

*Guaranteed
Buy
Back*

AGREEMENT

GEORGIA, TIFT COUNTY.

THIS AGREEMENT is made and entered into by and between ROBERT MASSEY RENTALS, LLC, hereinafter referred to as "Seller", and _____, hereinafter referred to as "Purchaser."

WITNESSETH:

WHEREAS, Seller is the owner of lot briefly described as Lot ___ as shown on a plat prepared for Cypress Pointe by Hampton & Associates Surveying Company dated December 17, 2002 (hereafter the said lot shall be referred to as the "Property"); and

WHEREAS, Seller intends to build a duplex, one-half of which will be located on the Property, and Purchaser wishes to purchase the Property with the duplex after it is completed; and

WHEREAS, the subdivision in which this Property is located is an active adult community, of which Seller is the developer of said subdivision, and all parties hereto desire to maintain the property values in said subdivision; and

WHEREAS, Purchaser desires to have a ready market for the sale of Purchaser's Property being purchased from Seller; and

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

-1-

This agreement shall survive the closing of the purchase of the Property by Purchaser from Seller, it being the intent of the parties that this agreement shall be binding on the parties for a period of twenty (20) years from the date of this agreement.

-2-

Purchaser understands and agrees that she will be bound by all of the restrictive covenants of the Cypress Pointe Subdivision recorded in Deed Book 936, Pages 191 through 199, of the Tift County Superior Court Clerk's Office deed records.

-3-

The parties hereby agree that Seller shall build at Purchaser's request one-half ($\frac{1}{2}$) of a duplex on the Property described herein. The design of the duplex shall be a Patio Homes of Cypress Pointe Floor Plan Design, a copy of which is attached hereto as an exhibit and made a part hereof. The quality of the duplex and the materials to be used in the duplex shall be of equal quality to those already existing in the Cypress Pointe Subdivision. The plans are hereby modified according to the modifications shown on Exhibit "A" which is made a part hereof. No other major modifications to the plans shall be permitted without the written consent of Seller. In the event that Seller does agree to make some modifications to the plans, then the modifications shall be entered into in writing, with the increase or decrease in price to be placed in said amendment. Any such modifications or amendments shall be added to the contract, provided they are signed by both parties. Seller further has the right to require an additional deposit for any changes that are made to the plans or the materials.

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The purchase price of the Property shall be the sum of \$ _____. Seller acknowledges receipt of \$500.00 paid down as earnest money, and the balance of \$ _____ shall be paid at closing. If Purchaser defaults hereunder, then at the option of the Seller, the earnest money shall be forfeited as liquidated damages, which both parties agree is a fair estimate of the cost, expenses, and losses that the Seller would incur should the Purchaser default; and this contract thereupon shall become null and void. If the closing fails to take place due to the fault of the Seller, then Purchaser shall be entitled to a refund of the earnest money paid hereunder and this contract shall be declared null and void.

-5-

The parties acknowledge that the survey attached hereto as an exhibit may not be the exact location of the boundary lines of the Property. Once the duplex is constructed, a new survey showing the exact line of the common wall shall be used to deed the Property to the Purchaser; and the parties agree that such new survey shall be used to prepare the Warranty Deed from the Seller to the Purchaser.

-6-

Seller agrees that it will notify Purchaser approximately thirty (30) days prior to finishing so that Purchaser shall begin making any arrangements that she needs to be able to borrow funds to purchase the Property. Purchaser shall close within thirty (30) days after a Certificate of Occupancy is issued by the appropriate governmental unit of Tift County, Georgia, unless Seller grants a written extension to Purchaser. If the closing fails to take place within thirty (30) days after the date that the Certificate of Occupancy is issued, or within any extension time given by

the Seller to the Purchaser, then at Seller's option all rights contained herein shall terminate; and Seller shall have the right to sell the Property to a third party.

-7-

The ad valorem property taxes on the Property shall be prorated as of the date of closing.

-8-

The Seller shall pay for preparation of the Warranty Deed, the real estate transfer tax, and one-half of the cost of the preparation of this Agreement. Purchaser shall be responsible for payment of all other closing costs.

-9-

The Seller shall convey title to the Property by a general Warranty Deed. The Purchaser shall be furnished good, marketable, fee simple title to said Property. If defects are found in examination of the title, then Seller shall have thirty (30) days from the date such defects are found to remedy said defects in title. If any material defects in title are not remedied within said 30-day period by the Seller to the satisfaction of the Purchaser, then at Purchaser's option this agreement may be declared null and void and Purchaser shall be entitled to a refund of the earnest money paid hereunder. The Purchaser shall purchase the Property subject to the lien of general taxes for the year in which the sale is closed, unless they are paid at or prior to closing; easements and building restrictions of record; zoning ordinances; restrictive covenants; and to any and all existing rights-of-way for public highways, utilities, and drainage.

-10-

Seller shall be responsible for keeping and maintaining the proper fire and casualty insurance coverage on the Property through the closing date. Purchaser agrees to carry the

necessary insurance after the closing. The insurance company shall be notified that the Property is one-half (½) of a duplex, and such provisions shall be provided in the policy to show that fact.

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Seller agrees to furnish a certificate from a licensed pest control company stating that the building, structure, and soil underneath have been examined, where accessible, for all visible signs of damage and/or infestation by termites and/or wood-destroying organisms and have been found free of same. Seller further agrees to transfer to Purchaser the termite bond on said Property.

-12-

Seller hereby warrants for a period of one (1) year from the date of closing that all work performed pursuant hereto shall and will be performed in a substantial and workman-like manner in accordance therewith.

Seller's sole liability and responsibility after the closing shall be to re-perform or correct any work which fails to conform to the requirements hereof and appears during the progress of construction, and Seller shall further remedy promptly any defects due to faulty materials or workmanship which appear within one (1) year from the date of closing. The sole remedy against the Seller as it relates to the construction of the duplex on the Property shall be under the terms of this paragraph, and the Seller shall have no further liability for any defects that appear more than one (1) year after the closing. Also, notice must be given to the Seller within said 1-year period of any defects in order to give the Seller an opportunity to correct the problem. Should the Purchaser fail to give the Seller written notice of any defect within the 1-year period, then it shall be a waiver of such defects and the Seller shall not be liable for any repairs or any

other claims related to the duplex thereafter. Any suit against the Seller by the Purchaser must be brought within four (4) years from the closing date.

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The Seller agrees to provide the following:

- A. All necessary connections to public utilities;
- B. To transfer to Purchaser all guarantees and warranties on all equipment, material, and workmanship it holds for the duplex to be constructed on the Property; and
- C. That the central air-conditioning and heating system, hot water heating, plumbing, and all built-in kitchen appliances will be in proper working order at the time of closing.

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Purchaser agrees that if at any time during the first year after Purchaser closes, the Purchaser desires to sell the Property, then and in that event, she agrees that she must offer the Property back to the Seller and the Seller agrees that it must buy from the Purchaser the Property for the sum of Purchaser's purchase price less ten percent (10%). The Purchaser acknowledges that said purchase price will be fair and reasonable due to the anticipated expenses and costs such as realtor fees and attorney's fees that would be charged to Seller should Seller desire to sell the Property and the fact that the home will no longer be a new home and the inconvenience and cost of Seller having to buy back the Property. Should Purchaser desire to sell the Property during the second year after the closing, then and in that event, the Purchaser must sell the Property back to Seller and the Seller must purchase the Property from Purchaser for the original purchase price less five percent (5%).

Should Purchaser desire to sell the Property after the second year from the date of closing through the end of the tenth year after closing, then and in that event, Purchaser agrees that she shall sell the Property to Seller and Seller agrees that it must purchase the Property from Purchaser under the following terms and conditions and under the following circumstances:

(a) In years three through ten, Seller shall pay and Purchaser shall sell the Property to Seller for the lesser of its then fair market value determined by a licensed appraiser selected by Seller or the amount of the original sales price paid by Purchaser, plus an increase of three percent (3%) for each full year that has been completed since the closing.

(b) The Purchaser hereby grants to Seller a right of first refusal to purchase the Property during the 11th through 20th year from the date of closing. Purchaser shall have the choice of choosing the method of determining the purchase price, the method selected being determined by whether the notice given to Seller by Purchaser offers to sell the Property for its fair market value or for a stated value.

The two methods for determining value are as follows:

(1) Purchaser sends Seller an offer in writing to sell the Property to Seller for the Property's then fair market value. The Purchaser and Seller shall have the right to agree on the fair market value of the Property. If they are unable to agree, then Seller and Purchaser shall each choose a licensed appraiser from the Tiftarea, each of whom shall independently appraise the Property. Seller has the right to approve the appraiser selected by

Purchaser, but its approval will not be unreasonably withheld. Provided that the fair market value determined by each appraiser does not vary by more than five percent (5%), then the fair market value shall be determined by averaging the fair market value of both appraisers. Should the appraisers' fair market value vary by more than five percent (5%), then the two appraisers shall get together and try to determine why there is such a discrepancy and to see if they can agree on a fair market value. If they do agree, then that shall establish the value; and if they fail to agree, then the two appraisers shall select a third appraiser, which appraiser shall take the two other appraisals and determine the fair market value somewhere between the two extremes. Said third appraiser's decision shall then determine the Property's fair market value. The appraisers shall base their appraisal to the extent possible based on other homes and properties of similar types within the Cypress Pointe Subdivision. Each party shall pay for their own appraiser selected by them, and one-half (1/2) of the third appraiser if the third appraiser becomes necessary. Once the fair market value is obtained, then the Purchaser in writing shall notify Seller that Seller has the right to purchase the Property for its fair market value, less six percent (6%) of said value, which both parties agree to be a reasonable estimate of a realtor fee that would have to be paid by Purchaser should Purchaser hire such a realtor. Should Seller fail to exercise its option as

hereinafter provided, then Purchaser shall have the right to sell the Property to any party for any amount that Purchaser chooses.

- (2) In the alternative, Purchaser may offer in writing to sell the Property to Seller for "an established sales price." If Purchaser has not used a realtor or some other means of paying someone to sell the Property, and Purchaser finds a third party that wants to buy the Property, then the written offer to Seller will be for the exact amount of the sales price agreed to between the Purchaser and said third party, and this shall be the "established sales price." In the event that Purchaser uses a realtor or some other means of trying to sell the Property, then the "established sales price" to Seller shall be for the sales price to the third party less any commission to be paid to the broker or such other person assisting Purchaser in selling the Property. Before entering into any contract with a realtor or other selling agent, Purchaser must notify the selling agent of the terms of this agreement and that selling agent shall not be entitled to any fee should the Seller purchase the property. Any notice to Seller required herein must include the sales price, the name of the Purchaser, the proposed purchaser, any perks being offered to induce the sale such as items of personal property being conveyed as a part of the sale, and the "established sales price." Should Seller fail to exercise its option, then Purchaser shall have the right to sell said Property to the named third party under the terms and conditions contained in the notice given to Seller but

shall not sell the Property to any other third party for a lesser amount than that contained in the notice to Seller without giving another notice to Seller and such notice shall start a new Seller's time to exercise its option.

- (3) Under any circumstances wherein the Seller is given an option to purchase the Property herein, should Purchaser desire to sell her Property, then and in that event, she must give written notice to the Seller of her intention to sell the Property; and said written notice must contain all pertinent information, including but not limited to a statement that Purchaser offers to sell the Property to Seller, either for the amount established in paragraph (3) above, the amount established in paragraph (4)(a) above, or at Purchaser's option, its fair market value, or sales price as determined by paragraph (4)(b) above. Said notice must be either hand-delivered to an officer of Seller or sent to Seller by registered or certified mail. Seller shall then have ten (10) days from its receipt of such notice within which to exercise its option to purchase the Property. Exercise of the option to purchase the Property shall be exercised by Seller mailing a written notice of acceptance of the offer during said ten-day period to the return address contained on the written notice sent to Seller by Purchaser. Failure to include any appropriate information, including but not limited to the return address, shall be invalid to start the Seller's ten-day period to exercise the option. Seller shall then have an additional forty-five (45) days after sending its notice of acceptance to the Purchaser in which to close.

- (4) In the event of the sale of the Property from Purchaser to Seller, then the ad valorem property taxes shall be prorated as of the date of closing and each party shall pay standard closing costs normally paid by parties selling and purchasing property in Tift County at the time of closing.
- (c) The deed from Seller to Purchaser shall contain language approved by Seller and Seller's attorneys referencing the Seller's rights of purchase and first refusal under the terms of this agreement.

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Seller shall have the right to transfer and assign any and all of its rights or interest in this contract, including the right of first refusal, to any person or entity associated with the development, maintenance, or oversight of the Cypress Pointe Subdivision.

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Paragraph 7 of the Restrictive Covenants recorded or to be recorded on the subdivision creates a permanent easement 25 feet along each property line. However, the parties agree that since the west property line will be a common wall between a duplex known as being located on Lot 14 and Lot 13, there obviously will not be any easement as far as it relates to the common wall. Seller and Purchaser understand and agree that any utility easements to be placed on the Property have already been placed thereon, and Purchaser agrees to be bound by any such easements that already exist. In addition, Seller shall continue to have a 25-foot easement along the front and rear property lines; but, except to the extent that they already may exist, Seller gives up any right as to any easement along the side property lines of Purchaser's Property.

This agreement shall bind the heirs, executors, transferors, successors, and assigns of the parties hereto and Seller's option and first refusal rights granted herein shall be stated in the Warranty Deed from Seller to Purchaser.

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

Signed, sealed, and delivered
in the presence of:

ROBERT MASSEY RENTALS, LLC

Witness

By: _____
Robert Massey, Manager

Notary Public

SELLER

Signed, sealed, and delivered
in the presence of:

Witness

Notary Public

PURCHASER

Prepared by:
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