

NEW CONSTRUCTION ADDENDUM

(For Completed Construction)

This form is not for use when Buyer owns the Property

NOTE: This form is designed for use when Seller is a licensed contractor or has engaged a licensed contractor who has completed construction of a "spec" dwelling (including a townhouse but not a condominium) on property owned or to be owned by Seller who will convey improved property to Buyer, and should be attached as an addendum to the Offer to Purchase and Contract (Form 2-T). It may also be used when Seller/Contractor will make additional minor improvements to a completed dwelling. If construction of the dwelling is not completed or if extensive additional improvements are to be made, the parties should use the Offer to Purchase and Contract—New Construction (Form 800-T) instead of this form.

When to Use this Form: Use this form with the Offer to Purchase and Contract (Form 2-T) if: (1) the drywall in the Dwelling (as defined below) is complete; (2) Seller is a licensed contractor or has engaged a licensed contractor to complete the Dwelling; and (3) Buyer does not yet own the Property. Use the Offer to Purchase and Contract—New Construction (Form 800-T) if the drywall has not yet been completed or if extensive additional improvements still need to be made.

"Seller": \_\_\_\_\_

"Buyer": \_\_\_\_\_

"Property": \_\_\_\_\_

This Addendum is attached to and made a part of the Offer to Purchase and Contract ("Contract") between Seller and Buyer for the Property.

The General Contractor  is Seller OR  is (insert contractor's name): \_\_\_\_\_ ("General Contractor")

NC contractor's license #: \_\_\_\_\_ classification: \_\_\_\_\_ limit: \_\_\_\_\_

1. CONSTRUCTION OF DWELLING HOUSE. Seller or General Contractor has completed construction of is building a dwelling and related improvements (hereinafter "House") on the Property (herein "Dwelling") in accordance with the attached "Plans and Specifications" (including elevations, floorplans, structural drawings, insulation, proposed lighting and electrical plans, and water heater specs). Seller represents and certifies that Seller or General Contractor is licensed to construct the House Dwelling and is licensed to construct any additional improvements that may be made by Seller or General Contractor pursuant to this Contract. Seller shall provide to Buyer a certificate of occupancy ("CO") for the House Dwelling and any necessary Certificates of Compliance related to the Property no later than Settlement any additional improvements made thereto no later than Settlement.

2. WARRANTIES.

(a) Limited Warranty of Construction. Unless otherwise provided for herein, Seller, and General Contractor jointly and severally with Seller, hereby warrant(s) that, for a period of one (1) year from the date of Closing or the date Buyer occupies the Dwelling, whichever comes first, Seller and General Contractor will make all necessary repairs and corrections to the Dwelling, either interior or exterior, structural or nonstructural, that shall become necessary by reason of faulty construction, labor or materials or non-conformity of construction to the Plans and Specifications. At Seller's sole option, Seller and General Contractor may either (i) make such repairs and corrections, (ii) replace any faulty or non-conforming item or condition or (iii) pay to Buyer the reasonable cost of such repair, correction or replacement. This limited warranty: (1) is for the benefit of Buyer only and may not be assigned nor shall it inure to the benefit of any other person or entity, and (2) shall survive Closing and the delivery of the deed. This limited warranty is in addition to and not in lieu of any warranty implied by law and Seller and General Contractor agree they are in the business of building and selling such dwellings.

If checked, the foregoing above Limited Warranty shall not apply and is replaced by the attached written warranty from Seller and/or General Contractor.

(b) Warranties of Components. Seller, and General Contractor jointly and severally with Seller, Seller and General Contractor, jointly and severally, shall assign and deliver to Buyer at Settlement all guarantees and warranties of all components comprising the Dwelling to the extent the same are assignable. Buyer shall be responsible for compliance with any maintenance obligations and notice and claim procedures set forth therein. The warranty under Paragraph 2(a) shall not extend to any such component expressly guaranteed or warranted by the manufacturer.



Buyer initials \_\_\_\_\_ Seller initials \_\_\_\_\_

(c) ~~Seller, and General Contractor jointly and severally with Seller,~~ **Wood Destroying Insects.** Seller and General Contractor, jointly and severally, shall provide a Subterranean Termite Protection Builder's Guarantee and a New Construction Subterranean Termite Service Record, as published under Federal Law.

**3. ADDITIONAL IMPROVEMENTS.** Buyer and Seller must check and attach the following which are specifically incorporated in this Contract and defined as "Additional Improvements" herein. All Additional Improvements must be listed below with copies attached as exhibits.

- Kitchen Plans (i.e., counters, appliances, plumbing fixtures, etc.)
- General finish and fixtures specifications (i.e., flooring, trim, bathroom fixtures, appliances, etc.)
- Landscaping and hardscaping plans
- Schedule of Allowances
- Any Other Additional Improvements: \_\_\_\_\_

(a) **Construction.** Seller shall construct the Additional Improvements: within the scope with all the above specifications; in compliance with laws, regulations, codes, and ordinances applicable to the construction of the Additional Improvements; and in a good and workmanlike manner with new, good quality materials and components.

(b) **Changes.** Seller shall not make any significant deviation or change in the Additional Improvements without the prior written consent of Buyer. Any changes to Additional Improvements can be made only by written agreement ("Change Order") between both Buyer and Seller. Change Orders may also address changes to the Purchase Price, Earnest Money Deposit, Due Diligence Fee, allowance amount(s), and other changes agreed to between Buyer and Seller as to the Additional Improvements.

(c) **Costs of Construction.** Unless otherwise agreed in writing, Seller shall provide and pay for all labor, materials, equipment, tools, clean-up, utilities, transportation, facilities, permits, fees, licenses and all other costs, charges and expenses whatsoever in connection with or related to the construction of the Additional Improvements.

**3. INSULATION OF HOUSE:**

	WALLS	CEILINGS	FLOORS
TYPE			
THICKNESS			
R-VALUE			

**NOTE:** COMPLETE PARAGRAPHS 4 THROUGH 7 OF THIS ADDENDUM ONLY IF ADDITIONAL MINOR IMPROVEMENTS TO THE PROPERTY ARE TO BE MADE BY SELLER. IF NO ADDITIONAL IMPROVEMENTS ARE TO BE MADE, SKIP TO THE SIGNATURE/DATE SECTION.

**4. ADDITIONAL IMPROVEMENTS.** The parties agree that Seller will make the following additional minor improvements to the Property:

(a) **Description.** (describe all improvements; insert "N/A" if no additional improvements are to be made) (hereinafter collectively the "Additional Improvements") ~~(As noted above, if extensive additional improvements are to be made, the parties should use the Offer to Purchase and Contract - New Construction (Form 800-T) instead of this form):~~

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**(b) Construction.** Seller shall construct the Additional Improvements in compliance with all laws, regulations, codes, and ordinances applicable to the construction of the Additional Improvements and in a good and workmanlike manner with new, good quality materials and components.

**(c) Changes.** Seller shall not make any significant deviation or change in the Additional Improvements without the prior written consent of Buyer.

**(d) Costs of Construction.** Seller shall provide and pay for all labor, materials, equipment, tools, clean up, utilities, transportation, facilities, permits, fees, licenses and all other costs, charges and expenses whatsoever in connection with or related to the construction of the Additional Improvements.

**4. COMPLETION OF ADDITIONAL IMPROVEMENTS.** Seller shall diligently pursue the construction of the Additional Improvements, and shall complete construction of the Additional Improvements on or before Settlement. If Seller is delayed at any time in the progress of construction by: (a) any act or neglect of Buyer, (b) any changes ordered in the construction, (c) material shortages, adverse weather conditions, or delays in transportation which were not reasonably anticipated or (d) acts of God, then the time for completion of construction of the Additional Improvements and the Settlement Date shall be extended automatically by a reasonable time, not to exceed 60 days, to account for the delay experienced. Seller shall notify Buyer in writing within five (5) days after the commencement of the delay; otherwise, the right to an extension shall be waived. The construction of the Additional Improvements shall be deemed completed when they have been completed in accordance with the terms of this Contract and a CO and any Certificate(s) of Compliance have and a CO(s) of occupancy has/have been issued by the appropriate governmental authority having jurisdiction over the construction of the Dwelling and any of the Additional Improvements.

**5. INSPECTIONS.** Buyer or Buyer's designated representative may enter and inspect the Additional Improvements at reasonable times and in such manner as not to interfere with the progress of construction for the limited purpose of determining whether the work performed or being performed conforms to the terms of this Contract. In the event that during construction the Buyer shall reasonably determine that construction is not proceeding in accordance with this Contract, Buyer shall give written notice to Seller specifying the particular deviation, deficiency, or omission, and the Seller shall forthwith correct such deviation, deficiency, or omission. Buyer's rights under this paragraph shall not release Seller from any of Seller's obligations for the construction of the Additional Improvements in accordance with this Contract.

**(a) General.** Buyer or Buyer's designated representative may enter and inspect the Property and the Additional Improvements at reasonable times and in such manner as not to interfere with the progress of construction for the limited purpose of determining whether the work performed or being performed conforms to the terms of this Contract. If Buyer shall reasonably determine that construction is not proceeding in accordance with this Contract, Buyer shall give written notice to Seller specifying the particular deviation, deficiency, or omission, and the Seller must correct such deviation, deficiency, or omission. Buyer's rights under this paragraph shall not release Seller from any of Seller's obligations for the construction of the Plans and Specifications and the Additional Improvements in accordance with this Contract.

**(b) Radon Inspection.** Buyer shall have the option, at Buyer's expense, to have the Property tested for radon in compliance with EPA recommendations prior to Settlement. The test result will be deemed satisfactory to Buyer if it indicates a radon level of less than 4.0 pico curies per liter of air (as of January 1, 1997, EPA guidelines reflect an "acceptable" level as anything less than 4.0 pico curies per liter of air). If the test result exceeds the above-mentioned level, Seller will remediate, at Seller's expense, to bring the radon level within the satisfactory range. Upon the completion of remediation, Buyer may have an EPA-compliant radon test performed at Seller's expense, and if the test result indicates a radon level less than 4.0 pico curies per liter of air, it shall be deemed satisfactory to Buyer.

**6. PUNCH LIST ITEMS.** Prior to Settlement, Seller must schedule a mutually-agreeable date and time for Buyer to inspect the Dwelling, the Property, and the Additional Improvements. Following such inspection, Buyer and Seller shall agree upon a written list of all deficiencies in workmanship and material that are detectable by visual examination ("Punch List Items"). Seller shall correct Punch List Items at Seller's cost within a reasonable period of time. SELLER'S FAILURE TO CORRECT A PUNCH LIST ITEM PRIOR TO SETTLEMENT WILL NOT BE GROUNDS FOR DELAYING SETTLEMENT OR THE IMPOSITION OF ANY CONDITIONS ON SETTLEMENT; PROVIDED, SETTLEMENT SHALL NOT RELIEVE SELLER FROM THE OBLIGATION TO CORRECT ANY PUNCH LIST ITEM. This paragraph shall not be deemed to limit Buyer's right to conduct inspections under the Contract or limit the obligations of Seller under the Warranty of Construction herein.

**7. INSULATION.** If the Dwelling's insulation is not specified in the Plans and Specifications, then Seller discloses, in accordance with federal law, that the Dwelling will have the following insulation:

Walls	Type: _____	Thickness: _____	R Value: _____
Ceilings	Type: _____	Thickness: _____	R Value: _____
Floors	Type: _____	Thickness: _____	R Value: _____

**8. PURCHASE PRICE AND BUILDING DEPOSIT.**

(a) **Purchase Price.** The purchase price set forth in Paragraph 1(d) of the Contract includes the purchase price of the Additional Improvements, if any.

(b) **Building Deposit.** The Building Deposit, if any, referred to in Paragraph 1(d) of the Contract is not an Earnest Money Deposit and will be used by Seller in the construction of the Additional Improvements. The Building Deposit shall be paid to the Seller by cash or immediately available funds such as official bank check or wire transfer no later than the first banking day following the end of the Due Diligence Period and will be credited to the purchase price at Settlement. The Building Deposit shall be refundable only in the event of a material breach of the Contract by Seller or the nonfulfillment of a condition set forth in Paragraph 11 of the Contract.

**In determining whether and how much Building Deposit Buyer is willing to pay, Buyer should carefully consider that even though Buyer may be legally entitled to a refund of the Building Deposit in the event of a material breach of this Contract by Seller, actual recovery of the Building Deposit may be difficult, time-consuming, or costly if Seller is unable or unwilling to voluntarily refund the Building Deposit.**

(c) **Failure to Pay.** Should Buyer fail to deliver the Building Deposit in accordance with the terms of this subparagraph, Buyer shall have one (1) banking day after written notice to deliver the Building Deposit to Seller. In the event Buyer does not timely deliver the Building Deposit, Seller shall have the right to terminate this Contract upon written notice to Buyer. Seller and Buyer agree that the "Acknowledgment of Receipt of Building Deposit" section below shall not constitute a material part of this Contract, and that the addition or modification of any information therein shall not constitute a rejection of an offer or the creation of a counteroffer.

**WARNING:** ~~In determining whether and how much Building Deposit Buyer is willing to pay, Buyer should carefully consider that even though Buyer may be legally entitled to a refund of the Building Deposit in the event of a material breach of this Contract by Seller, actual recovery of the Building Deposit may be difficult, time-consuming and/or costly if Seller is unable or unwilling to voluntarily refund the Building Deposit.~~

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IN THE EVENT OF A CONFLICT BETWEEN THIS ADDENDUM AND THE CONTRACT, THIS ADDENDUM SHALL CONTROL EXCEPT THAT IN THE CASE OF SUCH A CONFLICT AS TO THE DESCRIPTION OF THE PROPERTY OR THE IDENTITY OF THE BUYER OR SELLER, THE CONTRACT SHALL CONTROL.

NC REALTORS® AND THE NORTH CAROLINA BAR ASSOCIATION MAKE NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. IF YOU DO NOT UNDERSTAND THIS FORM OR FEEL THAT IT DOES NOT PROVIDE FOR YOUR LEGAL NEEDS, YOU SHOULD CONSULT A NORTH CAROLINA REAL ESTATE ATTORNEY BEFORE YOU SIGN IT.

**Buyer:** (Name) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

**Buyer:** (Name) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

**Entity Buyer:** (Name of LLC, Corp., Trust, etc.) \_\_\_\_\_

By: (Name & Title) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

**Seller:** (Name) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

**Seller:** (Name) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

**Entity Seller:** (Name of LLC, Corp., Trust, etc.) \_\_\_\_\_

By: (Name & Title) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

**General Contractor** (to be executed only when Seller is not the General Contractor): General Contractor hereby joins in the execution of this Agreement for the sole and limited purpose of agreeing to remain jointly and severally liable with the Seller for the warranty obligations set forth in Paragraph 2 of this Contract.

**Name:** (Name of LLC, Corp., Trust, etc.) \_\_\_\_\_

By: (Name & Title) \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date) \_\_\_\_\_

**ACKNOWLEDGMENT OF RECEIPT OF BUILDING DEPOSIT**

Seller: \_\_\_\_\_ (“Seller”)

Buyer: \_\_\_\_\_ (“Buyer”)

Property Address: \_\_\_\_\_ (“Property”)

**LISTING AGENT ACKNOWLEDGMENT OF RECEIPT OF BUILDING DEPOSIT**

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Seller of a Building Deposit in the amount of \$ \_\_\_\_\_, receipt of which Listing Agent hereby acknowledges.

Date \_\_\_\_\_

Firm: \_\_\_\_\_

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

(Signature)

\_\_\_\_\_  
(Print name)

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 **SELLER ACKNOWLEDGMENT OF RECEIPT OF BUILDING DEPOSIT**

Paragraph 1(d) of the Offer to Purchase and Contract between Buyer and Seller for the sale of the Property provides for the payment to Seller of a Building Deposit in the amount of \$ \_\_\_\_\_, receipt of which Seller hereby acknowledges.

**Individual Seller(s):**

**Entity Seller:**

Seller: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Name of LLC/Corporation/Partnership/Trust/etc.)

Date: \_\_\_\_\_

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

Seller: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_