

**CONTRACT AGREEMENT/
WARRANTY
PACKAGE**

NEW PACE HOMES, LLC
Legacy Springs

New Pace Homes, LLC

Revised December 7, 2007

AGREEMENT FOR THE CONSTRUCTION AND

SALE OF REAL PROPERTY

Legacy Springs

This Agreement for the construction and sale of real property (hereinafter "this Agreement") is hereby bargained for, made and entered into on this the _____ day of _____, _____, by and between New Pace Homes, LLC. (hereinafter referred to as the "Seller") and _____ (hereinafter, whether one or more, referred to as the "Buyer").

WITNESSED:

The Buyer desires to purchase from the Seller and the Seller has agreed to sell to the Buyer the following described real property (the "Property") situated in the Town of Odenville, County of St. Clair, Alabama, and more particularly described as follows:

Address: _____
Legal description: Lot _____ Block _____ Survey Legacy Springs Phase I
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The Property either has been or will be improved with a residential dwelling (the "Dwelling") in accordance with the provisions of this Agreement. As a part of the negotiation of the terms and provisions of this Agreement, the Buyer and the Seller have negotiated between themselves the terms and provisions of a Limited New Home Warranty Agreement, a Building Quality Standards Section, and a Preoccupancy Inspection Agreement as described herein below.

NOW, THEREFORE, in consideration of the foregoing recitals, the agreements contained herein and attached hereto, the provisions, of the Limited New Home Warranty Agreement, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Buyer and the Seller do hereby agree as follows:

1. Purchase and Sale. The Buyer hereby agrees to purchase from the Seller and Seller hereby agrees to sell to the Buyer the Property.

2. Purchase Price. The purchase price to be paid by the Buyer to the Seller for the conveyance of the Property, as improved with the Dwelling, shall be the sum of \$ _____ Dollars (the "Purchase Price") and shall be payable as follows:

Earnest Money, payable upon the execution of this Agreement	\$ _____
Down Payment, payable on or before _____	\$ _____
Additional Down Payment, payable on or before _____	\$ _____
The balance of the Purchase Price, in immediately available funds, payable upon the conveyance of the Property in the amount of	\$ _____
Total Purchase Price	\$ _____

All payments of *Down Payments* shall be paid to the Seller and may be spent by the Seller toward costs and expenses of construction of the dwelling, unless provided otherwise in this Agreement.

Seller's Initials

Buyer's Initials

3. **Financing.** The provisions of this paragraph shall be applicable only if initialed by both the Seller and the Buyer. This Agreement is subject to the Buyer being able to obtain a _____ loan in the amount of \$_____ (the "Loan"). The Buyer agrees to make application for the Loan within five (5) working days after the date of this Agreement, to exert all reasonable effort and diligence to obtain approval of the Loan, and receive written approval of said Loan within thirty (30) calendar days of this Agreement. The Buyer agrees to keep the Seller, and the Seller's agent, fully informed of the status of the Buyer's efforts to secure the approval of the Loan. If written notice is given to the Seller within such period that the Buyer cannot obtain financing, the earnest money shall be refunded to the Buyer by the Seller. If for any reason this sale is not closed and Buyer has failed to notify Seller of his inability to obtain loan approval within the thirty day period referred to above, the earnest money, down payments, and overage payments, shall be forfeited as liquidated damages to the Seller, and thereafter neither party shall have any further obligation under this Agreement to the other. Seller has the right to approve or disapprove any lender the Buyer chooses. The Buyer agrees to keep the Seller fully informed of the status of the Buyer's efforts to secure the approval of the Loan. The Buyer shall provide such evidence as may be required by the Seller, including a written commitment for the Loan, to confirm the final Loan approval. The Seller shall have the right to delay the commencement of the construction of the Dwelling, if applicable, or delay the completion of the construction of the Dwelling, if applicable, until such time as the Seller has determined, to the satisfaction of the Seller, that the Loan to the Buyer has been or is likely to be approved. Any such determination by the Seller shall be for the sole benefit of the Seller and may not be relied upon in any manner by the Buyer. **If the Buyer gives such written notice to the Seller of the obtaining of the financing, this Agreement will no longer be conditioned upon or subject to the Buyer obtaining financing. Once Buyer has obtained loan approval, any fees or charges incurred due to delays in closing because of no fault of the Seller, Buyer agrees to pay the extra fees or charges. If delay is over three (3) working days the Buyer agrees to pay the Seller a per diem per day towards interest on the construction loan. However, if written notice is given to the Seller within such period that the Buyer cannot obtain financing, the earnest money shall be refunded to the Buyer by the Seller.** The Buyer agrees to use their best efforts in good faith to obtain financing within the specified period of time. Until the Buyer gives written notice to the Seller that they have obtained such financing, all decorating decisions will be subject to the approval of the Seller. The Seller shall not be responsible for any expired interest rate "tie-down" dates if the Buyer had not previously obtained written approval from the Seller that the completion of the Dwelling would occur before or on that said "tie-down" date. After the initial loan application is made, should Buyer change mortgage lender and/or type of loan (from that type stated above) after the initial loan application is made without the written consent of the Seller, the Buyer and Seller agree and acknowledge that the terms of this Agreement are in violation and the Agreement may be cancelled at the Seller's option and Buyer shall forfeit the earnest money, down payments, and overage payments, at Seller's option.

Seller: _____

Buyer: _____

4. **The Dwelling.** The Property either has been or will be improved with the Dwelling. **(The parties should select one, but only one, of the following subparagraphs by initialing the subparagraph which is applicable.)**

A. Completed Construction: As of the execution of this Agreement, the Dwelling has been completed and the Buyer has inspected and accepted the Dwelling, as completed, subject to the preoccupancy inspection to be made by the Buyer and the Seller's representative pursuant to the Limited New Home Warranty Agreement and the Preoccupancy Inspection Agreement, both of which are attached hereto and both of which are described in greater detail elsewhere in this Agreement.

Seller: _____

Buyer: _____

B. Partially Complete Construction: The construction of the Dwelling has been commenced and, as of the date of this Agreement, is only partially complete. The Buyer has inspected the portion of the Dwelling which has been constructed and finds same to be acceptable. The construction of the Dwelling shall be completed by the Seller in accordance with the provisions of this Agreement and the New Home Limited Warranty Agreement and in general conformity with the plans and specifications (the "Plans and Specifications") attached to this Agreement as Exhibits "A" and "B" and incorporated herein, except that, to the extent that the portion of the Dwelling which has been constructed as of the date of this Agreement is different from the Plans and Specifications, then the Plans and Specifications shall be deemed modified to be consistent with the actual construction.

Seller: _____

Buyer: _____

Seller's Initials

Buyer's Initials

C. Pre-Sale Construction: The construction of the Dwelling upon the Property has not yet been commenced. The Seller agrees that the Dwelling shall be constructed in accordance with the provisions of this Agreement and the Limited New Home Warranty Agreement and in general conformity with the Plans and Specifications attached hereto as Exhibits "A" and "B" and incorporated herein.

Seller: _____

Buyer: _____

The Specifications (Exhibit "A") and Plans (Exhibit "B"), if applicable, have been signed and dated simultaneously with the execution of this Agreement by both the Seller and the Buyer and any changes in the Plans and Specifications which have been agreed upon by both the Seller and the Buyer have been clearly shown and initialed by both the Seller and the Buyer. The construction of the Dwelling shall be deemed completed upon the issuance of a certificate of occupancy by the applicable governmental building inspection department, if there is such a department in the jurisdiction in which the Property is located, and, if no such department exists, then upon the reasonable determination by the Seller that the construction of the Dwelling is substantially complete. The Seller reserves the right to ask for the full or a portion of the cost of any changes, additions, or alterations to the Plans and Specifications, to be paid to the Seller at the signing of this Agreement. This amount will be in addition to any earnest or down payment money. If the Buyer desires for this amount to be included in his Loan amount, then this payment will be reimbursed back to the Buyer at closing from the Seller.

5. Change Orders to Plans and Specifications. If the Seller has agreed to construct the Dwelling or complete the construction of the Dwelling, in general conformity with Plans and Specifications pursuant to the preceding paragraph, the Seller shall be under no obligation to make any additional changes, additions, alterations, or upgrades, to the Plans and Specifications requested by the Buyer. The Seller may elect to make changes, additions, alterations, or upgrades to the Plans and Specifications upon the request of the Buyer; however, the Seller shall not be obligated to do so. In the event that the Seller and the Buyer agree upon changes, additions, alterations, or upgrades, to the Plans and Specifications, then such agreement shall become effective only upon the execution by both the Seller and the Buyer of a written change order, on a change order form that is acceptable to the Seller (New Pace Homes Form C-10 & C-20), and the payment by the Buyer to the Seller of such portion of any additional consideration as shall be required by the Seller. These forms are to be attached to Agreement as part of Exhibit "A" to the Agreement. Any such additional consideration shall be in addition to the Purchase Price and any payments of said additional consideration by the Buyer to the Seller shall not be a credit against the Purchase Price. This consideration shall be deemed a non-refundable forfeitable expense upon the ordering of the materials and/or the commencement of the work should the Buyer later change his mind or not close on this property, for any reason. Unless authorized by the Seller, all change orders must be a minimum of \$300.00 and shall be priced by the Seller. In the event that the Seller agrees to such changes and has not received all of the additional consideration to be paid in connection therewith by the time, according to Seller's construction schedule, that the changes, additions, alterations or upgrades are to be made, then the Seller shall have the following two options: a) not make the changes, additions, alterations or upgrades, and continue on with the construction schedule. b) Make the changes, additions, alterations or upgrades, and collect the agreed upon consideration at the closing of the sale of the Property. The failure of the Seller to obtain a written change order from the Buyer, in the manner described above, shall not be deemed a waiver of the Seller's right to recover the costs of any change substantially completed by the Seller. Any changes, additions, alterations, or upgrades, agreed upon to by all parties **could** affect the original construction schedule of the Dwelling and the Buyer understands that the Seller shall have the right to change the closing date to compensate for this change in the said construction schedule.

Buyer: _____

6. Agency Disclosure. The Listing Company is Four Star Realty, LLC, the Selling Company is

The Listing Company is: (Two may be checked)
___ an Agent of the Seller
___ an Agent of the Buyer
___ an Agent of the Seller and Buyer,
is acting as limited consensual dual agent
___ Assisting the ___ Buyer ___ Seller
as a transaction broker

The Selling Company is: (Two may be checked)
___ an Agent of the Seller
___ an Agent of the Buyer
___ an Agent of the Seller and Buyer,
is acting as limited consensual dual agent
___ Assisting the ___ Buyer ___ Seller
as a transaction broker

Seller: _____

Buyer: _____

Listing Agent: _____

Selling Agent: _____

Seller's Initials

Buyer's Initials

7. **Earnest Money & Buyer's Default.** Seller hereby authorizes the Listing Broker, Four Star Realty, LLC, to hold the earnest money in trust for Seller pending the fulfillment of this Agreement. In the event Buyer fails to carry out and perform the terms of this Agreement, the earnest money shall be forfeited as liquidated damages at the option of Seller, provided Seller agrees to the cancellation of this Agreement. Said earnest money so forfeited shall be divided equally between Seller and Seller's Broker. In the event both Seller and Buyer claim the earnest money, the firm holding the earnest money may interplead the disputed portion of the earnest money into court, and shall be entitled to reimbursement from the parties for court costs, attorney fees and other expenses relating to the interpleaded action.

8. **Down Payment & Purchaser's Default.** The Buyer hereby authorizes the Seller to utilize and spend the Down Payment funds shown above toward expenses and costs of the Property. In the event Buyer fails to carry out and perform the terms of this Agreement, the down payment shall be forfeited to the Seller up to the amount of actual costs incurred. Any excess of down payment over actual costs incurred shall be reimbursed to the Buyer along with an itemized accounting of costs incurred by Seller. Such forfeiture of down payment does not limit the Seller to any other remedies available under this Agreement.

9. **Decorating Allowance.** The Seller may allow the Buyer to select some or all of the decorating items to be incorporated into the Dwelling, provided that same have not already been ordered or incorporated therein. Such items may include brick, paint colors, cabinet colors, countertops, light fixtures, siding color, floor covering, and appliances, for which the Seller shall establish allowances. The Buyer shall make such selections within seven (7) working days after the request by the Seller or the Seller's agent. If the Buyer delays in making the selections which, in turn, causes an interruption or delay of the Sellers' construction schedule, then the Seller shall have the right to either make the selections for the Buyer or extend the closing date to accommodate the delay. If selections of the Buyer exceed the amount of allowances established by the Seller, then the Buyer shall pay such portion of any such excess directly to the selected supplier, dealer, subcontractor or the Seller, at the time of making such selections. Upgrades of the decorating items can cause an extension of the construction schedule and the Seller reserves the right to change the closing date to compensate for such. (Example: Ceramic tile flooring and additional wood flooring). The allowances established by the Seller and which are included in the Purchase Price are attached hereto as part of Exhibit "A". In no event shall the Purchase Price be reduced as the result of the expenditure of less than the allowance for any particular item. If this Agreement contains any contingencies, then all decorating decisions shall be subject to the approval of the Seller until all contingencies are removed.

Buyer: _____

10. **The Closing.** The closing (the "Closing") shall occur on or before the _____ day of _____, 20____ (the "Closing Date") except that the Seller shall have a reasonable time thereafter within which to perfect title or cure title defects, and further provided that the Closing Date may be extended by the Seller for such additional time as the Seller shall determine to be reasonably necessary (a) as the result of any delay in the approval of the Buyer's Loan, or (b) to complete the construction of the Dwelling, if applicable, as the result of any delays in the construction schedule such as, but not limited to, inclement weather, change in the Plans and specifications agreed upon between the parties, requirements of any building officials or other governing authorities, work stoppages, delays in the delivery of materials, delays by the Buyer, contingencies under this Agreement, the completion of the preoccupancy inspection and any additional work required as the result thereof, and any other matters which might delay the completion of construction of the Dwelling. In the event of the delay of the Closing Date pursuant to the foregoing provisions, then the Closing Date shall be that date which has been established in writing between the Seller and Buyer. At the Closing, the Seller shall convey title to the Property to the Buyer by statutory warranty deed subject to current ad valorem taxes; easements, restrictions, rights-of-way, covenants, reservations and other matters of record; all matters which would be revealed by an accurate survey or inspection of the Property; applicable subdivision, zoning and other applicable governmental regulations and restrictions; and less and except any mineral, mining or other subsurface rights previously conveyed or otherwise not owned by the Seller. Possession of the Property shall be delivered to the Buyer upon the Closing. The Closing shall be held at such time of day and such location as shall be reasonably agreed upon between the Seller and the Buyer; provided, if the parties cannot agree, then the closing shall be held at such time of day as shall be established by the Seller at either the office of the Seller or the office of the Seller's attorney. The Buyer shall pay to the Seller, at the Closing, the Purchase Price plus any additional consideration owing with respect to changes in the Plans and Specifications and allowance item overages, less any Earnest Money and/or Down Payments previously paid by the Buyer and received by the Seller.

Seller's Initials

Buyer's Initials

11. **Title Insurance.** Seller agrees to furnish Buyer a standard form owner's title insurance policy at Seller's expense, issued by a company qualified to insure titles in Alabama, in the amount of the purchase price, insuring Buyer against loss on account of any defect or encumbrance in the title, subject to exceptions herein and subject to all of the matters set forth in this agreement with respect to the status of title to the property and subject to such other matters as are customarily included in such commitments, otherwise the earnest money shall be refunded to the Buyer. In the event of the simultaneous issuance of a mortgagee's title insurance policy, the premium shall be divided evenly between the Seller and the Buyer, even if the mortgagee is the Seller.

12. **Closing Costs.** At the Closing, the Seller shall pay the cost of the preparation of the deed. The Buyer shall pay all loan closing costs, discount points, mortgage insurance premiums, prepaid items and recording fees. Ad valorem taxes shall be prorated as of the date of closing between the Seller and the Buyer. The Buyer agrees to pay for the credit report and appraisal at time of loan application and both are to be ordered immediately.

13. **Prorations.** Ad valorem taxes, as determined on the date of closing, insurance transferred, accrued interest on mortgage(s) assumed, and fire district or other dues, if any, are to be prorated between Seller and Buyer as of the date of delivery of the deed, and any existing escrow deposits shall be credited to Seller. Unless otherwise agreed herein, all ad valorem taxes except municipal are presumed to be paid in arrears for the purposes of prorating; municipal taxes, if any, are presumed to be paid in advance.

14. **Selection of Attorney.** Buyer and Seller hereby agree to share equally the fees of closing attorney ___ YES ___ NO. If they have agreed to share the fees of a closing attorney hereunder, Buyer and Seller acknowledge and agree that such sharing may involve a potential conflict of interest and they may be required to execute an affidavit at closing acknowledging their recognition and acceptance of same. The parties further acknowledge that they have a right to be represented at all times by an attorney of their own choosing, at their own expense, in connection with this contract.

15. **Conveyance.** Seller agrees to convey the Property to the Buyer by a General Warranty Deed, free of all encumbrances except as herein set forth, and Seller agrees that any encumbrances not herein excepted or assumed will be cleared at the time of closing. The Property is sold and is to be conveyed subject to: (i) mineral and mining rights not owned by the Seller; (ii) is ___ is not ___ located in a flood plain; and (iii) subject to utility easements serving the Property, subdivision covenants and restrictions, provided that none of the foregoing materially impair use of the Property for its intended purposes.

16. **Rock & Other Subsurface Conditions.** If this paragraph is initialed by the Seller and Buyer, the price above does not include any costs or contingencies for rock or other abnormal subsurface conditions, and Buyer shall be responsible for the additional costs of correcting any such conditions. Should such abnormal subsurface conditions be encountered on the building site in connection with foundations and footing excavation, or installation of sewer lines, water lines, or other utility services, Seller shall promptly inform Buyer of same and estimated costs of the additional work. Such costs may include, but are not necessarily limited to, blasting expenses, jack hammer and drill operation. Additional costs shall be billed at cost plus a ___% management and overhead fee. At the time that such abnormal conditions are encountered, Seller shall provide a maximum cost for written approval by Buyer prior to proceeding with construction.

Seller: _____

Buyer: _____

17. **Survey.** Buyer, at Buyer's expense, requires a survey by a registered Alabama land surveyor of Buyer's choosing. Survey shall be ordered by the Buyer's agent and shall not be the responsibility of the Listing agent unless the listing agent and Selling agent is the same person. Buyer acknowledges that a survey of the property is material to the transaction, and an election to close without a survey shall be deemed a waiver of all claims regarding items that an accurate survey would have revealed. (NOTE: Lender may require a survey).

Seller: _____

Buyer: _____

Selling Agent: _____

18. **Insulation.** Unless otherwise noted elsewhere in this Agreement or in the Specification Sheet, the living area ceilings will be installed with a minimum of R-30 type insulation to a thickness of 10.5 inches, which thickness, according to its manufacturer, will result in R-Value of 30. Living area exterior walls will be insulated with a minimum of R-13 type

Seller's Initials

Buyer's Initials

insulation to a thickness of 3.5 inches, which thickness, according to the manufacturer, will result in an R-Value of 13. The Buyer acknowledges and agrees that, in accordance with Federal Trade Commission Regulations; this information has been supplied by the installer of the insulation and has not been determined by the Seller. The Buyer acknowledges and agrees that the Seller shall have no liability or obligation with respect to the accuracy of the information included in this paragraph.

19. Arbitration. Seller and Buyer agree that any controversy or claim arising from or out of or relating to this Agreement or the breach thereof shall be settled by arbitration in accordance with the Construction Industry Rules of the American Arbitration Association. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties acknowledge and agree that the transactions contemplated by this Agreement, which include the use of interstate mails, roadways and commerce, involve interstate commerce, as that term is defined in the Federal Arbitration Act. Both parties acknowledge that they are waiving their right to sue in court for disputes relating to this Agreement or the breach thereof and these shall be settled by arbitration. The site of such arbitration shall be Birmingham, Alabama.

Seller: _____ Buyer: _____

20. Termite. Seller to furnish Buyer with a termite letter dated as of the original soil treatment guaranty.

21. Supervision of Work. Buyer agrees that the direction and supervision of the working forces, including subcontractors, rest exclusively with the Seller, and Buyer agrees not to issue any instructions to, or otherwise interfere with same. The Seller shall be the authority for the proper usage, arrangements and placement of fixtures, equipment and materials in accordance with recognized standards. Slight deviations from plans and specifications shall be construed as substantial compliance with this agreement. The Buyer further agrees not to negotiate for additional work with the Seller's subcontractors or employees, nor to engage other builders or subcontractors to work on the Dwelling, except with the Seller's consent and in such manner as will not interfere with Seller's completion of work under this agreement.

22. Notices. Any notices to be given pursuant to the provisions of this Agreement shall be in writing and shall be deemed received by the party to whom given when deposited in the United States Mail, by certified mail, with postage pre-paid, and addressed as follows:

WHEN TO SELLER: New Pace Homes, L.L.C.
5280 Old Springville Road
Pinson, AL 35126

WHEN TO BUYER: _____

The address of a party may be changed by written notice to the other party in the manner described above.

23. Utilities. Buyer agrees to file an application for water, gas and electric service with the appropriate utility companies at least, and no later than, ten (10) days before the scheduled closing date.

24. Protective Covenants. Buyer acknowledges receipt of a copy of the protective covenants for the Legacy Springs community which provide for mandatory membership in the Homeowner's Association. Annual assessments are to promote the recreational, health, safety, welfare, common benefit and enjoyment of the owners and to provide for the general upkeep and maintenance of the common areas of the development. Buyer agrees to pay annual dues of \$_____ which will be prorated and collected at closing of the home and will then be billed annually at the anniversary date. Furthermore, Buyer acknowledges and agrees that the covenants contains various waivers and disclaimers of liability in favor of various parties

Buyer: _____

25. Default. Should this transaction not be concluded because of the material default of the Seller in the performance of the obligations of the Seller pursuant to this Agreement, and should said default not be remedied within ten (10) days after written notice from the Buyer to the Seller setting forth the details of the default and demanding that the default

Seller's Initials

Buyer's Initials

be remedied (or within such reasonable period of time as may be necessary to remedy the default in the event that ten (10) days is not a sufficient time, provided that the Seller is diligently pursuing the remedy of any such default), then the Down Payment and any other sums received by the Seller from the Buyer with respect to changes in the Plans and Specifications or with respect to allowance overages, shall be refunded to the Buyer, without interest, and thereupon this Agreement shall be deemed terminated and both the Seller and the Buyer shall be relieved of any further obligations hereunder. This shall be the sole remedy available to the Buyer in the event of a default by the Seller. In the event of default by the Buyer in the performance of the obligations of the Buyer under this Agreement, and should said default not be remedied within ten (10) days after written notice from the Seller to the Buyer setting forth the details of the default and demanding that the default be remedied, then the Seller shall have the option to (a) retain all sums paid to the Seller by the Buyer pursuant to this Agreement including, but not limited to, the Earnest Money, any Down Payments, any sums with respect to changes in the Plans and Specifications, any sums with respect to allowance overages, and any other sums, as liquidated damages, by the Buyer, whereupon this Agreement shall be deemed terminated and both the Seller and the Buyer shall be relieved of any further obligations hereunder; or (b) the Seller shall have the right to retain all sums paid to the Seller, as aforesaid, by the Buyer, which sums shall be applied toward the actual damages of the Seller, and the Seller shall be entitled to recover from the Buyer the balance of any damages incurred by the Seller; or (c) the Seller shall have the right to retain all sums paid to the Seller, as aforesaid, by the Buyer, and the Seller shall have the right to pursue, in addition to the retainage of said sums, equitable relief against the Buyer, including the remedy of specific performance; or (d) the Seller shall have the right to pursue any one or more of the foregoing or any other remedies available to the Seller under applicable law.

26. Limited Warranty/Preoccupancy Inspection. The Buyer and the Seller agree to the terms and conditions of the Limited New Home Warranty Agreement attached hereto as Exhibit "C" and made a part of this Agreement. The terms and provisions of the Limited New Home Warranty Agreement have been fully negotiated between the Buyer and the Seller as a part of the negotiation of the terms and provisions of this Agreement. The Buyer and Seller agree to re-execute the Limited New Home Warranty Agreement and to deliver duplicate originals of same at the Closing. The Buyer and the Seller agree to be fully bound by the terms and provisions of the Limited New Home Warranty Agreement and agree that the Limited New Home Warranty Agreement shall survive the Closing and the conveyance of title to the Property. Pursuant to the Limited New Home Warranty Agreement, the Buyer and the Seller shall make a preoccupancy inspection of the Dwelling and shall complete the Preoccupancy Inspection Agreement which is attached as Exhibit II to the Limited New Home Warranty Agreement.

27. Time Is Of The Essence. TIME IS OF THE ESSENCE with respect to the obligation of the Buyer to close the purchase of the Property and pay the Purchase Price within the time required pursuant to this Agreement.

28. WAIVER OF WARRANTIES AND CLAIMS. THE BUYER AGREES THAT THE LIMITED NEW HOME WARRANTY AGREEMENT IS GIVEN IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, HABITABILITY AND WORKMANSHIP, AND IS ALSO IN LIEU OF ANY CLAIMS FOR CONSEQUENTIAL DAMAGES, MENTAL ANGUISH OR DISTRESS, AND FOR DAMAGES BASED UPON NEGLIGENCE, FRAUD OR MISREPRESENTATION, AND THE BUYER HEREBY EXPRESSLY WAIVES AND DISCLAIMS ANY SUCH WARRANTIES AND CLAIMS WITH RESPECT TO BOTH THE DWELLING AND THE PROPERTY.

The Buyer acknowledges that the Buyer has read, understood and accepted the foregoing.

29. Non-Payment. In the event the Buyer shall fail to pay any monies due Seller, Seller may refuse to perform any further work to the premises under warranty or otherwise until Buyer pays the full sum, plus interest at the maximum rate allowable, attorney's fees and court costs. This provision shall survive the delivery of the deed under this Agreement.

30. Buyer and Seller Hereby Acknowledge and Agree. *Four Star Realty, LLC*, _____ its officer(s), director(s), employee(s), broker(s) and sales associate(s) shall not be held responsible or liable for any obligations or agreements that the Buyer or Seller have to one another hereunder and shall not be held responsible for any representation or the passing of any information to or from the Buyer or Seller and agree to discharge and release *Four Star Realty, LLC*, _____ it's officer(s), director(s), employee(s), broker(s) and sales associate(s) from any claims, demands damages, actions, causes of actions or suit at law arising from the sale of said property and shall include but not be limited to

Seller's Initials

Buyer's Initials

the condition of the heating, cooling, plumbing, water and electrical systems and any built-in appliances; the roof and basement, including radon or other potentially hazardous gases or toxic materials including asbestos; existence of, or damage from, wood destroying insects and/or fungus; property access, easements, covenants, restrictions, developments, structures and any matters affecting the character of the neighborhood; appurtenances thereto or any related mortgage terms and conditions.

31. General Provisions.

- a. Should any provision of this Agreement be deemed unenforceable by a court of competent jurisdiction, that determination will not affect the enforceability of the remaining portions.
- b. This Agreement shall be binding upon the Seller and the Buyer, and their respective heirs, successors, executors or administrators.
- c. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.
- d. The titles or headings to the paragraphs included herein are for convenience only and shall not add to, reduce, limit or modify in any manner the content thereof.
- e. The use of one gender shall include all the genders, the use of singular shall include the plural, and the use of the plural shall include the singular, all as may be appropriate to the context in which they are used.
- f. The rights of the Buyer hereunder may not be assigned by the Buyer without the written consent of the Seller, which consent may be withheld in the discretion of the Seller.

32. Seller Warrants. The Seller warrants that he has not received any notification from any lawful authority regarding assessments, pending public improvements, repairs, replacements or alterations to this property which remain outstanding. These warrants shall survive the delivery of the deed.

33. Disclaimer. Buyer acknowledges that he has not relied upon advice or representations of Broker (or Broker's associated salespersons) relative to (i) the legal or tax consequences of this Contract and the sale, purchase or ownership of the Property; (ii) structural condition of the Property; (iii) construction materials; (iv) the nature and operating condition of the electrical, heating, air conditioning, plumbing, water heating systems and appliances; (v) the availability of utilities or sewer service; (vi) the character of the neighborhood; (viii) the investment or resale value of the Property; or (viii) any other matters affecting their willingness to purchase the Property on the terms and price herein set forth. Buyer acknowledges that if such matters are of concern to them in the decision to purchase the Property, he has the right to seek and obtain independent advice relative thereto.

34. Utilities. Four Star Land Ventures (the Developer) represents and warrants that water, gas, electricity, sewer and telephone service lines have been or will be constructed and installed to or along the boundary lines of the lots in Legacy Springs. It is the responsibility of the Developer to get final approval and acceptance of these lines from the appropriate authorities before the Seller is able to connect to such lines. Any delays caused by the inability of the Seller to connect to any of the lines that have not been approved, are not the fault of the Seller and could cause delays in the completion time of the house. The Seller is only responsible for connecting the water and sewer from the Dwelling to the accepted designated laterals serving the Property. All other utilities are connected to the Dwelling by the appropriate utility company. The Seller is not responsible for the location, repair or maintenance of these said connections and service lines installed by the utility companies.

35. Selling Contingency. (initial if applicable)

Buyer: _____ This agreement **IS** contingent on the Buyer selling and closing on his property located at _____
_____. This property
_____ **is** _____ **is not** (check one) currently under contract. If it is under contract, the expected
closing date is _____. After 30 days from the signing of this agreement, if this
property is still not under contract to sell, then the Buyer agrees to list this property with a
real estate brokerage firm licensed in the State of Alabama, of his choosing.

Buyer: _____ This agreement **IS NOT** contingent on the Buyer having to sell and close on another property.

Seller's Initials

Buyer's Initials

36. **Additional Inspections.** If the Buyer elects to have additional inspections made for his own personal use by an independent inspector, it shall be at the Buyer's expense. Buyer understands that construction sites are dangerous and hazardous environments and injury could occur while visiting or inspecting the site. Buyer further acknowledges and accepts responsibility for any injury to him or his representatives while on the construction site.

Buyer: _____

37. **Lot Size.** Each lot in the subdivision is restricted by requirements that may affect the location and orientation of the house on the lot. If the house is not currently under construction, after the signing of this Agreement a registered engineer will be contracted to do a preliminary layout of the chosen plan on the lot in order to determine that all the requirements will be satisfied. Occasionally a particular plan may not conform to the lot selected. Should this occur, the Buyer will have the option of selecting another lot. If no replacement lot can be found, the Buyer may cancel this Agreement and all monies will be refunded, as long as the decision to cancel is made within 72 hours after the Buyer receives notification to select another lot from the Seller or the Seller's agent. Otherwise, the Seller shall have the right to cancel the contract and retain a portion of the earnest money and/or down payment as reimbursement for expenses incurred by the Seller and the Seller's Agent.

38. **House Orientation.** The Dwelling will be oriented on the Property in the location which the Seller and/or the ARC of Legacy Springs deem to be best suited for drainage control, appearance, setback requirements, construction practices, or other circumstances that may be considered appropriate.

39. **Condition of Land.** Buyer is hereby informed and acknowledges that sinkholes and other surface and subsurface conditions may exist. Buying sinkhole insurance or seeking the advice of an engineer should be considered. Seller has not made and does not make any covenants, representations or warranties, either expressed or implied, regarding the physical condition of the lot or any portion thereof or of any past, present, or future soil, surface and subsurface condition, known or unknown (including without limitation, earthquake, sinkholes, underground mines, tunnels, water channels and limestone formations and deposits), under or upon the lot or any real property surrounding, adjacent to or in close proximity with the lot which may cause damage to persons or structures. In addition, Seller makes no covenants, representations or warranties, either expressed or implied, regarding whether any underground storage tanks or any hazardous or toxic waste substances or materials, including, without limitation, asbestos, radon, formaldehyde and polychlorinated biphenyl's, are present or at any time prior to the date hereof or the date of closing have been located in, on, under, upon or adjacent to the lot. Moreover, NEW PACE HOMES, LLC AND FOUR STAR REALTY, LLC OR IT'S AGENTS MAKE NO WARRANTY OR REPRESENTATION RESPECTING THE SOIL CONDITIONS OR ANY SUBSURFACE FAULT OR DEFECT, OR ANY OTHER CONDITION OF THE LAND. THE FOREGOING PROVISIONS AND WARRANTIES SHALL SURVIVE THE DELIVERY OF THE DEED.

Buyer: _____

40. **Additional Provisions.** Set forth on any attached Addendum, if signed by both parties hereto, are hereby incorporated and made a part of this Agreement by reference as though fully set forth herein.

- 41. **This Agreement Consists** of _____ pages, together with:
Exhibit A: Specifications and Allowances (initialed or signed by both parties)
Exhibit B: Plan (sales drawing initialed or signed by both parties)
Exhibit C: Limited New Home Warranty (initialed or signed by both parties)
Exhibit D: Contract Options (signed by both parties)
Addendum A
Addendum(s) _____: Additional Provisions (signed by both parties)

42. **Entire Agreement.** This Agreement and the Limited New Home Warranty Agreement, together with all of the other exhibits and attachments to this Agreement and the Limited New Home Warranty Agreement, constitute the entire agreement of the parties and the Buyer acknowledges that the Buyer has not relied upon any oral or written statements, undertakings, or representations and that no prior agreement or understanding shall be valid or of any force or effect, unless the same have been fully set forth in this Agreement, the Limited New Home Warranty Agreement, or the attachments and exhibits

Seller's Initials

Buyer's Initials

thereto. The covenants and agreements contained in this Agreement and the Limited New Home Warranty Agreement cannot be altered, changed, modified or added to, except in a written instrument signed by the Buyer and the Seller. No representation, inducement, understanding, or anything of any nature whatsoever made, state or represented by the Seller or on the Seller's behalf, either orally or in writing, (except as specifically set forth in this Agreement or in the Limited New Home Warranty Agreement) has induced the Buyer to enter into this Agreement or shall be enforceable in any manner against the Seller.

IN WITNESS WHEREOF, the undersigned parties have set their hands and seals to this Agreement on this the _____ day of _____, 20____.

WITNESS:

SELLER:
New Pace Homes, LLC

By: _____

Its: _____

BUYER:

COMMISSION: The commission payable to the agent(s) in this sale is not set by The Birmingham Area Board of Realtors, Inc., but is negotiable between the Seller and the Agent. Seller agrees to pay Four Star Realty, LLC (Listing Agent) and _____ (Selling Agent), a commission based on the amount of ____% of \$_____ only in the event this sale closes with the Buyer named in this Agreement. In addition, the Agents certify that they have not made any representations or commitments to Buyer which has not been made a part of this Agreement.

Listing Agent

Seller

Selling Agent

Seller's Initials

Buyer's Initials

Exhibit "A"

NEW PACE HOMES, LLC

LEGACY SPRINGS

Standard Building Specifications

Lot # _____

Date: __/__/__

Plan: _____

Buyer: _____

STANDARD FEATURES:

- * Windows: Vinyl - Insulated Double Pane w/ screens.
- * Smoke detectors on each living level, in each bedroom, and in garage.
- * Two weatherproof GFI exterior electrical outlets.
- * Ceiling Height: 9' main level, unless plan dictates otherwise.
- * Two frost proof hose bibs.
- * 50 gallon gas water heater
- * Insulation: R-30 ceiling; R-13 in exterior walls and walls common to garage; garage not insulated.
- * Insulated metal/vinyl clad exterior doors, unless plan dictates otherwise.
- * Garage door: Aluminum - Non-insulated, unless plan dictates otherwise.
- * Garage door opener w/ two remotes
- * Single cylinder dead bolts: Entrance doors.
- * Mirrors: Plate glass over bath vanities.
- * Shelving: Coated wire, white.
- * Drywall finish: Smooth walls and ceilings
- * Interior paint colors: Two (2) wall colors; colors requiring extra coats will be treated as an extra charge.
- * Trim Package - 3 1/4" Base; 2 1/4" Door Casing; 4" Crown Molding in a total of 2 rooms of Purchaser's choosing.
- * Wired for ceiling fan in den/family room and all bedrooms.
- * Pre-wired for telephone in all bedrooms, den/family room, and kitchen.
- * Pre-wired for cable in all bedrooms and den/family room.
- * Landscaping: Bermuda sod, shrubs (builders choice), mulch & seed.
- * Aluminum seamless gutters w/ downspouts.
- * Brick exterior per plan.
- * Vinyl siding and soffits per plan.
- * Front door bell.

FAMILY/DEN AREA:

- * 36" non-vented fireplace - gas logs w/ wall control switch
- * Marble or brick hearth.
- * Paint grade designer mantel.
- * Carpet floor covering.

KITCHEN AND NOOK:

- * Recess panel, stain grade, custom cabinets - standard
- * Laminate, wood edge countertop.
- * Ceramic tile backsplash/
- * Stainless steel, double bowl sink w/ chrome fixtures

- * Appliances - 30" free standing range; dishwasher; microwave.
- * Vinyl floor covering.
- * Water shut-off valve for each dishwasher, refrigerator and sink.
- * Water connection for refrigerator ice-maker.

DINING ROOM:

- * Carpet, vinyl or hardwoods per plan.
- * Crown molding. (See Trim Package under Standard Features)

BEDROOMS:

- * Carpet floor covering.
- * Walk-in closet in master bedroom.
- * Tray Ceiling in master (unless plan dictates otherwise).
- * Crown molding in master bedroom. (See Trim Package under Standard Features)

BATHS:

- * Exhaust fans in all baths.
- * Fiberglass tub-shower combination in hall/guest bath.
- * Separate garden tub & fiberglass shower w/ glass enclosure in master bath; jetted tub is available as an upgrade.
- * Custom built vanities with cultured marble tops.
- * Double bowl vanity in master bath.
- * Pedestal sink in 1/2 baths (if applicable)
- * Towel bars and paper holders.
- * Ceramic tile flooring.

LAUNDRY:

- * 220 volt electric dryer connection with vented exhaust; gas is available as an extra.
- * Space saver recessed water connections for washer.
- * Water shut-off valves to washer.
- * Vinyl coated wire shelf over washer and dryer (unless plan dictates otherwise).
- * Vinyl floor covering.

New Pace Homes, LLC by: _____

Purchaser: _____

New Pace Homes, LLC reserves the right to substitute items of like quality without notice or obligation. Plans and renderings may vary in precise detail from actual construction. All dimensions and square footage are approximate.

Attachment I to Exhibit "A"

NEW PACE HOMES, LLC

LEGACY SPRINGS

ALLOWANCES

Lot #: _____

Purchaser: _____

ITEM **ALLOWANCE**

MASONRY:

Brick \$280.00 per thousand brick
Mortar Colors - buff, gray, & dark gray - other colors are extra

LIGHTING:

Fixtures \$1,600.00 (this includes all fixtures, ceiling fans, bulbs, recess cans, doorbell and push-button).

FLOORING:

Refer to plan or rendering for locations of standard flooring.
Carpet \$16.00 per sy (includes carpet, pad & installation)
Vinyl \$16.00 per sy (includes vinyl and installation)
Ceramic Tile \$ 9.50 per sf (includes material and installation)

APPLIANCES:

Select from builder's package.
Range (electric smooth top) \$600.00
Dishwasher \$280.00
Microwave/Hood \$225.00

SHELVING:

White vinyl coated wire \$300.00

BATH ACCESSORIES:

Towel holders, Paper holders \$125.00

Buyer **Date**

New Pace Homes, LLC **Date**

Buyer **Date**

Date ___/___/___

Attachment II to Exhibit A

Form C-10

NEW PACE HOMES, LLC

Revised 09/15/07

Change Order Request

Lot #: _____ Development: _____

Purchaser: _____

Plan: _____

Instructions: On this form list only changes, upgrades and/or additions that are to be priced for a house that is already under an accepted contract. Changes, upgrades and/or additions on a house that is under contract negotiations should be a part of the contract. There is a limit of five (5) items per request. All orders are to be signed by both the Buyer and Agent in the appropriate spaces under "REQUESTED BY:" before any item will be priced. New Pace will price the items listed, that they agree to do, and return Form C-20 to the Agent. (Note: Prices may vary from house to house due to the construction stage, material availability, etc.). Each order, no matter how many items, will be a minimum of \$300.00. All payments must be received by New Pace before any of the items will be done.

Item #	Description
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

REQUESTED BY:

Buyer: _____

Buyer: _____

Agent: _____

Notes:

EXHIBIT "C"

NEW PACE HOMES, LLC

LIMITED WARRANTY AGREEMENT

This Limited Warranty Agreement is hereby entered into on this the _____ day of _____, 20____, by _____, hereinafter (whether one or more) referred to as the Buyer and New Pace Homes, L.L.C. hereinafter referred to as the Seller.

WHEREAS, the Seller and the Buyer on this same day entered into a contract (hereinafter referred to as the "Contract") of which this Limited New Home Warranty Agreement is a part, for the sale by the Seller and the purchase by the Buyer of a house (the "Dwelling") located upon that certain parcel of real property located in St. Clair County, Alabama, the address of which is _____ and the legal description is Lot: _____ Subdivision: _____.

WHEREAS, the Seller has agreed in the Contract to provide to the Buyer and the Buyer has agreed to accept this Limited New Home Warranty Agreement, in lieu of all other warranties and claims whatsoever, whether implied by law or otherwise.

NOW, THEREFORE, in consideration of the premises, the agreements herein, the agreements set forth in the above mentioned Contract, the payment of the purchase price as set out in the Contract, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree to the terms and conditions of this Limited New Home Warranty agreement as follows:

1. Warranty Period. The Seller does hereby provide to the Buyer this Limited New Home Warranty Agreement on the Dwelling for a period of one (1) year (the "Limited Warranty Period") beginning on the date of conveyance of title to the Buyer or the date of initial occupancy of the Dwelling, whichever occurs first (the "Limited Warranty Commencement Date"), and the Buyer does hereby agree to the terms of this Limited New Home Warranty Agreement and further agrees to accept this Limited New Home Warranty Agreement as the only warranty given, in lieu of all other warranties of any kind, expressed or implied, with respect to the construction of the Dwelling and the sale thereof to the Buyer. The Limited Warranty Period has been negotiated between the Seller and the Buyer as a part of the negotiation of the terms and provisions of the Contract.

2. Limited Warranty. The Seller hereby warrants to the Buyer that, for and during the Limited Warranty Period, the Dwelling will be free from Latent Defects, as hereinafter defined. If a Latent Defect occurs in an item which is covered by this Limited New Home Warranty Agreement, the Seller will repair, replace, or pay to the Buyer the reasonable cost of repairing or replacing any such item. THE LIABILITY OF THE SELLER IS STRICTLY LIMITED TO THE OBLIGATION TO REPAIR, REPLACE OR PAY THE REASONABLE COST OF REPAIRING OR REPLACING, ANY SUCH ITEM, AND ANY RIGHT THAT THE BUYER MIGHT HAVE TO RECOVER ANY OTHER OR ADDITIONAL DAMAGES IS HEREBY WAIVED AND EXCLUDED. THE BUYER ACKNOWLEDGES THAT THE SOLE REMEDY AVAILABLE TO THE BUYER HEREUNDER IS THE RIGHT TO REQUIRE THE SELLER TO REPAIR, REPLACE OR PAY THE REASONABLE COST OF REPAIRING OR REPLACING ANY SUCH ITEM. Any steps taken by the Seller to correct any Latent Defect under this Limited Warranty Agreement shall not extend the Limited Warranty Period.

3. Definition of Latent Defect. For the purposes of this Limited New Home Warranty Agreement, a Latent Defect is defined as and limited to a defect in a necessary component in the Dwelling which (i) is not apparent at the Limited Warranty Commencement Date but which becomes apparent during the Limited Warranty Period; (ii) is not otherwise excluded in this Limited New Home Warranty Agreement; (iii) results in actual physical damage to the Dwelling; (iv) is the direct result of the failure by the Seller to construct the Dwelling in accordance with the applicable Building Standard portion of the Building Quality Standards Section attached hereto as Exhibit 1 to the Limited New Home Warranty Agreement; and (v) has been set forth in detail by the Buyer in a written notice to the Seller prior to the expiration of the Limited Warranty Period. The responsibility of the Seller to repair or replace certain items with respect to which there might be a Latent Defect shall be as set forth in the Responsibility portion of the Building Quality Standards Section. Provided, if a specific Latent Defect is not addressed in the Building Quality Standards Section, then the applicable codes adopted by the local governing body with respect to residential construction standards (or if no such codes have been adopted, then the standards of construction prevailing in the geographical area of the Dwelling) will be used in lieu of the provisions of the Building Quality Standards Section. The Building Quality Standards Section lists specific defects that might occur within specified categories of the construction and the responsibilities of the Seller and the Buyer with respect thereto, pursuant to the following format:

Possible Defect - A brief statement of problems that may be encountered.

Building Standard - A building standard relating to a specific defect.

Responsibility - A Statement of the corrective action required of the Seller to repair the defect or a statement of the Buyer's maintenance responsibilities.

4. LIMITATION UPON LIABILITY. THE SOLE REMEDY AVAILABLE TO THE BUYER UNDER THIS LIMITED WARRANTY AGREEMENT IS THE RIGHT TO REQUIRE THE SELLER TO REPAIR, REPLACE OR PAY THE REASONABLE COST OF REPAIRING OR REPLACING LATENT DEFECTS, AS HEREIN DEFINED, IN THE DWELLING. THE SELLER'S TOTAL LIABILITY UNDER THIS LIMITED WARRANTY AGREEMENT SHALL NOT EXCEED THE ORIGINAL PURCHASE PRICE PAID TO THE SELLER UNDER THE CONTRACT, LESS THE VALUE OF THE REAL PROPERTY UPON WHICH THE DWELLING IS LOCATED. THIS LIMITED WARRANTY AGREEMENT DOES NOT EXTEND TO OR INCLUDE LIABILITY FOR INDIRECT OR CONSEQUENTIAL DAMAGES.

5. Pre-Closing Inspection. Prior to closing the purchase of the Dwelling, the Buyer and the Seller will complete and sign a pre-occupancy inspection of the Dwelling in accordance with the form attached hereto as Exhibit II to this Warranty and any exceptions, omissions or malfunctions agreed upon and noted thereon will corrected promptly by the Seller. The Seller may elect, at the discretion of the Seller, to correct all exceptions, omissions or malfunctions and document, with the Buyer, such corrections or exceptions, omissions or malfunctions, prior to proceeding with closing.

6. Assignment of Insurance and Warranties to Seller. In the event the Seller repairs, replaces, or pays to the Buyer the reasonable cost of repairing or replacing, any Latent Defect covered by this Limited New Home Warranty Agreement which is covered by insurance or other warranties, the Buyer will, upon the request by the Seller, assign the products or proceeds of such insurance or warranties to the Seller to the extent of the cost to the Seller of such repair, replacement or payment.

7. Exclusions and Disclaimers. This Limited New Home Warranty Agreement shall not extend to, include or be applicable to (a) defects in outbuildings not attached to the Dwelling; swimming pools; other recreational facilities; driveways; walkways; retaining walls; fences; landscaping (including sodding, seeding, shrubs, trees and plantings); or items furnished or installed by the Buyer or by parties who have dealt directly with the Buyer; or (b) defects which are the result of characteristics common to the materials used, such as (but not limited to) warping and deflection of wood; mildew; fading, chalking and checking of paint due to sunlight; cracks due to drying and curing of concrete, stucco, plaster, bricks and masonry; shrinking and cracking of caulking and weather-stripping; and non-uniformity of appearance of brick and mortar; or (c) defects resulting from failure to perform general maintenance; negligence; normal wear and tear; improper maintenance; or improper operation of the Dwelling or any part of the systems in the Dwelling; and the Buyer hereby waives any claim arising out of any such defects.

The Buyer hereby acknowledges that the Buyer has read, understood and accepted the foregoing paragraph.
(Buyer's initial) _____

This Limited New Home Warranty Agreement shall not extend to, include or be applicable to any loss, damage or injury caused by or resulting from riots, civil commotion; fire; explosion; smoke; accidents; water escape; falling objects; aircraft; vehicles; acts of God; lightning; windstorm; hail; flood; mud slides; damage to personal property; earthquakes; volcanic eruptions; wind driven water; radon gas; infestation from termites or other insects; sink holes; subsurface conditions; or changes in the underground water table; including, but not limited to, any mental anguish or bodily injury and any incidental, consequential or secondary damages caused or claimed to be caused thereby; and the Buyer hereby waives any claim arising out of any such loss, damage or injury.

The Buyer hereby acknowledges that the Buyer has read, understood and accepted the foregoing paragraph.
(Buyer's initial) _____

This Limited New Home Warranty Agreement does not limit or enhance any manufacturer's warranty that is given on any appliance, fixture, equipment or material included within the Dwelling (Manufacturer's Warranted Items). The warranties supplied by the manufacturers, either directly or indirectly, to the Buyer, on some Manufacturer's Warranted Items, may be

greater in both scope and time than warranties provided in this Limited New Home Warranty Agreement. These warranties are the property of the Buyer, and the Seller shall deliver all such warranties at the pre-occupancy inspection or closing and transfer the rights that the Seller has in such warranties, if any, to the Buyer. The Buyer will file with the manufacturer any forms contained in these manufacturer's warranties that are necessary to activate such warranties. These Manufacturer's Warranted items are specifically not covered by this Limited New Home Warranty Agreement and the Buyer shall rely on the manufacturers to correct any deficiencies with respect to these Manufacturer's Warranted Items.

The Buyer hereby acknowledges that the Buyer has read,
understood and accepted the foregoing paragraph.

(Buyer's initial) _____

8. Access to the Dwelling. The Buyer must provide the Seller with reasonable workday access to the Dwelling in order to perform any warranty service required under this Limited New Home Warranty Agreement. Failure or refusal of the Buyer to provide such access to the Seller will relieve the Seller of its obligations under this Limited New Home Warranty Agreement.

9. Opportunity to Perform. Prior to filing any action under this Limited New Home Warranty Agreement, the Buyer must give the Seller reasonable notice of and a reasonable opportunity to repair, replace or pay the reasonable cost of repairing or replacing any Latent Defect covered hereunder. SUCH NOTICE MUST, IN ANY EVENT, BE GIVEN IN THE MANNER DESCRIBED IN PARAGRAPH 13 OF THIS LIMITED NEW HOME WARRANTY AGREEMENT AND MUST BE GIVEN PRIOR TO THE EXPIRATION OF THE LIMITED WARRANTY PERIOD. The Buyer acknowledges that the right of the Buyer to require the Seller to repair, replace or pay the reasonable cost of repairing or replacing any Latent Defect covered hereunder is the sole and exclusive remedy available to the Buyer.

10. Arbitration. Seller and Buyer agree that any controversy or claim arising from or out of or relating to this Agreement or the breach thereof shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties acknowledge and agree that the transactions contemplated by this Agreement, which include the use of interstate mails, roadways and commerce, involve interstate commerce, as that term is defined in the Federal Arbitration Act. Both parties acknowledge that they are waiving their right to sue in court for disputes relating to this Agreement or the breach thereof and these shall be settled by arbitration. The site of such arbitration shall be Birmingham, AL.

11. No Assignment. This Limited New Home Warranty Agreement is provided to the Buyer only and is not transferable or assignable by the Seller or the Buyer nor enforceable by any subsequent owner or occupant of the Dwelling.

12. General Provisions.

a. Should any provision of this Limited New Home Warranty Agreement be deemed unenforceable by a court of competent jurisdiction, that determination will not affect the enforceability of the remaining portions.

b. This Limited New Home Warranty Agreement shall be binding upon the Seller and Buyer, and their respective heirs, successors, executors or administrators.

c. This Limited New Home Warranty Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

d. The titles or headings to the paragraphs included herein are for convenience only and shall not add to, reduce, limit or modify in any manner the content thereof.

e. The use of one gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular, all as may be appropriate to the context in which they are used.

13. Notice to the Seller. The Buyer shall notify the Seller in writing before the expiration of the Limited Warranty Period of any defect covered by this warranty (or any VA or FHA warranty, if applicable). Such notice and any other notices to be given to the Seller hereunder must be sent by certified mail to the Seller at the following address:

New Pace Homes, LLC
5280 Old Springville Road
Pinson, AL 35126

FAILURE OF THE BUYER TO GIVE SUCH WRITTEN NOTICE TO THE SELLER BEFORE THE EXPIRATION OF THE LIMITED WARRANTY PERIOD SHALL BAR ANY RIGHT TO RECOVERY BY THE BUYER PURSUANT TO THIS LIMITED WARRANTY AGREEMENT.

14. Consumer Products. This Limited New Home Warranty Agreement does not extend to or cover any appliance, piece of equipment, or any item defined as a consumer product for purposes of the Magnusson-Moss Warranty Act (15 USC 2301-2312, as amended).

15. WAIVER OF WARRANTIES AND CLAIMS. EXCEPT AS TO ANY VA/FHA WARRANTY DELIVERED TO THE BUYER AT CLOSING, IF ANY, THIS LIMITED NEW HOME WARRANTY AGREEMENT IS GIVEN IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, HABITABILITY AND WORKMANSHIP, AND IS ALSO IN LIEU OF ANY CLAIMS FOR CONSEQUENTIAL DAMAGES, MENTAL ANGUISH OR DISTRESS, AND THE BUYER HEREBY EXPRESSLY WAIVES AND DISCLAIMS ANY SUCH WARRANTIES AND CLAIMS WITH RESPECT TO BOTH THE DWELLING AND THE REAL PROPERTY UPON WHICH THE DWELLING HAS BEEN CONSTRUCTED. IF A VA OR FHA WARRANTY IS DELIVERED TO THE BUYER AT CLOSING, SUCH WARRANTY SHALL BE CONSTRUED TOGETHER WITH THIS LIMITED NEW HOME WARRANTY AGREEMENT, AND WHERE ANY CONFLICT MAY EXIST, SUCH VA OR FHA WARRANTY SHALL GOVERN.

The Buyer hereby acknowledges that the Buyer has read, understood and accepted the foregoing paragraph.
(Buyer's initial) _____

16. SOLE WARRANTY/ENTIRE AGREEMENT. IT IS SPECIFICALLY AGREED BY THE PARTIES HERETO THAT THIS LIMITED NEW HOME WARRANTY AGREEMENT IS ACCEPTED BY THE BUYER AS THE SOLE WARRANTY GIVEN BY THE SELLER. THE BUYER ACKNOWLEDGES THAT THIS LIMITED NEW HOME WARRANTY AGREEMENT IS THE ENTIRE AGREEMENT OF THE PARTIES RELATED TO WARRANTIES. THE BUYER FURTHER AGREES THAT THE BUYER HAS NOT RELIED UPON ANY ORAL OR WRITTEN STATEMENTS, UNDERTAKINGS, OR REPRESENTATIONS EXCEPT AS SPECIFICALLY SET FORTH IN THIS LIMITED NEW HOME WARRANTY AGREEMENT AND THAT NO PRIOR AGREEMENT OR UNDERSTANDING PERTAINING TO WARRANTIES SHALL BE VALID OR OF ANY FORCE OR EFFECT. THE COVENANTS AND AGREEMENTS OF THIS LIMITED NEW HOME WARRANTY AGREEMENT CANNOT BE ALTERED, CHANGED, MODIFIED, OR ADDED TO, EXCEPT IN A WRITTEN INSTRUMENT SIGNED BY THE BUYER AND THE SELLER. NO REPRESENTATION, INDUCEMENT, UNDERSTANDING, OR ANYTHING OF ANY NATURE WHATSOEVER MADE, STATED OR REPRESENTED BY THE SELLER OR ON THE SELLER'S BEHALF, EITHER ORALLY OR IN WRITING, (EXCEPT AS SPECIFICALLY SET FORTH IN THIS LIMITED NEW HOME WARRANTY AGREEMENT) HAS INDUCED THE BUYER TO ENTER INTO THIS LIMITED NEW HOME WARRANTY AGREEMENT OR SHALL BE ENFORCEABLE IN ANY MANNER AGAINST THE SELLER.

The Buyer hereby acknowledges that the Buyer has read, understood and accepted the foregoing paragraph.
(Buyer's initial) _____

IN WITNESS WHEREOF the parties hereto have set their hands and seals on this the _____ day of _____, 20____.

WITNESS:

SELLER:

New Pace Homes, L.L.C.

by: _____

its: _____

BUYER

BUYER

New Pace Homes, LLC
Limited Warranty
Building Quality Standards Section

1. Site Work

A. Site Grading:

(1) Possible Defect	Settling of ground around foundation, utility trenches or other areas.
Building Standard	Settling of ground around foundation walls, utility trenches or other filled areas shall not interfere with water drainage away from the Home.
Responsibility	If Builder has provided the final grading then they will fill the settled areas affecting proper drainage, <u>one time only</u> , during the Limited Warranty Period. Buyer shall be responsible for removal and replacement of shrubs or other landscaping affected by placement of such fill.

B. Site Drainage:

(1) Possible Defect	Improper drainage of the site.
Building Standard	The necessary grades and swales shall have been established by Builder to insure proper drainage away from the Home. Standing or ponding water shall not remain for extended periods in the immediate area after a rain (generally no more than 24 hours), except that in swales which drain other areas, in areas where sump pump discharge, or in areas where the gutter drains discharge, a longer period can be anticipated (generally no more than 48 hours). The possibility of standing water after an unusually heavy rainfall should be anticipated. No grading determination shall be made while there is frost or snow on the ground, or while the ground is saturated.
Responsibility	Builder is responsible only for initially establishing the proper grades and swales. The Buyer is responsible for maintaining such grades and swales once they have been properly established.

2. Concrete

A. Expansion and Contraction Joints:

(1) Possible Defect	Separation or movement of concrete slabs within the structure at expansion joints.
Building Standard	Concrete slabs within the structure are designed to move at expansion and contraction joints.
Responsibility	None.

B. Cast-in-Place Concrete

(1) Possible Defect	Basement or foundation wall cracks.
Building Standard	Shrinkage cracks are not unusual in concrete foundation walls. Such cracks greater than 1/8 inch in width shall be repaired.

Responsibility	Builder will repair cracks exceeding the maximum tolerances by surface patching or other methods as required.
(2) Possible Defect	Cracking in slab of attached garage.
Building Standard	Cracks in garage slabs in excess of 1/4 inch in width or 1/4 inch in vertical displacement shall be repaired.
Responsibility	Builder will repair cracks exceeding maximum tolerances by surface patching or other methods as required.
(3) Possible Defect	Cracking of basement floor.
Building Standard	Minor cracks in concrete basement floors are normal. Cracks exceeding 3/16 inch in width or 1/8 inch in vertical displacement shall be repaired.
Responsibility	Builder will repair cracks exceeding maximum tolerances by surface patching or other methods as required.
(4) Possible Defect	Uneven concrete floors/slabs
Building Standard	Concrete floors in rooms designed for habitability shall not have pits, depressions or areas of unevenness exceeding 1/4 inch in 32 inches.
Responsibility	Builder will correct or repair to meet the Building Standard by the use of a filler compound.
(5) Possible Defect	Cracks in concrete slab-on-grade floors with finish flooring
Building Standard	Cracks which rupture the finish flooring material shall be repaired.
Responsibility	Builder will repair cracks, as necessary, so as not to be readily apparent when the finish flooring material is in place.
(6) Possible Defect	Pitting, scaling or spalling of concrete work covered by this Limited Warranty.
Building Standard	Concrete surfaces shall not disintegrate to the extent that the aggregate is exposed and loosened under normal conditions or weathering and use.
Responsibility	Builder will take whatever corrective action is necessary to repair or replace defective concrete surfaces. Builder is not responsible for deterioration caused by salt, chemicals, mechanical implements and other factors beyond its control.
(7) Possible Defect	Settling, heaving, or separating of stoops, steps, or garage floors during the Limited Warranty.
Building Standard	Stoops, steps, or garage floors shall not settle, heave or separate in excess of 1 inch from the house structures.
Responsibility	Builder will take whatever corrective action is required to meet the Building Standard.
(8) Possible Defect	Standing water on stoops, patios, porches and garage floors during the Limited Warranty.
Building Standard	Water should drain from outdoor stoops and steps. The possibility of minor

water standing on stoops for a short period after rain can be anticipated. Blowing rain can enter garage around garage doors.

Responsibility Builder shall take corrective action to assure drainage of such areas by sawing grooves to drain such areas.

3. Masonry

A. Unit Masonry

- (1) **Possible Defect** Basement or foundation wall cracks
- Building Standard** Small cracks not affecting structural stability are not unusual in mortar joints or masonry foundation walls. Cracks greater than 1/8 inch in width shall be repaired.
- Responsibility** Builder will repair cracks in excess of 1/8 inch by pointing or patching. These deficiencies shall be reported and repairs made during the Limited Warranty Period.
- (2) **Possible Defect** Cracks in masonry walls or veneer during the Limited Warranty.
- Building Standard** Small hairline cracks due to shrinkage are common in mortar joints in masonry construction. Cracks greater than 3/8 inch in width are considered excessive.
- Responsibility** Builder will repair cracks in excess of Building Standard by pointing or patching. These repairs shall be made during the Limited Warranty Period. Builder will not be responsible for color variation between old and new mortar.
-

4. Wood and Plastic

A. Rough Carpentry

- (1) **Possible Defect** Floors squeak or subfloor appears loose during the Limited Warranty.
- Building Standard** Floor squeaks and loose subfloor are often temporary conditions common to new construction, and a squeak-proof floor cannot be guaranteed.
- Responsibility** Builder will correct or repair to meet Building Standard.
- (2) **Possible Defect** Uneven wood floors during the Limited Warranty.
- Building Standard** Floors shall not have more than 1/4 inch ridge or depression within any 32 inch measurement when measured parallel to the joists. Allowable floor and ceiling joist deflections are governed by the applicable building code.
- Responsibility** Builder will correct or repair to meet Building Standard.
- (3) **Possible Defect** Bowed walls during the Limited Warranty.
- Building Standard** All interior and exterior walls have slight variances on their finished surfaces. Bowing of walls should not detract from or blemish the wall's finished surface. Walls should not bow more than 1/4 inch out of line within any 32

inch horizontal or vertical measurement.

- Responsibility** Builder will repair to meet the Building Standard.
- (4) **Possible Defect** Out-of-plumb walls.
- Building Standard** Walls should not be more than 1/4 inch out of plumb for any 32 inch vertical measurement.
- Responsibility** Builder will repair to meet the Building Standard.

B. Finish Carpentry (Interior)

- (1) **Possible Defect** Poor quality of interior trim workmanship
- Building Standard** Joints in moldings or joint between moldings and adjacent surface shall not result in open joints exceeding 1/8 inch in width.
- Responsibility** Builder will repair defective joints, as defined. Caulking is acceptable.

C. Finish Carpentry (Exterior)

- (1) **Possible Defect** Poor quality of exterior trim workmanship.
- Building Standard** Joints between exterior trim elements, including siding and masonry, shall not result in open joints in excess of 3/8 inch. In all cases the exterior trim, masonry and siding shall be capable of performing its function to exclude the elements.
- Responsibility** Builder will repair open joints, as defined. Caulking is acceptable.

5. Thermal and Moisture Protection

A. Insulation

- (1) **Possible Defect** Insufficient insulation.
- Building Standard** Insulation shall be installed in accordance with the specification sheet and contract.
- Responsibility** Builder will install insulation to meet the specification requirements.

B. Louvers and Vents

- (1) **Possible Defect** Leaks due to snow or rain driven into the attic through louvers or vents.
- Building Standard** Attic vents and/or louvers must be provided for proper ventilation of the attic of the structure.
- Responsibility** None.

C. Roofing and Siding

- (1) **Possible Defect** Roof or flashing leaks during the Limited Warranty.
- Building Standard** Roofs or flashing shall not leak under normally anticipated conditions, except where cause is determined to result from ice/snow, leaf, or debris buildup or Buyer action or negligence.

Responsibility Builder will repair any verified roof or flashing leaks not caused by ice/snow, leaf, or debris buildup or Buyer action or negligence.

(2) **Possible Defect** Delamination of veneer siding or joint separation during the Limited Warranty.

Building Standard All siding shall be installed according to the manufacturer's and industry's accepted standards. Separations and delaminations shall be repaired or replaced.

Responsibility Builder will repair or replace siding as needed unless caused by Buyer neglect to maintain siding properly. Repaired area may not match in color and/or texture. For surfaces requiring paint, Builder will paint only the new materials. The Buyer can expect that the newly painted surface may not match original surface in color.

D. Gutters

(1) **Possible Defect** Gutter and/or down spout leak during the Limited Warranty.

Building Standard Gutters and down spouts shall not leak but gutters may overflow during heavy rain.

Responsibility Builder will repair leaks. It is a Buyer responsibility to keep gutters and down spouts free of leaves and debris which could cause overflow.

(2) **Possible Defect** Water standing in gutters during the Limited Warranty.

Building Standard When gutter is unobstructed by debris, the water level shall not exceed one (1) inch in depth. Industry practice is to install gutters approximately level. Consequently, it is entirely possible that small amounts of water will stand in certain sections of gutter immediately after a rain.

Responsibility Builder will correct to meet Building Standard.

E. Sealants

(1) **Possible Defect** Leaks in exterior walls due to inadequate caulking

Building Standard Joints and cracks in exterior wall surfaces and around openings shall be properly caulked to exclude the entry of water.

Responsibility Builder will repair and/or caulk joints or cracks in exterior wall surfaces as requires to correct deficiencies once, during the Limited Warranty Period. Even properly installed caulking will shrink and must be maintained during the life of the Home.

F. Waterproofing

(1) **Possible Defect** Leaks in basement

Building Standard Leaks resulting in actual trickling of water shall be repaired. Leaks caused by improper landscaping by the Buyer or failure of the Buyer to maintain proper grades are not covered by this Limited Warranty. Dampness of the walls and floors may occur in new construction and is not considered a deficiency.

Responsibility Builder will take such actions as necessary to correct basement leaks except where the cause is determined to result from Buyer action or negligence.

6. Doors and Windows

A. Wood, Metal, and Plastic Doors

- (1) **Possible Defect** Warpage of exterior doors during the Limited Warranty.
- Building Standard** Exterior doors will warp to some degree due to the temperature differential on inside and outside surfaces. However, they shall not warp to the extent that they become inoperable or cease to be weather resistant or exceed National Woodwork Manufacturers Association Standards (1/4 inch, measured diagonally from corner to corner).
- Responsibility** Builder will correct or replace and refinish defective doors.
- (2) **Possible Defect** Warpage of interior passage and closet doors during the Limited Warranty.
- Building Standard** Interior doors (full opening) shall not warp in excess of National Woodwork Manufacturers Association Standards (1/4 inch, measured diagonally from corner to corner).
- Responsibility** Builder will correct or replace and refinish defective doors to match existing doors as nearly as possible, during the Limited Warranty Period.
- (3) **Possible Defect** Shrinkage of insert panels show raw edges.
- Building Standard** Panels will shrink and expand and may expose unpainted surfaces.
- Responsibility** None.
- (4) **Possible Defect** Split in door panel during the Limited Warranty.
- Building Standard** Split panels shall not allow light to be visible through door.
- Responsibility** Builder will, if light is visible, fill split and match paint or stain as closely as possible, one time during the Limited Warranty Period.
- (5) **Possible Defect** Scratches or dents in door.
- Building Standard** Door should be scratch and dent free at the time of closing.
- Responsibility** Builder will repair all dents and scratches that were indicated on the preoccupancy inspection report made by the Buyer.

B. Glass

- (1) **Possible Defect** Broken glass.
- Building Standard** None.
- Responsibility** Broken glass not reported to Builder prior to closing is the Buyer responsibility.

C. Garage Doors

- (1) **Possible Defect** Garage door fails to operate properly, under normal use during the Limited Warranty.

Building Standard Garage doors shall operate properly.

Responsibility Builder will correct or adjust garage doors as required.

(2) **Possible Defect** Garage doors allow entrance of snow or water during the Limited Warranty.

Building Standard Garage doors shall be installed as recommended by the manufacturer. Some entrance of the elements can be expected under abnormal conditions.

Responsibility Builder will adjust or correct garage doors to meet manufacturer's recommendations. Builder is not responsible for blowing rain coming in garage around garage door.

D. Windows

(1) **Possible Defect** Malfunction of windows during the Limited Warranty Period.

Building Standard Windows shall operate with reasonable ease, as designed.

Responsibility Builder will correct or repair as required.

(2) **Possible Defect** Condensation and/or frost on windows.

Building Standard Windows will collect condensation on interior surfaces when extreme temperature differences and high humidity levels are present. Condensation is usually the result of climatic/humidity conditions, created by the Buyer.

Responsibility Unless directly attributed to faulty installation, window condensation is a result of conditions beyond Builder's control. No corrective action required.

E. Weather-stripping and Seals

(1) **Possible Defect** Air infiltration around doors and windows during the Limited Warranty Period.

Building Standard Some infiltration is normally noticeable around doors and windows, especially during high winds. Poorly fitted weather-stripping shall be adjusted or replaced. It may be necessary for the Buyer to have storm doors and windows installed to provide satisfactory solutions in high wind areas.

Responsibility Builder will adjust or correct poorly fitted doors, windows and poorly fitted weather stripping.

7. Finishes

A. Gypsum Wallboard

(1) **Possible Defect** Defects which appear during the Limited Warranty such as nail pops, blisters in tape, or other blemishes.

Building Standard Slight "imperfections" such as nail pops, seam lines and cracks not exceeding 1/8 inch in width are common in gypsum wallboard installations and are considered acceptable.

Responsibility Builder will repair only cracks exceeding 1/8 inch in width, one time only, during the Limited Warranty Period. (See 7. E., "Painting.")

B. Ceramic Tile

- (1) **Possible Defect** Ceramic tile cracks or becomes loose during the Limited Warranty Period.
- Building Standard** Ceramic tile shall not crack or become loose during the Warranty Period.
- Responsibility** Builder will replace cracked tiles and re-secure loose tiles unless the defects were caused by the Buyer action or negligence. Builder will not be responsible for discontinued patterns or color variations in ceramic tile.
- (2) **Possible Defect** Cracks appear in grouting of ceramic tile joints or at junctions with other materials such as a bathtub.
- Building Standard** Cracks in grouting of ceramic tile joints are commonly due to normal shrinkage conditions.
- Responsibility** Builder will repair grouting if necessary one time only, during the Limited Warranty Period. Builder will not be responsible for color variations or discontinued colored grout. Regrouting of these cracks is a maintenance responsibility of the Buyer within the life of the Home.

C. Finished Wood Flooring

- (1) **Possible Defect** Cracks developing between floor boards during the Limited Warranty.
- Building Standard** Cracks in excess of 1/8 inch in width shall be corrected.
- Responsibility** Builder will repair cracks in excess of 1/8 inch by filling or replacing, at Builder's option.

D. Resilient Flooring

- (1) **Possible Defect** Nail pops appear on the surface of resilient flooring during the Limited Warranty.
- Building Standard** Readily apparent nail pops shall be repaired.
- Responsibility** Builder will correct nail pops which have broken the surface. Builder will repair or replace, at it's sole option, resilient floor covering in the affected area with similar material. Builder will not be responsible for discontinued patterns or color variations in the floor covering.
- (2) **Possible Defect** Depression or ridges appear in the resilient flooring due to subtle irregularities during the Limited Warranty.
- Building Standard** Readily apparent depressions or ridges exceeding 1/8 inch shall be repaired. The ridge or depression measurement is taken as the gap created at one end of a six inch straightedge placed over the depression or ridge with three inches of the straightedge on one side of the defect, held tightly to the floor.
- Responsibility** Builder will take corrective action as necessary, to bring the defect within acceptable tolerance so that the affected area is not readily visible. Builder will not be responsible for discontinued patterns or color variations in floor covering.
- (3) **Possible Defect** Resilient flooring loses adhesion during the Limited Warranty.
- Building Standard** Resilient flooring shall not lift, bubble or become unglued.
- Responsibility** Builder will repair or replace, at it's sole option, the affected resilient

flooring as required. Builder will not be responsible for discontinued patterns or color variation of floor covering, or for problems caused by Buyer neglect or abuse.

- (4) **Possible Defect** Seams or shrinkage gaps at resilient flooring joints during the Limited Warranty.
- Building Standard** Gaps shall not exceed 1/16 inch in width in resilient floor covering joints. Where dissimilar materials abut, a gap not to exceed 1/8 inch is permissible.
- Responsibility** Builder will repair or replace, at its sole option, the affected resilient flooring as required. Builder will not be responsible for discontinued patterns or color variation of floor covering, or for problems caused by Buyer neglect or abuse.

E. Painting

- (1) **Possible Defect** Exterior paint or stain peels, deteriorates or fades during the Limited Warranty.
- Building Standard** Exterior paint or stains should not fail during the Warranty period. However, fading is normal and the degree is dependent on climatic conditions.
- Responsible** If paint or stain is defective, Builder will properly prepare and refinish affected areas, matching color as close as possible. Where finish deterioration affects the majority of the wall area, the whole area will be refinished.
- (2) **Possible Defect** Painting required as corollary repair because of other work.
- Building Standard** Repairs required under this Limited Warranty shall be finished to match surrounding areas as closely as practicable.
- Responsibility** Builder will finish repair work as indicated.
- (3) **Possible Defect** Deterioration of varnish or lacquer finishes.
- Building Standard** Natural finishes on interior woodwork shall not deteriorate during the Limited Warranty Period. However, varnish type finishes used on the exterior will deteriorate rapidly and are not covered by the Limited Warranty.
- Responsibility** Builder will retouch affected areas of natural finish interior woodwork, matching the color as clearly as possible.
- (4) **Possible Defect** Mildew or fungus on painted surfaces.
- Building Standard** Mildew or fungus will form on a painted surface if the structure is subject to abnormal exposures (i.e., rainfall, ocean, lake, or river front).
- Responsibility** Mildew or fungus formation is a condition that Builder cannot control and is a Buyer maintenance item unless it is a result of noncompliance with other sections of the Building Standard.

F. Wall Covering

- (1) **Possible Defect** Peeling of wall covering during the Limited Warranty.
- Building Standard** Peeling of wall covering shall not occur.
- Responsibility** Builder will repair or replace defective wall covering applications.

(2) **Possible Defect** Edge mismatching in pattern of wall covering.

Building Standard None.

Responsibility None.

G. Carpeting

(1) **Possible Defect** Open carpet seams during the Limited Warranty.

Building Standard Carpet seams will show. However, no visible gap is acceptable.

Responsibility Builder will correct.

(2) **Possible Defect** Carpeting becomes loose, seams separate or stretching occurs during the Limited Warranty.

Building Standard Wall to wall carpeting, installed as the primary floor covering, when stretched and secured properly shall not come up, become loose, or separate from its point of attachment.

Responsibility Builder will re-stretch or re-secure carpeting as needed, if original installation was performed by Builder.

(3) **Possible Defect** Spots on carpet, minor fading, not indicated on the preoccupancy inspection.

Building Standard Exposure to light may cause spots on carpet and/or minor fading.

Responsibility None.

H. Special Coatings

(1) **Possible Defect** Cracks in exterior stucco wall surfaces.

Building Standard Cracks are not unusual in exterior stucco wall surfaces. Cracks greater than 1/8 inch in width shall be repaired.

Responsibility Builder will repair cracks exceeding 1/8 inch in width, one time only, during the Limited Warranty Period.

8. Specialties

A. Louvers and Vents

(1) **Possible Defects** Inadequate ventilation of attics.

Building Standard Attic spaces shall be ventilated as required by the approved building code.

Responsibility Builder shall provide for adequate ventilation. Builder will not be responsible for alterations to the original system.

B. Fireplaces

(1) **Possible Defects** Fireplace or chimney does not draw properly.

Building Standard A properly designed and constructed fireplace and chimney shall function properly. It is normal to expect that high winds can cause temporary negative draft situations. Similar negative draft situations can also be caused by obstructions such as large branches of trees too close to the chimney. Some

homes may need to have a window opened slightly to create an effective draft, if they have been insulated and weatherproofed to meet high energy conservation criteria.

- | | |
|-----------------------------|---|
| Responsibility | Builder will determine the cause of malfunction and correct, if the problem is one of design or construction of the fireplace. |
| (2) Possible Defects | Chimney separates from structure to which it is attached. |
| Building Standard | Newly built fireplaces will often incur slight amounts of separation. Separation shall not exceed 1/2 inch from the main structure in any 10 foot vertical measurement. |
| Responsibility | Builder will determine the cause of separation and correct if standard is not met. Caulking is acceptable. |
| (3) Possible Defect | Firebox paint changed by fire. |
| Building Standard | None. |
| Responsibility | None. Heat from fires will alter finish. |
| (4) Possible Defect | Cracked firebrick and mortar joints. |
| Building Standard | None. |
| Responsibility | None. Heat and flames from "roaring" fires will cause cracking. |
-

9. Equipment

A. Cabinets

- | | |
|-----------------------------|--|
| (1) Possible Defects | Surface cracks, joint delaminations and chips in high pressure laminates on vanity and kitchen cabinet countertops during the Limited Warranty. |
| Building Standard | Countertops fabricated with high pressure laminate covering shall not delaminate. |
| Responsibility | Builder will replace delaminated coverings to meet specified criteria. Builder will not be responsible for chips and cracks noted after the preoccupancy inspection. |
| (2) Possible Defects | Kitchen cabinet malfunctions within the Limited Warranty Period. |
| Building Standard | Warpage not to exceed 1/4 inch as measured from face from to point of furthestmost warpage with door or drawer front in closed position. |
| Responsibility | Builder will correct or replace doors or drawer fronts. |
| (3) Possible Defects | Gaps between cabinets, ceilings or walls. |
| Building Standard | Acceptable tolerance 1/4 inch in width. |
| Responsibility | Builder will correct to meet Building Standard. |

10. Plumbing

A. Water Supply System

- (1) **Possible Defect** Plumbing pipes freeze and burst.
- Building Standard** Drain, waste and vent, and water pipes shall be adequately protected as required by applicable code, during normal anticipated cold weather, and as defined in accordance with American Society of Heating, Refrigerating and Air Conditioning Engineers (“ASHRAE”) design temperatures, to prevent freezing.
- Responsibility** Builder will correct situations not meeting code. It is the Buyer’s responsibility to drain or otherwise protect lines and exterior faucets exposed to freezing temperatures.
- (2) **Possible Defect** Water supply system fails to deliver water.
- Building Standard** All on-site service connections to municipal water main and private water supply shall be Builder’s responsibility. Private systems shall be designed and installed in accordance with approved building, plumbing and health codes.
- Responsibility** Builder will repair if failure is result of defective workmanship or materials. If conditions beyond Builder’s control disrupt or eliminate the source of the supply, Builder has no responsibility.

B. Plumbing System

- (1) **Possible Defect** Faucet or valve leak during the Limited Warranty.
- Building Standard** No valve or faucet shall leak due to defects in workmanship and materials.
- Responsibility** Builder will repair or replace the leaking faucet or valve.
- (2) **Possible Defect** Defective plumbing fixtures, appliances or trim fittings during the Limited Warranty.
- Building Standard** Fixtures, appliances or fittings shall comply with their manufacturer’s standards.
- Responsibility** Builder will replace any defective fixture or fitting which does not meet acceptable standards, as defined by the manufacturer.
- (3) **Possible Defect** Noisy water pipes during the Limited Warranty.
- Building Standard** There will be some noise emitting from the water pipe system, due to the flow or water. However, water hammer shall be eliminated.
- Responsibility** Builder cannot remove all noises due to water flow and pipe expansion. Builder will correct to eliminate “water hammer”.
- (4) **Possible Defect** Cracking or chipping of porcelain, marble or fiberglass surfaces.
- Building Standard** Chips and cracks on surfaces of bathtubs and kitchen sinks can occur when surface is hit with a sharp or heavy object.

Responsibility Builder will not be responsible for repairs unless damage is indicated on the preoccupancy inspection or is reported before the closing.

C. Piping

(1) **Possible Defect** Leakage from any piping during the Limited Warranty.

Building Standard No leaks of any kind shall exist in any soil, waste, vent or water pipe. Leaks on the road side of the water meter are the responsibility of the appropriate utility company. Condensation on piping does not constitute leakage, and is not covered.

Responsibility Builder will make repairs to eliminate leakage.

(2) **Possible Defect** Stopped up sewers, fixtures and drains during the Limited Warranty.

Building Standard Sewers, fixtures and drains shall operate properly.

Responsibility Builder will not be responsible for sewers, fixtures and drains which are clogged through Buyer negligence. Where defective construction is shown to be the cause, Builder will assume the cost of the repair.

(3) **Possible Defect** Refrigerant lines leak during the Limited Warranty.

Building Standard Refrigerant lines shall not develop leaks during normal operation.

Responsibility Builder will repair leaking refrigerant lines and re-charge unit, unless damage was caused by the Buyer.

D. Septic Tank System

(1) **Possible Defect** Septic system fails to operate properly

Building Standard Septic system shall function adequately during all seasons, under climatic conditions normal or reasonably anticipated (based on local records) for the location of the home. Septic systems shall be designed and installed to comply with applicable governmental codes, if any.

Responsibility Builder will repair, or otherwise correct, a malfunctioning or non operating system, if failure is caused by faulty installation, or other cause relating to actions of the Builder or contractors or subcontractors under the Builder's control. Builder will not be responsible for system malfunction or damage which is caused by Buyer negligence, lack of system maintenance, or other causes attributable to actions of the Buyer or Buyer's contractors, not under the control of the Builder, including, but not necessarily limited to, the addition of fixtures, items of equipment, appliances or other sources of waste or water to the plumbing system served by the septic system, and damage, or changes to the septic system installation or surrounding soil conditions critical to the system's functioning.

11. Heating and Cooling

A. Heating

(1) **Possible Defect** Inadequate heating during the Limited Warranty.

Building Standard Heating system shall be capable of producing an inside temperature of 70 degrees F, as measured in the center of each room at a height of 5 feet above

the floor, under local outdoor winter design conditions as specified in ASHRAE handbook. Federal, state or local energy codes shall supersede this standard where such codes have been locally adopted.

Responsibility Builder will correct heating system to provide the required temperatures. However, the Buyer shall be responsible for balancing dampers, registers and other minor adjustments.

B. Refrigeration

(1) **Possible Defect** Inadequate cooling during the Limited Warranty.

Building Standard The cooling system shall be capable of maintaining a temperature of 78 degrees F, as measured in the center of each room at a height of 5 feet above the floor, under local outdoor summer design conditions as specified in ASHRAE handbook. In the case of outside temperatures exceeding 95 degrees F, a differential of 15 degrees F from the outside temperature will be maintained. Federal, state, or local energy codes shall supersede this standard where such codes have been locally adopted.

Responsibility Builder will correct cooling system to meet temperature conditions, in accordance with specifications.

C. Condensation Lines

(1) **Possible Defect** Condensation lines clog up.

Building Standard None.

Responsibility Condensation lines will clog eventually under normal use. This is a Buyer maintenance item.

12. Ventilation

A. Air Distribution

(1) **Possible Defect** Noisy ductwork.

Building Standard When ductwork is heated it expands and when cooled it contracts. The result is “ticking” or “cracking” which is generally to be expected.

Responsibility None.

(2) **Possible Defect** Ductwork separates or becomes unattached during the Limited Warranty.

Building Standard Ductwork shall remain intact and securely fastened.

Responsibility Builder will re-attach and re-secure all separated or unattached ductwork.

13. Electrical

A. Circuit Breakers

(1) **Possible Defect** Circuit breakers (excluding ground fault interrupters) “kick out” during the Limited Warranty.

Building Standard Circuit breakers shall not activate under normal usage.

Responsibility Builder will check wiring circuits for conformity with electrical code requirements. Builder will correct circuitry not conforming to code specifications.

(2) **Possible Defect** Ground fault interrupter trips frequently.

Building Standard Ground fault interrupters are sensitive devices installed into the electrical system to provide protection against electrical shock. These sensitive devices can be tripped very easily.

Responsibility Builder shall install ground fault interrupter in accordance with approved electrical code. Tripping is to be expected and is not covered, unless due to a construction defect.

B. Outlets, Switches and Fixtures

(1) **Possible Defect** Drafts from electrical outlets.

Building Standard Electrical junction boxes on exterior walls may produce air flow whereby the cold air can be drawn through the outlet into a room. The problem is normal in new home construction.

Responsibility None.

(2) **Possible Defect** Malfunction of electrical outlets, switches or fixtures during the Limited Warranty.

Building Standard All switches, fixtures and outlets shall operate as intended.

Responsibility Builder will repair or replace defective switches, fixtures and outlets.

C. Wiring

(1) **Possible Defect** Failure of wiring to carry its designed load.

Building Standard Wiring should be capable of carrying the designed load for normal residential use.

Responsibility Builder will check wiring for conformity with approved electrical code requirements. Builder will repair wiring not conforming to code specifications.

The Buyer hereby acknowledges that the Buyer has read, understood and accepted these Building Quality Standards.

NEW PACE HOMES, LLC

PREOCCUPANCY INSPECTION AND ORIENTATION

PURCHASER _____ DATE _____
LOT _____ DEVELOPMENT _____
ADDRESS _____ PHONE _____

ORIENTATION:

- 1. Location of access stairs and panels, furnace and overflow pan, property pins and easements.
- 2. Operation of garbage disposal, cooking range and oven, water heater, furnace, dishwasher, smoke detector, and fireplace.
- 3. Location, operation and/or maintenance of exterior foundation drains, water meter, plumbing clean-out stub, main water shut-off valve, garage door opener, electrical panel box, air return filters, and sprinkler system.

ITEMS NOT WARRANTED AFTER CLOSING:

- 1. Landscaping, trees, and shrubs.
- 2. Scratches and/or dents on appliances, cabinets, counter tops, floor coverings, plumbing fixtures, light fixtures, doors, exterior walls, and interior walls.
- 3. Broken light fixtures, broken windows, torn screens, and stained or torn flooring.
- 4. Cracks in concrete that do not exceed the acceptable limits as defined in the Building Standards.

PURCHASER'S ACKNOWLEDGMENT: The above areas have been explained to my satisfaction and understanding.

New Pace Homes, LLC Representative Buyer Buyer

FINAL REPAIR CHECKLIST

DATE OF INSPECTION _____

I HEREBY ACCEPT THIS HOUSE WITH NO REPAIRS NEEDED EXCEPT FOR THE FOLLOWING:

EXTERIOR:

INTERIOR:

GREAT ROOM/DEN _____

DINING ROOM _____

KITCHEN _____

FOYER _____

MASTER B/R _____

MASTER BATH _____

B/R 2 _____

B/R 3 _____

HALL BATH _____

OTHER _____

READ CAREFULLY.

Your signature below acknowledges your understanding of the Limited New Home Warranty of New Pace Homes, LLC further, that you have inspected your new home and that noted defects have been listed on this page for correction. New Pace Homes, LLC is responsible for resolving any items noted that are covered under the Limited New Home Warranty. Many of these will be corrected immediately. However, the services of a subcontractor may be required, parts and materials may need to be ordered. Therefore, you should expect completion of the covered items within thirty (30) days unless other scheduling is arranged with you.

New Pace Homes, LLC, will resolve cosmetic defects noted during this inspection. **THIS IS YOUR ONLY OPPORTUNITY TO OBTAIN SERVICE ON SUCH ITEMS.** Repair of subsequent cosmetic damages (chips, dents, scratches, paint touch-up, etc.) is considered to be your responsibility.

Any future items that you wish to request service for under the terms of the Limited New Home Warranty must be reported in writing. Please refer to the Home Owner's Manual that you receive at closing for instructions on reporting these items. The Limited New Home Warranty is not to be construed as a maintenance warranty. **REPORTS OF EMERGENCY ITEMS CAN BE TAKEN OVER THE PHONE OR YOU MAY CALL THE SUBCONTRACTOR DIRECTLY.**

IT IS HEREBY AGREED BETWEEN PURCHASER AND NEW PACE HOMES, LLC THAT THE HOUSE LISTED ABOVE HAS NO REPAIRS NEEDED OR DEFICIENCIES IN CONSTRUCTION, EXCEPT THOSE ITEMS LISTED ABOVE.

PURCHASER

DATE

NEW PACE HOMES, LLC

DATE

PURCHASER

DATE

REAL ESTATE AGENT

DATE

Exhibit "D"

NEW PACE HOMES, LLC

Contract Options

A Purchaser of a New Pace Homes, LLC house in Legacy Springs has the choice of several different options in regards to the sales contract. There are six levels based on the amount of down payment, any contingencies, and whether the house is a Spec. (inventory) or Pre-Sale.

Review the six levels below to see which is best suited for you.

Speculative (Spec.) House:

Level 1-S (Spec. House with Earnest Money only and Contingencies)

1. \$1,000 earnest money payment to be held by Four Star Realty, LLC
2. An estimated completion date will be given based on New Pace Homes' overall construction schedule.
3. The construction stage of the house will determine what decorating decisions will be allowed without possible additional charges.
4. New Pace Homes will have the right to approve all decorating decisions.
5. There will be a 48 hour Break Clause Addendum attached to the contract.
6. At all times, this house will be advertised for sale and subject to a Break Clause.

Level 2-S (Spec. House with Min. Down Payment and No Contingencies)

1. \$2,000 down payment to New Pace Homes, LLC.
2. \$1,000 earnest money payment to be held by Four Star Realty, LLC.
3. An estimated completion date will be given depending on New Pace Homes' construction schedule.
4. The construction stage of the house will determine what decorating decisions will be allowed without possible additional charges.

Level 3-S (Spec. House with Required Down Payment and No Contingencies)

1. \$6,000 down payment to New Pace Homes, LLC.
2. \$1,000 earnest money payment to be held by Four Star Realty, LLC.
3. A firm completion date will be given, subject to the terms and conditions of the contract.
4. The construction stage of the house will determine what decorating decisions will be allowed without possible additional charges.

Pre-Sale House:

Level 1-P (Pre-sale with Min. Down Payment and Contingencies)

1. \$2,000 down payment to New Pace Homes, LLC
2. \$1,000 earnest money payment to be held by Four Star Realty, LLC.
3. Your choice of one of New Pace Homes' plans and lots.
4. An estimated completion date will be given. New Pace Homes will work the house into its overall construction schedule.
5. New Pace Homes reserves the right to approve all decorating decisions.
6. There will be a 48 hour Break Clause Addendum attached to the contract.
7. At all times, this lot/house will be advertised for sale and subject to a Break Clause.

ADDENDUM A

The terms and conditions of this addendum are a part of that certain agreement dated the _____ day of _____, 20____, between the undersigned Buyer and Seller for the property located at: _____.

1. Not a Custom Built Home on Buyer's Property

Initials _____ THIS IS NOT AN AGREEMENT FOR THE CONSTRUCTION OF A CUSTOM BUILT HOME ON BUYER'S PROPERTY. This property is owned by the Seller until closing. Should a dispute arise between the Seller and Buyer, the Seller shall have the right, at his sole discretion, to terminate this Agreement by notifying the Buyer in writing and by refunding all earnest money to the Buyer within 10 days from the date of notification. At this time the Agreement shall be deemed terminated, and both the Seller and Buyer shall be relieved of any further obligations.

2. Variances from Home to Home

Initials _____ Buyer acknowledges that each home is handmade and unique, and although this home is based on the plans and specifications indicated herein, variations in layout may occur. Seller expressly reserves the right to make any changes in the plans and specifications described herein as may be required by governmental authority or the Legacy Springs ARC. Plan specifications, features, upgrades, selections and finishes may vary from one home to another.

3. Preparing to Close

Initials _____ It is very important that you do not make any final moving plans until we provide you with a firm closing date. Please understand that the Seller cannot accept responsibility for temporary lodging, furniture storage, interest rate locks or other expenses related to a delayed closing.

4. New Home Introduction and Preoccupancy Inspection

Initials _____ The Buyer will be given notice to schedule a walk-through and will have 7 days to schedule a walk-through to create the Final Punch List, which will be completed on the Preoccupancy Inspection Agreement form (Punch List) attached as Exhibit II to the Limited New Home Warranty Agreement. If Buyer does not schedule a walk-through within this 7 day period, then it is deemed as a waiver on the Buyers part to do a walk-through and no Punch List is created. No items shall be part of the Punch List unless such items are actually written on the Punch List. Buyer acknowledges that Seller will make its best effort to complete all of the items agreed upon on the Punch List in a timely manner as soon as reasonably possible. During this walk-through, the Seller's representative will introduce you to the home, explain how it operates, and give you a brief review of homeowner maintenance and list any items that need to be completed. Punch List shall be agreed upon by both parties to be acceptable. At the event the parties cannot reach a reasonable agreement, Seller reserves the right to cancel the Agreement and refund the Earnest Money with the exception of changes made to the original specifications or by change orders.

Walk-throughs are scheduled Monday - Friday from 8:00 a.m. to 3:00 p.m. Please set aside enough time for you to be relaxed and, if possible, leave your children with a sitter. Only parties taking title to the property and their real estate agent will be permitted at this appointment to review the home.

5. Drainage and Fencing

Initials _____ Buyer acknowledges and accepts that Seller has no responsibility for drainage problems caused by landscaping changes and fencing installed by neighboring homeowners. Buyer further agrees that any fencing installed on Buyer's property will be at least 2 inches above the ground to allow for water drainage. Fence design and placement must be approved by the Architectural Review Committee before installation. Yard drains must be kept clear of stoppage and is the responsibility of the Buyer after closing.

Seller's Initials _____

Buyer's Initials _____

6. **Maintenance and Prevention of Moisture-Related Conditions**

Initials _____ Buyer hereby acknowledges and agrees that upon the closing of the Property by Buyer: (i) It shall be the responsibility and obligation of the Buyer to maintain the Property, including the Dwelling and all components thereof, in good condition and repair, including but not limited to, all caulking, water seals, exterior surfaces and finishes, mortar, water pipes, drainage systems, HVAC pipes and systems, basement and crawl space areas, gutters, roofs, attics, and landscaping, for the prevention of water penetration, mildew, mold, spores, fungi, damage to wood, and other materials, and other moisture related conditions; (ii) The failure to do so could result in health-related problems and/or damage to the Property; (iii) Seller shall have no liability or responsibility with respect to same; and (iv) Buyer hereby waives and disclaims any claims against the Seller arising out of any such condition and any loss, damage, or injury resulting there from.

Witness

Buyer Date

Witness

Buyer Date

Witness

Seller Date