condition shall not excuse Buyer's performance of this Agreement if Buyer is unable to obtain financing because Buyer has failed to sell real estate owned by Buyer.

4. HOMEOWNERS' ASSESSMENTS; WORKING CAPITAL: Buyer acknowledges that the Unit is or prior to Closing will be subject to the Declaration of Covenants, Conditions and Restrictions for the Portico Heights Homeowners Association, Inc. (the "Declaration"). Every owner of a Unit subject to the Declaration required to be a member of the Portico Heights Homeowners Association, Inc. (the "Association") and is required to pay assessments to the Association, including a monthly assessment for taxes on and upkeep of the Common Area defined in the Declaration. The present amount of the monthly assessment levied by the Association is \$ _____. In accordance with the provisions of the Declaration and in accordance with the Articles of Incorporation and Bylaws of Association, the amount of the monthly assessment levied by the Association may be increased or decreased annually by the Boards of Directors of the Association. In addition, in accordance with the Declaration and the Articles of Incorporation and Bylaws of the Association, and with the consent of two-thirds (2/3) of the members, the amount of the monthly assessments levied by the Association may be increased or decreased at any time and the Association may levy special assessments. Assessments for the month in which the Closing takes place shall be prorated at Closing as provided in Paragraph 6 hereof. In addition, at Closing, Buyer shall pay to the Association an initial working capital fee of \$ _____ (2/12ths of the then current annual assessment), which amount is to be added to the Association's Working Capital Funds. This payment shall not be considered an advance of the regular monthly assessments to be paid by Buyer after Closing.

5. CLOSING COSTS: Buyer shall pay all charges with respect to Buyer's financing and Seller shall have no obligation to pay any discount fee or other charge in connection with Buyer's financing except as follows: _____

All property taxes for the calendar year in which the Closing takes place shall be prorated to the date of Closing. In addition, at Closing, Buyer shall reimburse to Seller Buyer's prorated share of the Association's assessments for the month in which the Closing occurs. Upon request, Seller will provide Buyer an estimate of such prorated charges.

6. GENERAL DISCLOSURES: At or before the Closing, Seller will furnish to Buyer copies of the proposed or recorded Declaration and the Articles of Incorporation, Bylaws and other rules and regulations of the Association. Seller reserves the right to make any changes to any proposed documentation as may be required or deemed necessary by the Declarant named in the Declaration or by public authorities, title insurance companies, first mortgage lenders, the Federal National Mortgage Association, the Federal Home loan Mortgage corporation or any other governmental insurer or guarantor. BUYER FURTHER ACKNOWLEDGES THAT SELLER HAS THE RIGHT, BUT IS NOT OBLIGATED, TO CONSTRUCT RECREATIONAL AMENITIES (e.g., a SWIMMING POOL and/or CLUBHOUSE) WITHIN THE PROPERTY SUBJECT TO THE JURISDICTION OF THE ASSOCIATION.

7. CLOSING: The parties agree to close the conveyance of the Unit from Seller to Buyer (the "Closing") on _____ or within 72 hours after verbal notification by Seller of substantial completion of the Unit, whichever is later. Closing shall be held at a location selected by Seller. Closing shall not be delayed due to punch-list work, which shall be completed by Seller after Closing, and any attempt by Buyer to delay Closing for such work shall be deemed a default under this Agreement. If, after any delay resulting from any breach or default by Buyer, Closing occurs with the consent of Seller, Buyer agrees that, for each day of such delay, Buyer shall pay to Seller an amount equal to the per diem interest rate which would accrue on the purchase price applying an annual interest rate equal to the per annum prime lending rate (which is not necessarily the lowest or best interest rate offered) publicly announced by BB&T Bank in Greensboro, North Carolina. Possession of the Unit will be delivered to Buyer at Closing, it being understood and agreed that the Unit shall not be occupied by Buyer prior to Closing. However, if for any reason Buyer is allowed possession of the Unit prior to Closing, the risk of loss or damage to the Unit is on Buyer commencing on the date of Buyer's possession of the Unit and Buyer, prior to possession of the Unit, shall secure and, until Closing, maintain hazard and liability insurance naming Seller as an additional insured in an amount and form reasonably acceptable to Seller.

8. TIME OF THE ESSENCE: With respect to all obligations to be performed hereunder time shall be of the essence.

9. TITLE: At Closing, Seller shall furnish a general warranty deed conveying to Buyer merchantable title to the Unit, free and clear of all encumbrance except: (a) those items and encumbrances specifically set forth in this Agreement, including the Declaration and the Articles of Incorporation and Bylaws of the Association; (b) all covenants, restriction, reservations, easements and conditions of record; (c) real estate taxes and assessments, both general and special, for the current year not yet due and payable; and (d) other encumbrances which do not materially detract from the value of the Unit or interfere with the ordinary use of the Unit. Seller acknowledges that Buyer intends to use the Unit for residential purposes and Seller agrees that such use shall not be prohibited by private restriction or governmental regulation. If Seller cannot convey clear title to the Unit as required by this paragraph, Buyer may terminate this Agreement, whereupon all the Earnest Money deposited by Buyer shall be returned to Buyer and this Agreement shall thereafter have no further effect.

10. CONSTRUCTION: [] (Check if applicable) Seller agrees to construct the Unit in substantial conformity with the plans and specifications on file in the office of the Seller. The anticipated completion date of the Unit is _____, but this is only an estimate and the actual completion date may not occur for a period of time thereafter. Seller will keep Buyer advised of construction progress, and the actual completion date can be more accurately predicted when such completion is anticipated within thirty (30) days. In addition to other causes, the actual completion date may be further delayed due to weather conditions, untimely delivery of materials or material shortages, fire, vandalism, acts of God or other circumstances beyond Seller's control. THE ANTICIPATED COMPLETION DATE STATED ABOVE IS ONLY AN ESTIMATE OF THE ACTUAL COMPLETION DATE. ACCORDINGLY, BUYER SHALL NOT MAKE FIRM COMMITMENTS, SUCH AS "LOCKING IN" ON AN INTEREST RATE, GIVING NOTICE TO A LANDLORD OR SCHEDULING A MOVING VAN, IN RELIANCE ON SUCH DATE. TO THE EXTENT BUYER ELECTS TO MAKE SUCH COMMITMENTS, BUYER DOES SO AT BUYER'S OWN RISK. With regard to the construction of the Unit, Buyer agrees as follows:

a. Variations from Plans. Seller, without notice to Buyer, may substitute materials of like quality for those identified in the plans. In addition, Seller may make such structural or other modifications which are in accordance with applicable building codes as Seller may deem necessary or appropriate given the elevation or other characteristics of the site or for any other reason. Buyer acknowledges that the dimensions and total square footage shown on the plans are approximations only and the actual dimensions and total square footage of the Unit constructed may vary.

b. Variations from Model. Model unit(s) displayed by Seller, if any, often vary from the plans and may include upgraded appliances, special landscaping and other special or upgraded items. Upon Buyer's request, Seller's sales representative will identify such variations and extras. Buyer acknowledges and agrees that the Unit may differ from the model unit(s) viewed by Buyer, if any, and that all furniture, decorative items, special landscaping and all other special items displayed in any such model unit(s) are not a part of this Agreement unless specifically set forth in a Construction Addendum attached hereto and incorporated herein by reference.

c. Selections. Seller reserves the right to approve all color and design selections made by Buyer prior to Closing. All such selections must be made within 15 days of the date of this Agreement. Selections already present or on order for the Unit as of the date of this Agreement may not be changed.

d. Inspections and Punchlist Items. Buyer shall have the right inspect the completed Unit prior to closing, but such inspection shall not, without Seller's written consent, be made more than 72 hours before Closing. Following such inspection, Buyer and Seller shall agree on a list of items, if any, which need repair (the "Punchlist"). Closing shall constitute Buyer's acceptance of the Unit and release of all claims against Seller arising under this Agreement as to all matters and things not either covered by the Limited Warranty Agreement or specified on the Punchlist. Seller shall be responsible for making the repairs identified on the Punchlist within a reasonable time after Closing, but in no event shall the Closing be delayed for completion of Punchlist items.

11. LIMITED WARRANTY and LIMITATION OF WARRANTIES: Effective upon Closing, Seller warrants construction of the Unit, as defined in the Declaration, against defects in workmanship and materials for a period of one year from the Closing but only in accordance with and as limited by that agreement (the "Limited Warranty Agreement"), a specimen copy of which will be delivered to Buyer at Closing. SELLER'S OBLIGATION UNDER THE LIMITED WARRANTY AGREEMENT AND UNDER THIS AGREEMENT IS LIMITED TO REPAIR AND REPLACEMENT AND UNDER NO CIRCUMSTANCE SHALL SELLER BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY DAMAGES BASED ON DIMINUTION OF THE VALUE OF THE UNIT. THIS WARRANTY, AS LIMITED BY THE LIMITED WARRANTY AGREEMENT IS THE ONLY WARRANTY SELLER MAKES TO BUYER AND ALL OTHER WARRANTIES EXPRESSED OR IMPLIED ARE HEREBY DISCLAIMED AND EXCLUDED. The Limited Warranty Agreement does not cover manufactured items included in the Unit, such as air conditioner, water heater, refrigerator, range and dishwasher, and Seller makes no warranty as to such items; however, effective upon Closing, Seller hereby assigns to Buyer, without recourse, the manufacturer's warranty as to each such item included in the Unit.

12. EARNEST MONEY: Seller may deposit Buyer's Earnest Money Deposit in the _____ trust account and the Option Deposit in its regular operating account at a place chosen by Seller, and Seller shall have the right to use, expend, invest or otherwise deal with such option funds as the property of Seller. Any interest earned or received in connection with such funds shall be the property of Seller and shall not be added to the amount of the Earnest Money. The Buyer acknowledges that the Earnest Money and Option Deposit delivered to Seller shall be retained by Seller or refunded to Buyer as provided by this Agreement.

13. DEFAULT: If this Agreement is accepted by Seller and Buyer defaults in any of the payments to be made by Buyer or any of the obligations to be performed by Buyer hereunder, then at the option of Seller, Buyer shall lose any and all rights under this Agreement and all Earnest Money will be forfeited to the Seller, but such forfeiture shall not affect any other remedies available to Seller for such breach. In the event this Agreement is not accepted by Seller or in the event of a breach of this Agreement by Seller, an amount equal to the Earnest Money will be refunded to Buyer, but such refund shall not affect any other remedies available to Buyer for such breach.

14. FHA/VA FINANCING ONLY: If Buyer obtains FHA or VA financing, Seller agrees that the Unit has been or shall be constructed in accordance with plans and specifications approved by FHA or VA, as applicable. It is expressly agreed that, notwithstanding any other provision of this Agreement, Buyer shall not be obligated to complete the purchase of the Unit or to incur any penalty by forfeiture of the Earnest Money or otherwise if Buyer obtains FHA or VA financing unless Seller has delivered to Buyer a written statement issued by the Federal Housing Commissioner or the Department of Veterans Affairs (as applicable) setting forth an appraised value of the Unit (exclusive of closing costs) of not less than the purchase price, which statement Seller hereby agrees to deliver to Buyer promptly after such appraised value statement is made available to Seller. Buyer shall, however, have the privilege and option of proceeding with consummation of this Agreement without regard to the amount of the appraised valuation made by the Federal Housing Commissioner or the Department of Veterans Affairs. THE APPRAISED VALUATION IS MADE SOLELY TO DETERMINE THE MAXIMUM MORTGAGE AMOUNT WHICH THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ("HUD") WILL INSURE WITH RESPECT TO THE UNIT. HUD DOES NOT WARRANT THE VALUE OR THE CONDITION OF THE UNIT. BUYER SHALL SATISFY HIMSELF/HERSELF THAT THE PRICE AND CONDITION OF THE UNIT ARE ACCEPTABLE TO BUYER.

15. INTERSTATE LAND SALES FULL DISCLOSURE ACT: This transaction is exempt from the Interstate Land Sales Full Disclosure Act because, notwithstanding anything to the contrary herein, Seller agrees to complete the Unit within two (2) years from the date of this Agreement, subject only to such circumstances as would constitute impossibility of performance.

16. ASSIGNMENT: This Agreement may not be assigned by Buyer without the prior written consent of Seller. Seller may at any time assign the rights, duties and obligations created hereby.

17. PARAGRAPH HEADINGS/GENDER: The paragraph headings used herein are merely for easy reference and have no effect on this Agreement or the terms and conditions herein contained. As used herein, the singular shall include the plural and the masculine shall include the feminine and the neuter, as appropriate.

18. AMENDMENT AND GOVERNING LAW: This Agreement may not be changed verbally. Any changes or amendments hereto must be agreed upon in writing signed by the parties. This Agreement shall be governed and construed in accordance with the laws of the State of North Carolina.

19. SURVIVAL: Any provision herein contained which by its nature and effect is required to be observed, kept or performed after Closing shall survive Closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

20. NON-RECORDATION: It is expressly agreed and understood that, absent the prior written consent of Seller, this Agreement shall not be recorded in the County in which the Unit is located or any other County in the State of North Carolina. In the event of any such unauthorized recordation, the same shall not be considered a cloud or burden on Seller's title to the Unit.

21. SEVERABILITY: If any term, condition or provision of this Agreement is declared illegal or invalid for any reason by a court of competent jurisdiction, the remaining terms, conditions and provisions shall nevertheless remain in full force and effect.

22. AGENT(S): Buyer acknowledges and agrees that, except as noted below and except for any sales representative of Seller working at Seller's model or sales office, Buyer has dealt with no real estate broker, agent or sales person in connection with the sale of the Unit:

_____ (agent) of _____ (firm) acting as Seller's (sub)agent
 Dual Agent

_____ (agent) of _____ (firm) acting as Seller's (sub)agent
 Dual Agent
 Buyer's Agent

23. OTHER PROVISIONS AND CONDITIONS: _____

24. ENTIRE AGREEMENT: This Agreement contains the entire agreement between Seller and Buyer with respect to the purchase of the Unit, and Seller is not bound by any statement, provision condition or stipulation not specifically set forth in or expressly incorporated by this Agreement. No salesperson has any authority to make any statements, agreements or representations that modify, add to, or change the terms of this Agreement.

BUYER ACKNOWLEDGES AND REPRESENTS TO SELLER THAT BUYER HAS READ THIS AGREEMENT AND ALL EXHIBITS ATTACHED TO IT, THAT BUYER AGREES TO BE BOUND BY ALL OF THE TERMS HEREOF AND THAT BUYER IS NOT RELYING ON ANY STATEMENT, PROMISE, CONDITION OR STIPULATION NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT. THIS AGREEMENT SHALL NOT BE BINDING ON SELLER UNTIL IT IS ACCEPTED IN WRITING BELOW BY SELLER.

OFFER TO PURCHASE

ACCEPTANCE

Buyer: _____

SELLER: J&S Homes LLC

SSN: _____

Date: _____

By: _____

Tax ID Number: _____

Buyer: _____

Date: _____

Date: _____

Address: _____
Street

City State Zip

Phone: _____
Home

Business

The undersigned acknowledges receipt of the Earnest Money hereinabove set forth and agrees to hold and disburse the same in accordance with the terms hereof:

By: _____
Coldwell Banker Triad Realty

Date: _____

CONTINGENT SALE ADDENDUM

This addendum is part of the Offer to Purchase and Agreement (the "Agreement") dated _____ and made between J&S Homes LLC ("Seller") and _____ ("Buyer") for the purchase and sale of Unit # _____ (the "Unit") in Portico Heights, Greensboro, North Carolina.

Buyer's obligation to purchase the Unit is contingent upon Buyer's closing a sale of Buyer's real estate located at _____ ("Buyer's Property") on or before the Closing date specified in the Agreement; PROVIDED that Buyer shall immediately list Buyer's Property with a licensed realtor, submit such listing to the Multiple Listing Service and, during the pendency of the Agreement, continuously offer Buyer's Property for sale until such property is sold or such contingency is waived by Buyer by notice to Seller in writing.

Seller's obligation to sell the Unit to Buyer is subject to the condition that during the pendency of the Agreement, unless and until Buyer shall give written notice of waiver as to this contingency, Seller may continue to offer the Unit for sale to the general public. If during the pendency of the Agreement Seller receives an offer from any third party to purchase the Unit, Seller may notify Buyer that, unless Buyer delivers a written notice of waiver of this contingency to Seller within not less than forty-eight (48) hours after such notice to Buyer, Seller reserves the right to sell the Unit to such third party on any terms satisfactory to Seller, in which event all Earnest Money and all Option Deposits deposited under the Agreement shall be refunded to the Buyer. A notice under the preceding sentence may be given in person, by telephone to Buyer or Buyer's agent, if any, or by any other reasonable means, including but not limited to mail or fax delivered to or message left with a responsible person or an answering machine or answering service at either the Buyer's residence, the Buyer's place of employment, of the office of Buyer's agent, if any, provided that any such notice delivered by Seller only to Buyer's agent or to the office of Buyer's agent shall allow Buyer not less than seventy-two (72) hours to deliver a written waiver of this contingency.

Seller's obligation to sell the unit to Buyer is subject to the further condition that, at any time after construction of the Unit is complete, Seller may give Buyer notice that, unless Buyer delivers a written waiver of this contingency to Seller within thirty (30) days of such notice, Seller reserves the right to terminate this Agreement, in which event all Option Deposits shall be forfeited to Seller and all Earnest Money shall be refunded to Buyer, less any fees for credit or appraisal reports and other costs that may have been incurred by Seller in connection with this Agreement. A 30-day notice under the preceding sentence shall be given in writing and shall be effective upon delivery or upon mailing if mailed to Buyer's address stated in the Agreement.

BUYER:

SELLER:

J&S Homes LLC

By: _____

Date: _____

Date: _____