

# Milton Strickland Builders, Inc. PURCHASE AGREEMENT

STATE OF ALABAMA

MONTGOMERY COUNTY

## I. PARTIES AND PROPERTY

In accordance with the terms of this agreement, Milton Strickland Builders, Inc. (hereinafter called Seller), agrees to sell to following real property and the improvements built or to be built thereon, situated in Montgomery County, Alabama (hereinafter called "the Property"):

Lot \_\_\_\_\_, Block \_\_\_\_\_, according to The Oaks of Buena Vista Also known by street address as: \_\_\_\_\_ Alabama, Plan No. \_\_\_\_\_

## II. PURCHASE PRICE

The purchase price of the subject property to be paid by Buyer to Seller is \$ \_\_\_\_\_, shall be payable as follows: \$ \_\_\_\_\_ earnest money, to be held by Milton Strickland Builders as the Realtor representing the Seller pending the closing of this sale. In the event this sale is for improvements to be built on the Property, upon the approval of the plans by the Buyer, the Buyer shall pay the additional sum of \$ \_\_\_\_\_ which shall not be held by Watts Homes, LLC but shall be paid directly to the Seller by the Buyer and shall be applied to the total purchase price as stated hereon. Ken Fry Central

## III. FINANCE

Buyer agrees:

- A. To apply to \_\_\_\_\_ loan in the amount of \$ \_\_\_\_\_ ("Lender") within three (3) working days from the date hereof for a \_\_\_\_\_ at the interest rate available at the time of closing; and
- B. To provide the Lender within seven (7) days all information required by Lender in connection with Buyer's Loan Application. If Buyer complies with the requirements of Subsections (A) and (B) above, and Buyer's loan has not been approved by Lender within \_\_\_\_\_ ( ) days from the date of loan application, this agreement shall terminate, in which event Buyer shall receive a refund of all earnest money paid this date to Seller upon the execution of a release from this agreement. Should Buyer fail to comply with the terms of subsections (A) and (B) above, Seller may terminate this agreement and retain the earnest money as liquidated damages.

C. If this is a cash sale, prior to commencement of construction, Buyer agrees to provide evidence satisfactory to Seller that the balance of the purchase price will be available for closing.

## IV. CLOSING COSTS

Loan closing costs to be paid by the Seller up to ~~\$2,400~~ <sup>\$2,500</sup> and prepaid items and the remaining closing cost to be paid by the Buyer.

## V. CHANGE ITEMS OR EXTRAS

Seller is under no obligations to make any changes, additions, or alterations to Seller's plans and specifications for the residence constructed or to be constructed upon the subject property. Seller may elect to make changes, additions, or alterations to property, upon request of Buyer, but shall not in any event do so until the parties have: executed a written change order (which shall become part of this contract); Lender has approved such changes, additions, or alterations; and Seller has received payment for the additional labor and materials required. Any change after plans are complete and decorator sheets are signed will be \$100.00 plus cost of the change. All changes and extras will be paid on the date the change order is signed.

## VI. ALLOWANCES

Seller may allow Buyer to select some or all of the interior decorating items to be incorporated into the improvements. Such items may include light fixtures, wallpapers, vinyl floor coverings, carpet, hardware, and appliances (hereinafter called "decorating items"), for which Seller shall establish allowances. Buyer shall make such selections within seven (7) working days of the request of Seller's decorator. If the cost of decorating items chosen by Buyer exceeds the allowances established by Seller, then Buyer shall pay such excess costs, or such deposit as Seller may require, immediately upon making such selections. Buyer shall pay the balance of the amount of such excess expenditures and receive credit due at the closing of this transaction.

## VII. DEED, ABSTRACT OF TITLE, RESTRICTIONS, AND EASEMENTS

At closing, Seller shall furnish Buyer an abstract of title disclosing a good and merchantable title. Also at closing, Seller shall convey the property to Buyer by Warranty Deed subject to all usual restrictions, easements, reservations, or zoning ordinances to which the property may be subject and which are common to the subdivision or addition in which the property is situated, which shall not be considered defects or objections to title.

Buyer has received a copy of the By-Laws and Protective Covenants of the Homeowners Association and acknowledges dues of \$ \_\_\_\_\_ per year. \_\_\_\_\_ (Buyer's initials)

## VIII. CONSUMMATION OF SALE

This sale shall be consummated within 10 days after completion of construction and final inspection. Said closing shall be approximately 120 days after start of construction, subject to paragraph XIII.

**IX. DEFAULT**

If Buyer fails to comply herewith, other than as provided in III. above, Seller may terminate this agreement and retain the earnest money as liquidated damages or, at the option of the Seller, Seller may proceed for specific performance. Alternatively, Seller may sue Buyer for Seller's actual damage incurred due to Buyer's breach. If Seller fails to comply herewith for any reason, Buyer may demand the earnest money, thereby releasing Seller from this contract as Buyer's sole remedy. The parties agree that Seller shall have earned, for service performed at the request of Buyer, any amounts received by Seller from Buyer for cash extras, change items or allowance items when Seller initiates work with respect to such cash extras, change items, or allowance items. Therefore, if Buyer fails to close for any reason other than the default of Seller, the Seller (whether or not Seller is required to return to Buyer the earnest money) shall be entitled to retain as reasonable compensation for services performed any amounts received by Seller for cash extras, change items, or allowance items which have been initiated, installed, or included to, on, or in the property. In the event that Seller defaults, then Seller shall return to Buyer the earnest money and any amounts received by Seller for cash extras, change items, or allowance items.

**X. PRORATED TAXES**

Taxes for the year of closing shall be prorated to the date of closing.

**XI. NOTICES**

Any notice required to be delivered hereunder shall be deemed received when sent by United States postage prepaid certified mail with return receipt requested.

**XII. DAMAGE OR DESTRUCTION OF IMPROVEMENTS**

Should all or any portion of the improvements constructed on the property be damaged or destroyed prior to closing by fire, windstorm, hail, explosion, or other casualty, Seller may, at its sole option, elect to terminate this agreement upon written notice to Buyer, in which event Seller shall immediately refund all sums theretofore paid by Buyer.

**XIII. DELAY IN CONSTRUCTION**

Seller shall use its best efforts to complete construction of the improvements prior to the closing date. However, if Seller is delayed at any time in the progress of construction because of unavailability of materials, inclement weather, strikes, changes in governmental regulations, acts of governmental agencies or their agents or their employees, acts of God, any of the causes listed in XII above, or Buyer's failure or refusal to make decorator selections, then Seller may, in its sole option, extend the closing for a period equal to the time of such delays.

**XIV. INSULATION**

- A. Exterior walls of all living areas will be insulated with fiberglass batt to a thickness of 3.5 inches which, according to the manufacturer, will yield an R-value of 11.
- B. Attic over living areas will be insulated with fiberglass batt or blown to a thickness of 12 inches which, according to the manufacturer, will yield an R-value of 30.

**XV. ENTIRE AGREEMENT**

This agreement constitutes the entire agreement of the parties. It may not be changed except by written agreement duly executed by the parties hereto.

**XVI. REAL ESTATE CONSUMER'S AGENCY AND DISCLOSURE ACT (RECAD)/AGENCY**

PRINT NAME OF LISTING COMPANY : Watts Homes LLC Kelly House 399-9500

The listing company is: (Two blocks may be checked)

- An agent of the Seller/s.
- An agent of the Buyer/s.
- An agent of both the Seller/s and Buyer/s and is acting as a limited consensual dual agent.
- Assisting the \_\_\_\_\_ Seller/s Buyer/s \_\_\_\_\_ as a transaction broker.

PRINT NAME OF SELLING COMPANY: \_\_\_\_\_

- An agent of the Seller/s.
- An agent of the Buyer/s.
- An agent of both the Seller/s and Buyer/s and is acting as a limited consensual dual agent.
- Assisting the \_\_\_\_\_ Seller/s Buyer/s \_\_\_\_\_ as a transaction broker.

Buyer/s Initials \_\_\_\_\_ Seller/s Initials \_\_\_\_\_

**XVII. REPRESENTATIONS AND SELLER WARRANTY**

This agreement contains all of the representations, warranties, guarantees, and promises of Seller. No agent or representative of Seller is authorized to make any representation or promise on behalf of Seller other than those contained herein. With this purchase Buyer will receive an express written warranty in lieu of any implied warranty. A copy of this warranty is attached hereto and made a part hereof the terms of which have been fully negotiated between the buyer and the seller. Seller makes no other warranties, express or implied and buyer hereby agrees to accept seller's express written warranty and waives all other warranties implied or express. Furthermore, the express warranty of Seller shall be of no force and effect until Seller has received payment of the purchase price stated above.

**XVIII. MAINTENANCE AND PREVENTION OF MOISTURE-RELATED CONDITIONS**

- A. Buyer hereby acknowledges and agrees that, upon the closing and occupancy of the Property by Buyer: (i) it shall be the responsibility and obligation of Buyer to maintain the Property, including the Dwelling and all components thereof, in good condition and repair, including all caulking, water seals, exterior surfaces and finishes, mortar, water pipes, drainage systems, HVAC pipes and systems, basement and crawl space areas, gutters, roofs, 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 Seller arising out of any such condition and any loss, damage, or injury resulting therefrom.
- B. Buyer further acknowledges and agrees that: (i) if Buyer becomes aware of water intrusion into the Property, Buyer should respond immediately; (ii) in cases of serious water damage, Buyer should hire construction and indoor air quality consultants to assess the damage and determine what remediation is needed; (iii) inadequate remediation, even if well-intentioned, will only create more problems; (iv) water damaged materials may need to be removed, and the source of the water intrusion should be addressed; (v) the Property may have to be vacated while remediation work is in progress; and (vi) a certified industrial hygienist experienced with testing for molds in indoor environments should be retained to determine whether the water damage has caused a source of mold growth and amplification.
- C. Buyer further acknowledges and agrees that: (i) unusual odors should also be investigated promptly; (ii) unusual odors may be indicative of water intrusion and mold growth; and (iii) chronic complaints of illness (especially respiratory, breathing, or allergy-type problems), headaches or nausea may indicate indoor air quality problems and should be taken seriously and investigated promptly.

**XIX. ARBITRATION**

- A. Buyer and Seller agree that the construction of a home necessarily involves interstate commerce considering the sources of the various components used in the building of the house. Buyer and Seller agree that any controversy or claim arising from or relating to this agreement, or the breach thereof, or any and all claims between Buyer, Seller and any employee, officer, agent or contractor of Seller, their successors or assigns shall be settled by binding arbitration pursuant to the Arbitration (binding) rules of the Better Business Bureau, except as such rules may be modified herein; or in the event the services of the Better Business Bureau are unavailable, the arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, as last revised. The arbitrator shall be selected by the Seller with the consent of the Buyer. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitration shall include, but not be limited to the determination by the arbitrator of the scope of the arbitration and the arbitrability of controversies and claims. The site of such arbitration shall be Montgomery, Alabama.
- B. The Buyer and Seller agree and understand that they choose arbitration instead of litigation to resolve disputes. The parties further understand that they have a right or opportunity to litigate disputes through a court, but they prefer to resolve their disputes through arbitration, except as provided herein. The parties voluntarily and knowingly waive any right they have to a jury trial. The decision of the arbitrator shall be final and binding on the parties and access to a judicial forum is foreclosed, except to enforce an arbitral decision.

**XX. EFFECTIVENESS AND EFFECTIVE DATE**

This agreement is of no force and effect and shall not be binding upon Seller until executed by Seller. The effective date of this agreement shall be the date it is executed as indicated in the space provided below. **WE THE UNDERSIGNED HAVE READ ALL OF THE PROVISIONS IN THE ABOVE CONTRACT.**

\_\_\_\_\_  
BUYER  
SELLER

\_\_\_\_\_  
BUYER  
SELLER

\_\_\_\_\_  
BUYER'S ADDRESS

\_\_\_\_\_  
PHONE NUMBER(S): HOME/WORK

Executed this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
SALES REPRESENTATIVE