

REAL ESTATE PURCHASE CONTRACT

THIS HOME CONSTRUCTION CONTRACT (this “**Agreement**”) is entered by and between Sierra Homebuilders, LLC whose address is 470 North 2450 West, Tremonton, UT 84337 (“**Builder**”), and the person(s) whose name(s) and address(es) appear on the Owner’s signature line below (“**Owner**”), effective as of the date signed by Builder *below*. The following terms have these meanings in this Agreement:

Owner (1) Full Name		
Owner (2) Full Name		
Owner (1) Phone	<i>Cell:</i>	<i>Work:</i>
Owner (2) Phone	<i>Cell:</i>	<i>Work:</i>
Owner (1) Email		
Owner (2) Email		
Property Address		
Subdivision and Lot #		
City, State		
Plan Name		
Sierra Homes Subdivision?	Yes / No	
Property Already Owned by Owner?	Yes / No	
Contract Price	\$	
Deposit	\$	<i>Due:</i>
Balance Due	\$	
Loan Type		
Estimated Date of Commencement		
Estimated Date of Completion		
Preferred Lender for Incentive		
Preferred Lender Incentive Amount	\$	
Buyer agent and brokerage		
Listing agent and brokerage		

Owner Initials: ____/____

Agreement Terms

1. Contract Documents. The “**Contract Documents**” consists of this Agreement, the Plans (defined below), the permits, and any change orders agreed to in writing by both parties in the manner specified below. The intent is that the Contract Documents include all items necessary for the proper execution and completion of the work to be completed by the Builder. The Contract Documents are intended to be complimentary of one another.

2. Property/Home. The term “**Property**” means the land described on page one, together with all improvements located on that land at any time, including the Home. The term “**Home**” refers to the residential structure to be constructed on the Property by Builder according to the Contract Documents. If on page one in the column labeled “Property Already Owned by Owner” the selection is “Yes” then the parties understand that, notwithstanding anything in this Agreement to the contrary, no land/Property is to be conveyed from Builder to Owner under this Agreement, because Owner already owns the land/Property.

3. Work. The term “**Work**” means the construction of the Home on the Property according to the Contract Documents. Builder agrees to perform the Work as described in this Agreement.

4. Contract Price. The Owner agrees to pay Builder the Contract Price. The Contract Price has been calculated based on the current prices for the component building materials, labor, supplies, and equipment. Should there be a substantial increase in the prices of labor, supplies, and/or equipment after execution of this Agreement, or a substantial increase in cost due to revised government regulations or rules or applicable law, Builder has the right to increase the Contract Price in an amount to cover those cost increases by giving written notice of such increase to Purchaser by email. If the Owner does not agree to the Contract Price increase, by response email to Builder within ten days after the date on which Builder emailed Owner the notice of price increase, the Builder will have the option to terminate this Agreement by providing written notice to Owner, in which case Builder will have no further obligation to Owner, except as follows: (i) if the Property is located within a Sierra Homes Subdivision as indicated on page one (if neither “yes” nor “no” is circled, then the presumption is that the Property is presumed to not be in a Sierra Homes Subdivision), then Builder will refund to Owner all amounts paid by Owner other than the cost of items or charges identified (including, without limitation, as noted in a signed change order, text message, email, etc.) or understood as “custom” or “nonrefundable” or any language of similar meaning, or (ii) if the Property is not located within a Sierra Homes Subdivision as indicated on page one then Builder is obligated to refund only such amount that is in excess (if any) of the value of the work already performed by Builder.

5. Payment Timing. If Owner elects to finance the purchase of the Property and/or the Work using loan proceeds, Owner must pay the Deposit within four (4) calendar days upon execution of this Agreement, and then must pay the balance of the Contract Price at Closing. However, if Owner elects to pay cash from Owner’s own funds, then Owner must pay the Deposit shown on the first page and then must pay the balance of the Contract Price progressively as construction progresses, within four (4) calendar days upon invoice by the Builder. Amounts not paid within four (4) calendar days will bear interest at the rate of 10% annually until paid in full. Builder may invoice progressively according to the relative portion of the Work completed at the time of invoicing, as reasonably determined by Builder. Owner’s obligation to timely pay the Contract Price, however, is not contingent on Owner obtaining loan proceeds; Owner’s obligation to timely pay the Contract Price is unconditional.

6. Construction Timing. The estimated date of commencement, and the estimated date of completion, on page one are not guaranteed, but instead are statements of general intent only. Delays, adverse weather conditions, material shortages, acts of God and other factors within or outside of Builder's control may delay or otherwise affect the commencement and completion date.

7. Selections Meeting. At Builder's request and within 28 calendar days after the Agreement Date, Owner agrees to meet with Builder to make all material, color and other selections. Owner agrees to make selections using Builder's Color and Material Selection Form from the choices offered by Builder.

8. Financing. Builder may obtain construction financing for the Work. Owner and Owner's lender agree to provide information requested by Builder and/or Builder's construction lender to approve the construction loan. If requested by Builder, within seven calendar days after the Agreement Date, Owner must deliver to Builder a pre-approval letter from Owner's proposed lender, if Owner has not previously done so. Owner will be responsible to pay to Builder any change order amounts that increase the Contract Price above the amount of the Owner's prequalification limit stated in Owner's pre-approval letter; if circumstances change and Owner becomes qualified for a higher prequalification limit by Owner's proposed lender, an updated pre-approval letter may be provided to the Builder and considered accordingly. These amounts will be due in cash immediately at the time the change order is approved. Amounts not timely paid will bear interest at the rate of 10% annually until paid in full.

9. Preferred Lender Incentive. If Owner elects to work with the Preferred Lender listed on page one, then as an incentive Builder will pay up to the Preferred Lender Incentive Amount, as indicated on page one (if left blank, then zero), towards any Owner-selected upgrades of the Home. Builder cannot guarantee the interest rate that the Owner will obtain. Interest rate and fees may vary based upon the loan program, Owner qualification, and changes in the market. Builder makes no representations or warranties about the Preferred Lender. Owner assumes all obligation and risk regarding Owner's financing and Owner's choice of lender. Owner is not required to work with the Preferred Lender. If Owner elects to use the Preferred Lender, then the construction loan will be in Owner's name and Owner agrees to also use the Preferred Lender for Owner's permanent loan to pay off the construction loan. Builder will pay all loan issuance costs associated with Owner's obtaining of a construction loan from the Preferred Lender.

10. Final Punch List. Owner agrees to, upon request by Builder, meet with Builder's construction supervisor on the Property, walk through each room of the Home, and review all items of construction that Owner believes may not be complete or correct (the "**Punch List**"). Owner acknowledges that some Work items may not be fully complete by the time Owner takes occupancy. Owner shall be provided a list that is prepared by Builder that contains all Punch List items that (i) are missing or that are materially deficient from the requirements of the Contract Documents; (ii) are required by the applicable local government entity to be completed; (iii) are of a type which Builder would be obligated to repair or replace under the Limited Warranty; and (iv) Builder, in its sole discretion, agrees to replace or repair. The Punch List will not include anything that is cosmetic in nature. Except as to items covered by the Limited Warranty, Builder will have no responsibility to repair or replace any items that are not set forth on the Punch List. Builder, in its sole discretion shall approve the Punch List.

11. Closing Date. This Section 11 applies only if on page one in the column labeled "Property Already Owned by Owner" the selection is "No". Owner and Builder agree to close the sale of the Property ("**Closing**") not later than five calendar days after Builder notifies Owner that a Certificate

of Occupancy has been issued for the Home, or the next business day after such date, if the date is not a business day (“**Closing Deadline**”). If Owner does not pay the full Contract Price and otherwise close on the purchase of the Property by the Closing Deadline, then Builder may, in Builder’s sole discretion, (i) postpone the Closing Deadline for one or more days by notifying Owner of such extension, in which case Owner must pay Builder an additional \$300.00 for each day beyond the original Closing Deadline, which amount will be in addition to the Contract Price and all other amounts due under this Agreement; and (ii) pursue all available rights and remedies provided under this Agreement or available at law or in equity.

12. Payment of Contract Price. This Section 12 applies only if on page one in the column labeled “Property Already Owned by Owner” the selection is “Yes”. Notwithstanding anything in this Agreement to the contrary, Owner agrees to pay Builder the entire remaining balance of the Contract Price not later than five (5) calendar days after Builder notifies Owner that a Certificate of Occupancy has been issued for the Home, or the next business day after such date, if the date is not a business day. If Owner does not timely pay the full Contract Price then Owner must pay Builder an additional \$300.00 for each day beyond the deadline, which amount will be in addition to the Contract Price and all other amounts due under this Agreement, and Builder will have the option to pursue all available rights and remedies provided under this Agreement or available at law or in equity.

13. Closing Procedure/Costs/etc. This Section 13 applies only if the Property is in Sierra Homes Subdivision as indicated on page one. The Closing will take place at the offices of the Title Company at a time designated by Builder. The date on which Closing actually occurs is the “**Closing Date**.” Builder will pay for a standard owner’s policy of title insurance at Builder’s cost. Real property taxes and assessments for the Property will be prorated as of the Closing Date using the Property’s most recent assessed valuation. At Closing, (i) Builder agrees to deliver to the Title Company an executed and acknowledged special warranty deed for the Property (“**Deed**”), subject to all matters of record, including without limitation, taxes, assessments, easements, covenants, conditions, and restrictions; (ii) Owner agrees to sign and deliver any documents required by Owner’s lender (if any); (iii) Owner agrees to deliver all funds necessary to pay the full Contract Price plus any other amounts due from Owner under this Agreement or in connection with the Closing; (iv) Owner and Builder each agree to do such further acts and execute and deliver such additional documents and instruments as may be reasonably necessary to effectuate the Closing as contemplated by this Agreement, and (v) if requested by Builder, the parties agree to execute and date a Limited Warranty, substantially in the form attached hereto as Exhibit A.

14. Closing Costs/Payments. This Section 14 applies only if the Property is in a Sierra Homes Subdivision as indicated on page one. At Closing, Owner shall pay the Title Company, in collected or cleared funds, the sum of the following amounts: (i) the entire unpaid balance of the Contract Price; (ii) unless required otherwise by the FHA or VA, all recording costs and escrow and closing fees charged by the Title Company; and (iii) any amounts Owner’s lender requires Owner to pay in connection with Owner’s financing.

15. Release. This Section 15 applies only if the Property is in a Sierra Homes Subdivision as indicated on page one. Unless otherwise agreed to in writing, delivery by Builder and acceptance of the Deed by Owner is deemed to be full compliance by the Builder of all the terms of the Contract by it to be performed, and as a release by the Owner of any and all terms of this Agreement, and of any and all rights, obligations, claims or causes of actions against the Builder. Owner acknowledges that none of the provisions of this Agreement survive delivery and acceptance of the Deed except for those which expressly state otherwise. No other promise, representation, agreement or obligation on the

part of the Builder, its agents, employees or representatives shall be binding or survive the delivery and acceptance of the Deed except if it is in writing signed by Builder and expressly states that it survives delivery and acceptance of the Deed.

16. Utility Charges. The Contract Price does not include, and Owner is obligated to pay from its separate funds, all fees and deposits that are charged by companies or governmental entities for Owner's right to connect to utility lines servicing the Property or the Home. However, if the Property is located within a Sierra Homes Subdivision as indicated on page one, then Builder may agree to pay the fees and deposits that are charged by companies or governmental entities for Owner's right to connect to utility lines servicing the Property

17. Reconciliation. This Section 17 applies only if the Property is in a Sierra Homes Subdivision as indicated on page one. If for any reason a party fails to pay or overpays any cost or expense required by this Agreement, whether by an omission or misstatement on the Closing settlement statement, a calculation error, a clerical or ministerial mistake or otherwise, then within five calendar days after a party makes a written request for adjustment (even if the request is made after the Closing, but only if the request is made within sixty days after the date of recording of the Deed), the other party agrees to promptly make necessary payments or refunds. This obligation survives for sixty days after the date of recording of the Deed and then automatically terminates.

18. Minor Variations. Builder may change or substitute building materials, finishes, colors, components and fixtures with reasonably comparable items, in Builder's sole discretion. Builder makes no representation or warranty regarding the suppliers or subcontractors to be used and employed in the furnishing of materials or provision of labor for or in the construction of the Home. The Home as finally constructed may have other minor or insubstantial variations from the Contract Documents, or may vary from other homes that Builder may have built using the same basic design plan. Such variations may include but are not limited to: (i) exterior elements/improvements; (ii) colors and finish materials selected by Owner that are different than those used in other homes; (iii) placement of the home on the lot; (iv) elevation of the home; (v) dimensions, room sizes, garage sizes, number of steps or stairs; or (vi) other structural variations. Any variations in or changes to the Home as compared to the Construction Documents may be due to, among other things, (i) requirements of the local government building department or other applicable governmental laws, regulations or rules; (ii) locations of utility lines or easements; and/or (iii) other development and construction considerations. Builder has no responsibility or liability for any of the variations described in this paragraph. Owner has no claim for Builder default based on any of the variations described in this paragraph.

19. Other Builder Work. Builder may take all actions which are necessary, in Builder's sole discretion, to prepare and finish the Property and any surrounding common area, upon which improvements are to be constructed. Such actions may include but are not limited to: (i) rough and final construction grading made in compliance with the requirements of a municipal authority that has jurisdiction over the Property; (ii) removal of trees, shrubs, bushes, grasses or other natural growth; and (iii) installation of sewer lines, water lines, irrigation lines, power and other utilities, routing of irrigation ditches, and common area landscaping.

20. Vegetation. Builder does not warrant the presence, location, existence, renewability, or health of any trees, shrubs, bushes, grasses and other natural growth on the Property. Builder does not warrant depth of sewer lines, water lines, irrigation lines, power and other utilities, location of irrigation ditches and drainage lines, location of other infrastructure, surface and ground water

drainage flows on and through the Property, strict compliance with engineering drawings, or variations from the subdivision plat. In no event shall Builder be required to make any area ready for landscaping.

21. Access/Control of Property During Construction. Owner is not authorized to give any instructions to subcontractors, suppliers, vendors, etc., regarding the construction of the Home. Without Builder's prior written consent, Owner shall not perform, or have performed, any work on the Property or Home prior to the recording of the Deed and substantial completion of the Home. Owner acknowledges that construction sites are dangerous and that Builder requires that Owner not enter the Property until after the recording of the Deed and substantial completion of the Home, except for scheduled inspections when Owner is accompanied by Builder's representative, in which case Owner assumes all risk and released Builder of all liability associated with Owner's visit to the Property. Whenever Owner visits the Property, Owner shall exercise extreme caution. To the fullest extent permitted by law, Owner hereby waives, releases, and agrees to indemnify Builder and all affiliates, representatives, employees, officers, and agents of Builder, from and against any and all claims, including but not limited to costs and attorneys' fees, arising by reason of the death, accident, injury or other occurrence to Owner and all third parties resulting from or related to the entry on the Property by Owner or Owner's relatives, guests, representatives, agents or invitees, including but not limited to any entry accompanied by Builder for a scheduled inspection, except to the extent such claim results from the sole negligence of Builder.

22. Builder Requested Changes. Builder shall deliver to Owner all approvals for requests for any change(s) by email at the email address(es) set forth above, setting forth by separate line item the nature of each change and Builder's price for making the change, as well as Builder's charge, if any, for construction delay costs due to the requested changes. Owner's responses to Builder's email(s), text messages, or other written communication(s), shall be considered binding in place of a signature and a part of the Agreement. If any such changes results in an increase or decrease of the Purchase Price or other monetary increases or decreases, Owner agrees to execute an amendment to the Contract Documents outlining such agreed upon terms accordingly.

23. Owner Requested Changes. Owner, without invalidating this Agreement, may request changes in the Work within the general scope of the original contract consisting of additions, deletions, or other revisions. Builder has sole discretion to accept or reject any such Owner-requested changes. Changes will be considered accepted and a part of the Contract Documents only if (a) a written change order is fully signed by Owner and Builder, or (b) Owner and Builder agree to such change order by email, text message, or other written communication. Changes will be subject to a change order fee according to Builder's fee schedule in effect at the time of each change order.

24. Liability Insurance. This Section 24 applies only if the Property is not in a Sierra Homes Subdivision as indicated on page one. The Owner must purchase and maintain general liability insurance at all times, at the Owner's sole expense and effort, in amounts approved by Contractor in Contractor's reasonable discretion. Additionally, the Owner must purchase and maintain at all times, at the Owner's sole expense and effort, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance must be at least in the amount of the Contract Price (as adjusted from time to time), and must identify the Owner, the Builder, and any identified subcontractors as primary insureds, and must include the interests of mortgagees as loss payees.

25. Limited Warranty Effective as of the date of issuance of a Certificate of Occupancy for the Home, Builder warrants, for a period of one year, its Work and the Home solely as specified and limited in the Limited Warranty attached hereto as Exhibit A (the “**Limited Warranty**”). THE LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, CONDITIONS OR OTHER TERMS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF TERMS AS TO QUALITY, FITNESS FOR PARTICULAR PURPOSE, MERCHANTABILITY OR OTHERWISE, WHETHER IMPLIED BY CUSTOM OR LAW. EXCEPT AS EXPRESSLY PROVIDED IN THIS PARAGRAPH OR THE LIMITED WARRANTY, IN NO EVENT SHALL BUILDER BE LIABLE TO OWNER FOR ANY DAMAGES OF ANY KIND OR NATURE ARISING OUT OF OR RELATING TO THIS AGREEMENT OR CONNECTED WITH OR RESULTING FROM THE HOME, PROPERTY OR THE WORK, WHETHER SUCH LIABILITY IS BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF BUILDER HAD BEEN WARNED OF THE POSSIBILITY OF ANY SUCH DAMAGES. OWNER’S SOLE AND EXCLUSIVES REMEDY WILL BE TO FILE A CLAIM UNDER THE LIMITED WARRANTY.

26. Access for Warranty Work. During the warranty period Owner agrees to allow Builder’s agents reasonable access to the Home Monday to Friday 8 a.m. to 5 p.m. to perform needed work. If Owner refuses to allow such access to the Home to make necessary repairs, Owner hereby accepts the Home as it is and agrees to hold Builder harmless from any claim relating to the un-repaired items.

27. Access in Dispute. Owner agrees to provide Builder and its representatives with prompt, reasonable cooperation, which shall, for example, include reasonable access to the Home during regular business hours, to facilitate Builder’s investigation regarding any dispute including, without limitation, for purposes of inspecting, testing, repairing, replacing, correcting or otherwise addressing the matters in a dispute.

28. Unknown Conditions. If conditions are encountered at the construction site or on or below the Property surface which are hidden, covered or obscured or unknown physical conditions of an unusual nature, which differ naturally from those ordinarily thought to exist and generally recognized as inherent in construction activities, Builder will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in Builder’s cost of, and/or time required for, performance of any part of the Work, Builder has the right to increase the Contract Price in an amount to cover those cost increases by giving written notice of such increase to Owner by email. If the Owner does not agree to the Contract Price increase, by response email to Builder within five (5) calendar days after the date on which Builder emailed Owner the notice of price increase, the Builder will have the option to terminate this Agreement by providing written notice to Owner, in which case Builder will have no further obligation to Owner, except as follows: (i) if the Property is located within a Sierra Homes Subdivision as indicated on page one (if neither “yes” nor “no” is circled, then the presumption is that the Property is presumed to not be in a Sierra Homes Subdivision), then Builder will refund to Owner all amounts paid by Owner other than the cost of items or charges identified in writing (including, without limitation, as noted in a signed change order, text message, email, etc.) as “custom” or “nonrefundable” or any language of similar meaning, or (ii) if the Property is not located within a Sierra Homes Subdivision as indicated on page one then Builder is obligated to refund only such amount that is in excess (if any) of the value of the work already performed by Builder. Notwithstanding the foregoing, however, if the Builder terminates the Agreement for the reason specified in this Section 28, and the Deposit and any other amounts paid by Owner to Builder are not sufficient to cover all costs incurred by Builder, then Owner must pay the difference to Builder promptly upon demand.

29. Non-disparagement. Owner unconditionally, perpetually, and irrevocably agrees not to disparage Builder in any public or private format including, but not limited to, any social media application, website, public or private meeting, advertisement, or any other public means regarding the construction, habitability, workmanship, or any other condition of the Property or the Home or provision of this Agreement. For purposes of this Section 29, “disparage” includes without limitation the making of any negative statements, reviews, comments, feedback, whether written or oral about Builder which could reasonably adversely affect Builder’s reputation. If Owner disparages Builder, Builder will have the option to immediately terminate this Agreement by providing written notice to Owner, in which case Builder will have no further obligation to Owner, except as follows: (i) if the Property is located within a Sierra Homes Subdivision as indicated on page one (if neither “yes” nor “no” is circled, then the presumption is that the Property is presumed to not be in a Sierra Homes Subdivision), then Builder will refund to Owner all amounts paid by Owner other than the cost of items or charges identified in writing (including, without limitation, as noted in a signed change order, text message, email, etc.) as “custom” or “nonrefundable” or any language of similar meaning, plus Builder’s reasonably estimated costs to remove such custom items in order to make the Home more generally marketable, or (ii) if the Property is not located within a Sierra Homes Subdivision as indicated on page one then Builder is obligated to refund only such amount that is in excess (if any) of the value of the work already performed by Builder. Additionally, the Parties agree that it would be impractical and extremely difficult to ascertain the amount of actual damages caused by a failure to comply with this section. It is the intent of the Parties that in the event it is established that the Owner has breached this section, such breach shall constitute a full and complete waiver of all claims, known and unknown, including, but not limited to express warranties, warranties of workmanship, habitability, merchantability, and fitness for a particular purpose, against Builder. Accordingly, in addition to waiving all Claims against Builder, Owner’s breach of this section shall nullify and terminate Builder’s obligations under the Limited Warranty. Furthermore, the Parties agree that in the event of Owner’s breach of this section, that damages in the amount of either, whichever is greater, (i) \$10,000.00 per occurrence, or (ii) Builder’s actual damages, shall be immediately due and payable from Owner to Builder. The provisions of this Section shall survive Closing and the recording of the Deed. All rights and remedies of Builder under this Section 28 are cumulative and non-exclusive.

30. Force Majeure. Builder will not be liable for any failure or delay in performing an obligation under this Agreement that is due to any of the following causes, to the extent beyond its reasonable control: acts of God, accident, riots, war, terrorist act, epidemic, pandemic, quarantine, civil commotion, breakdown of communication facilities, material price increases, material shortages, natural catastrophes, governmental acts or omissions, changes in laws or regulations, national strikes, fire, explosion, generalized lack of availability of raw materials or energy.

31. Waiver of Equitable Rights. This Section 31 applies only if on page one in the column labeled “Property Already Owned by Owner” the selection is “No”. Owner has no, and hereby waives any, equitable interest in the Property that may otherwise arise prior to recording of the Deed. Owner holds no equitable interest and receives no equitable rights by virtue of this Agreement.

32. Consent to CC&Rs etc. This Section 32 applies only if on page one in the column labeled “Property Already Owned by Owner” the selection is “No”. By execution of this Agreement, Owner agrees that it, its successors, and assigns, shall be bound by all covenants, conditions and restrictions (“CC&Rs”), and related homeowner/community association governing documents (“**HOA Documents**”) as may apply to the subdivision, plats, easements, affidavits, description addenda, along with all other documents and instruments applicable to the Property, whether Owner has actual

or constructive notice of such documents or instruments. The CC&Rs, may include, by way of example and not of limitation, obligations of Owner to pay fees and assessments; responsibilities regarding common area maintenance and use; landscaping, architectural, and design review authority; easements affecting the Property; exterior maintenance responsibilities; insurance obligations; limitation of liability; and mandatory alternative forms of dispute resolution. Owner acknowledges that it has been given the opportunity to perform a complete review of the CC&Rs and related HOA Documents in consultation with its own independent counsel.

33. Compliance with CC&Rs. This Section 33 applies only if on page one in the column labeled "Sierra Homes Subdivision" the selection is "No". Owner agrees to provide to Builder, promptly after execution of this Agreement, a full and correct copy of all covenants, conditions, restrictions, agreements, rules, and regulations affecting the Property and any construction activity upon the Property (collectively, the "Property Requirements"). However, notwithstanding the foregoing, all risk of compliance with such Property Requirements is and shall be upon the Owner. Builder is not responsible to verify that any component of the Home will comply with the Property Requirements. Owner is solely responsible to verify and confirm that the Home is designed and constructed in a manner that does not conflict with the Property Requirements. ____ (Owner Initials)

34. Miscellaneous. If more than one party signs this Agreement as Owner, then (i) all of the parties comprising Owner shall be jointly and severally liable for the obligations of Owner under this Agreement; (ii) notice to any one of the parties comprising Owner shall be deemed to be notice to all of the parties comprising Owner; and (iii) all parties comprising Owner shall be bound by any email or document related to the Agreement that is delivered by one or more of the parties comprising Owner, including, without limitation, all color and material selections, change orders, and/or amendments to the Contract Price. Owner may not assign, sell, transfer or encumber Owner's rights under this Agreement or in the Property, without the prior written consent of Builder, which consent Builder may grant or withhold in its sole and absolute discretion. Any assignment made by Owner without Builder's advance written consent is void. This Agreement, and all matters relating hereto, including any matter or dispute arising out of the Contract, shall be interpreted, governed, and enforced according to the laws of the State of Utah. A waiver by any party of any provision hereof, whether in writing or by course of conduct or otherwise, shall be valid only in the instance for which it is given, and shall not be deemed a continuing waiver of said provision, and shall not be deemed a waiver of any other provision hereof. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, personal representatives, successors, and assigns. There are no third-party beneficiaries. Time is of the essence of all obligations and deadlines in this Agreement. The above recitals, the Contract Documents, and all exhibits and schedules attached hereto are incorporated herein by this reference and expressly made a part of this Agreement. This Agreement constitutes the entire understanding of the parties with respect to the subject matter discussed. There are no other written or verbal agreements or understandings between the parties.

35. Radon. Radon is a naturally occurring radioactive gas that may present health risks to persons who are exposed to it over time. Radon is in both the soil and air in varying amounts. Every home or enclosed structure has the potential to enclose radon gas at elevated levels. Levels of radon that exceed health and safety guidelines have been found in homes and other buildings in Utah. Tests for Radon, soil and other, cannot and does not rule out the possibility that elevated radon gas levels may exist in the Home or certain other areas after construction. Radon levels can be affected by many circumstances, including non-geological factors such as weather or lifestyle. Owner acknowledges that Builder has performed no tests to detect the presence or level of radon gas on or around the Property and makes no representations, of any kind, regarding the present or future existence of radon

gas or about acceptable levels of radon gas in or around the Property. Owner releases Builder from any present or future claims or liability of any kind that Owner may ever have against Builder which in any way relate to the existence of radon gas in or around the Property, including, but not limited to, any expenses Owner may incur in any additional radon reduction efforts or methods that Owner may pursue. This paragraph survives recording of the Deed.

36. Termination. Builder may terminate this Agreement at any time, for any reason, including for no cause, in Builder's sole discretion by providing Owner seven calendar days' written notice and then promptly refunding Owner's Deposit or the portion thereof that has not been expended because of Owner default.

37. Builder Default. If Builder defaults under this Agreement, Owner must provide written notice of the alleged default to Builder, and Builder will then have 28 calendar days to cure the alleged default, or to respond to Owner in writing disputing the allegation of default. In all events, Builder will have a period of at least 28 calendar days to cure any alleged default. If such breach remains uncured beyond the 28-day period then Owner may elect, as Owner's sole remedy, to terminate this Agreement, in which case Builder will be obligated to refund Owner's deposit and Builder will have no further liability of any kind to Owner. Owner waives all claims for specific performance or damages of any kind, including without limitation consequential, compensatory, expectation, and punitive damages.

38. Legal Action. In any action arising out of or relating in any way to this Agreement, (i) the prevailing party shall be entitled to reasonable attorney fees, costs, and expenses, and (ii) **each of the parties hereto expressly waive their respective right to a trial by jury.** Builder will have the option to pursue all remedies available under this Agreement, at law, or in equity, all such rights and remedies being cumulative and non-exclusive. All litigation or actions, if any, relating to this Agreement will take place solely in the First Judicial District Court, Box Elder County, Utah.

39. Grading/Drainage. Builder will construct the Home and grade the lot immediately surrounding the Home, if and as necessary, so as to ensure off drainage of surface water away from the Home. Unless otherwise specifically provided, Builder will not landscape the property. Owner is solely responsible to provide for soil and surface water retention between the Property and all adjoining properties through all necessary means, including but not limited to retaining walls, grading, channeling, ditches, agreements with adjoining property owners, and otherwise. Owner is solely responsible to ensure that surface water drainage flows consistent with the established subdivision drainage. Owner understands there may be periods of standing water from runoff and drainage that may impact Property. Owner hereby waives, releases, and agrees to indemnify Builder from and against all claims of any nature, including but not limited to subrogation rights, costs and attorneys' fees, arising from damage to its own or adjoining and other properties in the subdivision, caused by or arising out of surface water drainage from the Property or the property of any adjoining landowner. This paragraph survives the recording of the Deed.

40. Foundation Preservation. To protect and preserve the integrity of the footings and foundations of the home and other structures constructed on the Property, Owner agrees to not install or have installed sod or other water-intensive plants within five feet of the exterior of the foundation. To preserve and protect the integrity of the footings, foundations, and exteriors of the home, Owner agrees to place, install or cause to be placed and installed all irrigation/sprinkler system spray heads, lines, valves, and stop & waste valves, a minimum of five feet from the foundations of the home. Additionally, Owner is responsible to ensure that water spray from an irrigation/sprinkler head does

not hit the foundation, home exterior. Rain gutter downspout discharges installed or modified by Owner must be placed a minimum of ten feet from the foundations of the home. This paragraph survives the recording of the Deed.

41. Notice of Lien (Utah). This Section 41 applies only if the Home is located in Utah. Notice is hereby provided in accordance with Section 38-11-108 of the Utah Code that under Utah law an "owner" may be protected against liens being maintained against an "owner- occupied residence" and from other civil action being maintained to recover monies owed for "qualified services" performed or provided by suppliers and subcontractors as a part of this Agreement, if either section (1) or (2) is met: Section (1) - (i) the owner entered into a written contract with an original contractor, a factory built housing retailer, or a real estate developer, (ii) the original contractor was properly licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act at the time the contract was executed; and (iii) the owner paid in full the contracting entity in accordance with the written contract and any written or oral amendments to the contract; or Section 2 - the amount of the general contract between the owner and the original contractor totals no more than \$5,000." An owner who can establish compliance with either section (1) or (2) may perfect the owner's protection by applying for a Certificate of Compliance with the Division of Occupational and Professional Licensing. The application is available at www.dopl.utah.gov/rlrf.

THIS HOME CONSTRUCTION CONTRACT IS AGREED TO BY AND BETWEEN:

OWNER SIGNATURE: _____

OWNER SIGNATURE: _____

BUILDER

Sierra Homebuilders, LLC
A Utah limited liability company

Signature: _____

Printed Name: _____

Title: _____

DATE: _____ (the "Agreement Date")

["Exhibit A – Limited Warranty" attached

Exhibit A

Limited Warranty

This limited warranty of Sierra Homebuilders, LLC, a Utah limited liability company ("Sierra") is the sole and exclusive warranty provided by Sierra. This Limited Warranty is provided in connection with the Home constructed by Sierra on the following property: _____ (the "Home"), purchased from Sierra by _____ ("Owner").

1. Term.

The term of this limited warranty begins on the date of issuance of Certificate of Occupancy and continues for exactly one year. Work performed by Sierra under this Limited Warranty will not extend the one-year term of this Limited Warranty.

2. Coverage.

Within the one-year term, Sierra will repair or replace (as elected by Sierra) any latent defects in material or workmanship of the Home. A latent defect is a defect that was not apparent or ascertainable at the time of occupancy.

3. Manufacturers' Warranties.

Sierra hereby assigns to Owner, to the extent they are assignable, the manufacturers' warranties on all appliances and equipment installed in the Home. Owner agrees to pursue all available remedies under any applicable manufacturer's warranty.

4. Not Covered. The following are not included, and are expressly excluded, from coverage of this Limited Warranty:

- a) Consequential or incidental damages, including but not limited to claims asserting a diminution in the value of the dwelling, or damages arising from the presence of insect or animal infestation, mold, or other biological agents in or about the dwelling.
- b) Defects in appliances and equipment that are covered by manufacturers' warranties.
- c) Damage resulting from fires, floods, storms, electrical malfunctions, accidents, acts of God; or damages from alterations, misuse or abuse of the covered items by any person; or damage resulting from the Owner's failure to observe any operating instructions furnished by Sierra at the time of installation; or damage resulting from a malfunction of telephone, gas company, power company, or water company equipment or lines.
- d) Damage due to ordinary wear and tear, abusive use, or lack of proper maintenance.
- e) Defects that are the results of characteristics common to the materials used, such as (but not limited to) warping and deflection of wood, fading, chalking, and checking of paint due to sunlight; cracks due to drying and curing of concrete, stucco, plaster, bricks, and masonry; drying, shrinking, or cracking of caulking and weather-stripping.
- f) Defects in items installed by Owner or anybody other than Sierra or Sierra's authorized subcontractor/supplier.
- g) Work done by Owner or anybody other than Sierra or Sierra's authorized subcontractor.
- h) Drainage or puddles on rough graded lots.
- i) Conditions resulting from condensation on, or expansion or contraction of, materials.
- j) Loss or damage which the Owner has not taken timely action to minimize.
- k) Loss or damage which does not constitute a defect in the construction of the Home by Sierra or Sierra's authorized subcontractor.
- l) Loss or damage caused by or resulting from soil movement, expansion or contraction of soil; or sinking or shifting of soil not disturbed by Sierra.
- m) Weather, salt, chemical or use disintegration of concrete or other materials, or color differentials in concrete.
- n) Any condition that does not result in actual physical damage to the Home including, but not limited to, uninhabitability or health risk due to the presence or consequence of unacceptable levels of radon gas, formaldehyde, or other pollutants and contaminants, or the presence of hazardous or toxic on-site materials.
- o) Bodily injury or damage to personal property; and costs of shelter, transportation, food, moving, storage, or other expenses related to inconvenience or relocation during repairs or replacement.

5. Insurance

If Sierra repairs or replaces, or pays the cost of repairing or replacing, anything under this Limited Warranty, for which the Owner is covered by insurance or a warranty provided by another party, Owner must, upon request of Sierra, assign the proceeds and subrogation rights of and to such insurance or other warranty to Sierra to the extent of the cost to Sierra for such item.

6. Filing a Claim.

Any claim by the Owner under this Limited Warranty must be made by written notice to Sierra within the one-year term. This Limited Warranty expires immediately and automatically at 11:59 p.m. on the last day of the one-year term specified above. Sierra will have a reasonable opportunity to cure the claim before Owner can pursue any further rights or remedies.

7. Not Transferable.

This limited warranty is extended to only to the Owner as the first purchaser of the Property. This Limited Warranty is not transferable. This Limited Warranty immediately and automatically terminates upon the sale of the Home by Owner.

8. Miscellaneous

Owner may not assign any of Owner's rights under this Limited Warranty; any assignment is void. This Limited Warranty, and all matters relating hereto, including any matter or dispute arising out of this Agreement, shall be interpreted, governed, and enforced according to the laws of the State in which the property is located. A waiver by any party of any provision hereof, whether in writing or by course of conduct or otherwise, shall be valid only in the instance for which it is given, and shall not be deemed a continuing waiver of said provision, and shall not be deemed a waiver of any other provision hereof. Time is of the essence. This Limited Warranty constitutes the entire understanding of the parties with respect to the subject matter discussed. There are no other written or verbal agreements or understandings between the parties. All litigation relating to this Limited Warranty will take place solely in the First Judicial District Court, Box Elder County, Utah. **Each of the parties hereto expressly waive their respective right to a trial by jury. This Limited Warranty is in lieu of all warranties of habitability or workmanlike construction, or any other warranties, express or implied. No employee, trade contractor, or agent of Sierra has the authority to change the terms of this one-year Limited Warranty. AGREED TO BY:**

9. Other Items

- a. Seller to provide a standard title policy not an ALTA Homeowner policy
- b. In any basement it is recommended to get a sump barrel installed to monitor and mitigate any ground water.
- c. It's recommended installing heat tape to prevent roofing damages and water leaks from ice damming.
- d. Dirt settling around house or in the yard is not warrantied. Concrete settling is warrantied as long as proper drainage is maintained.
- e. If doing a cold storage, we cannot guarantee against water leaking into the cold storage. Water leaking into the cold storage is not a warranty item.
- f. Homeowner is responsible to research and understand what products are best for their circumstance in any special situation.

Owner initials ____/____

Owner

Owner

Sierra Homebuilders, LLC, a Utah limited liability company

Signature: _____

Printed Name: _____

Title: _____