

NEW HOME SALE CONTRACT

THIS CONTRACT is made and entered into by and between WOLF CREEK HOMES, LLC ("BUILDER"), and _____ and _____ (individually and collectively, "BUYERS"), and relates to the construction (if applicable) and sale by BUILDER to BUYERS of a residence on the following real property:

Lot _____, Block _____, WOLF CREEK, _____ Plat, a subdivision of land in the City of Spring Hill, Johnson County, Kansas, according to the recorded plat thereof.

commonly known as: _____ (the "Lot").

The "Effective Date" of this Contract shall be the date of final acceptance by the last party to sign this Contract on the signature page.

BUILDER and BUYERS agree as follows:

1. **PURCHASE AND SALE.** BUILDER agrees to sell, transfer and convey unto BUYERS, and BUYERS agree to purchase from BUILDER, the Property (as defined below), on and subject to the terms and conditions set forth herein.

2. **PRICE.** The "Purchase Price" is..... \$ _____ and is payable as follows:

- (a) Upon execution of this Contract, BUYERS have paid an earnest deposit (the "Deposit") to BUILDER in the amount of \$ _____ (Of this amount, \$ _____ is paid by transfer to BUILDER's credit of the lot reservation deposit made by BUYERS to the developer).
- (b) An additional Deposit (also the "Deposit") shall be paid to BUILDER on or before _____, 201____ in the amount of..... \$ _____
- (c) The balance to be paid at closing, subject to adjustments and prorations provided herein, is..... \$ _____

The Deposit is Non-Refundable (as defined below). The Deposit will not be segregated by BUILDER and may be commingled with its general funds. No interest shall be payable on the Deposit. The Purchase Price shall be automatically (i) increased by 110% of the amount of all expenditures in excess of the applicable allowance amounts, (ii) decreased by the amount by which expenditures are less than the applicable allowance amounts, and (iii) increased or decreased, as the case may be, as expressly provided elsewhere in this Contract. Should any error be made in any additions, subtractions or multiplications used in calculation of the Purchase Price at any time (whether in connection with the execution of this Contract, any change order, any closing statement or otherwise), the error shall be corrected and any resulting amounts due by any party to the other shall be promptly paid.

3. **ADDITIONAL DEFINITIONS.** For purposes of this Contract, the following terms shall have the following meanings:

"Plans" means (*check one*):

- the plans, specifications and drawings prepared by _____, number _____, last dated _____, 201____, copies of which have been reviewed by Builder and Buyers; or

substantially similar specifications, standards and materials as for the model or existing residence located at _____ (excluding wallpaper, window treatments, options, landscaping, decorative features and furnishings, except as expressly provided in the separate specification and allowance sheets referenced below); or

plans and drawings are not applicable (BUYERS are purchasing an existing or completed home);

plus "Plans" include all specification and allowance sheets which have been reviewed and approved by BUILDER and BUYERS and attached hereto and made part of this Contract, and all additions, substitutions and revisions thereto which may be approved by both parties hereto as provided in this Contract. Whenever the specification or allowance sheets conflict with any other Plans or drawings, the specification and allowance sheets shall control.

"Closing Date", subject to Section 7 below, is projected to be on or about _____, 201____. BUILDER shall have the right to adjust the projected Closing Date from time to time by giving written notice thereof to BUYERS. BUILDER shall set and give BUYERS at least three business days' notice of the actual Closing Date and the time and place of "Closing". Closing shall be after substantial completion of the Residence and issuance of a certificate of occupancy or (if available) temporary certificate of occupancy.

"Residence" means the residence to be constructed on the Lot, and all other improvements to be made to the Lot by BUILDER in accordance with the Plans.

"Property" means the Lot and the Residence.

"Costs" means all costs and expenses incurred by BUILDER in connection with the acquisition of the Lot by BUILDER and construction of the Residence by BUILDER pursuant to this Contract.

"Non-Refundable" means, with respect to a payment, that BUYERS shall not be entitled to a return of the payment under any circumstances other than after a valid termination of this Contract by BUYERS under Section 4 (if applicable, except as provided in Section 6), Section 16 or Section 27(b) below.

4. FINANCING OF PURCHASE.

(Check if Applicable) This Contract is **not** conditioned upon BUYERS obtaining a loan or loan commitment or on actual funding of any loan.

(Check If Applicable) Within ___ days (5 days if left blank) after the Effective Date of this Contract, BUYERS shall make application for a written loan commitment from an institutional lender for a/an _____ loan repayable over a period of ___ years in an amount of \$_____ with a market interest rate (or upon such other terms for which BUYERS may qualify), and with a loan closing expiration date extending at least 60 days beyond the initial specified Closing Date. BUYERS shall do all things necessary to obtain such loan commitment within the time period set forth in the next sentence and shall promptly provide BUILDER with a copy upon issuance by the lender. If, within ___ days (30 days if left blank) after the Effective Date of this Contract, a written loan commitment as provided in this paragraph is not issued by the lender or if the commitment requires that any of BUYERS' property be sold, either BUYERS or BUILDER may terminate this Contract, within 14 days after the expiration of such time period for the issuance of the commitment, by giving written notice of termination to the other party, in which case the Deposit shall be returned to BUYERS (except as provided in Section 6 below), without interest, less all expenses incurred by BUILDER regarding the preparation for or changes to construction on the Lot, including, without limitation, the home plans and specifications, survey staking, materials ordered, etc. If a written loan commitment is issued within the time period above and such commitment does not require the sale of any of Buyers' property or if a written notice of termination is not given by either party within the 14 day period provided above, then in either case this financing contingency shall be deemed automatically waived by both parties. This Contract is not contingent upon BUYERS acceptance of the loan commitment or actual funding of any loan under such commitment. BUYERS shall be responsible for satisfaction of all conditions and provisions of the loan commitment. BUYERS agree to pay all costs and equity contributions necessary to obtain the loan. If for any reason any extension of a loan commitment or a new loan commitment is required, BUYERS agree to execute all documents required by the lender in connection therewith and shall agree to all changes in the loan terms and fees and costs required by the lender in connection therewith. BUYERS shall deliver to Builder, upon request, a copy of any appraisal obtained by BUYERS or BUYERS' lender. BUYERS hereby authorize and instruct the proposed lender to provide BUILDER with a copy of any appraisal and any loan commitment issued

(whether or not accepted by BUYERS). BUILDER shall have the right to provide BUYERS and the proposed lender with an appraisal of the Property prepared by a qualified independent appraiser. BUYERS' lender must accept all provisions of this Contract, including, without limitation, all provisions relating to the timing and procedures for Closing and any completion escrow.

5. **CONSTRUCTION OF RESIDENCE.** BUILDER agrees to construct or, if applicable, complete the construction of the Residence in accordance with standard residential construction practices in the area, substantially in accordance with the Plans, and in accordance with all applicable laws, regulations and recorded restrictions, as enforced at the time of construction. BUYERS acknowledge and agree that BUYERS are not entitled to perfection and that BUYERS shall not expect or demand perfection in workmanship, materials or any other work. The parties recognize that the Plans may not show every detail necessary or advisable in the construction of the Residence and, with respect thereto, BUILDER shall use its judgment consistent with other comparably priced houses built by BUILDER in the area and the other details of the Residence as to the materials to be used and the work to be performed. Except as otherwise provided herein or in the Plans, all labor, materials, supplies, administration and supervision related to the construction of the Residence pursuant to the Plans shall be provided by BUILDER, and any and all subcontracts and other contracts which may be entered into with respect to such construction shall be entered into by BUILDER. BUILDER, in its discretion, shall have the right to substitute materials of equal quality and value. All Costs shall be paid by BUILDER, except as otherwise provided herein or in the Plans. BUILDER shall make the final decisions on placement of the Residence on the Lot, placement of the garage on the right or left side, and the number of steps from the sidewalk to the front stoop and from the garage to the home. The exterior paint color of the Residence shall be subject to BUILDER's and developer's approval. If the Residence is already partially constructed at the time this Contract is executed, BUYERS shall be deemed to have approved and accepted the Residence to the extent of such partial construction (including, without limitation, materials, workmanship, sizes, locations and installations), subject to the express limited warranty in Section 23 below.

6. **COMMENCEMENT.** BUILDER shall not be required to commence or, if applicable, continue construction of the Residence until after satisfaction or waiver of any financing or similar contingency, unless BUYERS agree to the following condition: In consideration for BUILDER commencing or continuing construction of the Residence prior to satisfaction of any financing or similar contingency, the Deposit shall be Non-Refundable (including, for purposes of this Section, upon failure to obtain a financing commitment or funding). If this early construction provision is to be applicable, BUYERS and BUILDER are to sign below:

BUILDER

By: _____

BUYER

BUYER

7. **COMPLETION.** The parties contemplate that construction of the Residence shall be substantially complete and that the Residence shall be ready for occupancy with a certificate of occupancy or (if available) temporary certificate of occupancy by the projected Closing Date (as may be adjusted by BUILDER as provided in this Contract); however, change orders, acts of God, adverse weather, labor strikes or walk outs, unavailability of qualified laborers, contractors, subcontractors, materialmen and suppliers, delays caused by BUYERS, and other conditions not within the reasonable control of BUILDER may delay such completion and the Closing Date shall be automatically delayed accordingly. BUILDER shall not be liable to BUYERS for any additional costs, consequential damages, incidental damages or other damages that may be incurred by BUYERS as a result of any delay. BUYERS agree not to hinder, disrupt or delay BUILDER's normal construction process or procedures.

8. **CHANGE ORDERS AND ALLOWANCES.** BUYERS may, from time to time, request in writing, on BUILDER's change order form, certain additions, deletions, substitutions or revisions to the Plans and, if agreed to by BUYERS and BUILDER, the provisions of this Contract shall apply thereto with the same effect as if embodied in the original Plans. BUILDER may condition its approval of any such change order request upon an increase in the Purchase Price to compensate BUILDER for the change and, if required by BUILDER, BUYERS paying to BUILDER a Non-Refundable additional Deposit specified by BUILDER on the change order. No verbal change order request made by BUYERS, nor any written change order requested by BUYERS, issued by BUILDER but not signed by BUYERS and returned to BUILDER within 48 hours, shall be binding upon BUILDER unless BUILDER actually effects the change, in which case the verbal or unsigned change order shall be binding on both parties and the Purchase Price shall be automatically increased by the agreed upon amount (if any) or (if there was no agreed upon amount) an amount equal to _____% (110% if left blank) of BUILDER's additional, if any, out-of-pocket costs to effect such change. If the change order reduces the out-of-pocket costs of BUILDER, the Purchase Price shall automatically decrease by an amount equal to the reduced out-of-pocket costs. For each change order request (including any change in selections of elective materials and decorations)

submitted by BUYERS more than _____ days (*45 if left blank*) after the Effective Date, there shall be an administrative fee of (*check one*) a flat \$_____ (*zero if left blank*) or \$_____ per hour (*zero if left blank*) payable to BUILDER for BUILDER's time spent in connection with pricing, drawing, etc. the change order request, which fee shall be payable even if BUYERS decide not to make the change. BUYERS agree not to give any change orders directly to any subcontractors or suppliers of BUILDER without BUILDER's prior written consent. Stated allowance amounts supersede any stated specifications or drawings. If BUYERS select an allowance item in excess of the applicable allowance amount, BUYERS shall, if requested by BUILDER or the supplier, pay the excess amount to BUILDER or directly to the supplier as a Non-Refundable additional Deposit. BUILDER, at its option, may require that any net increase in the Purchase Price resulting from change orders, allowance overages and other matters be paid to BUILDER and added to the Deposit at any time prior to closing or may wait for payment to be made to BUILDER at the Closing (or when later presented to BUYERS by BUILDER to the extent not included in the Purchase Price calculations as of the Closing). Net change order amounts shall constitute an increase or decrease in the Purchase Price, as the case may be. Closing does not alleviate either party's obligation to reconcile charges or credits on any allowance, change order or other item. In the event BUILDER shall inadvertently or through error omit any work to be done by change order, BUILDER's liability to BUYERS for such omission shall be limited solely to credit for the extra charge (if any) made by BUILDER in connection with such change order item.

9. **ELECTIVE MATERIALS AND DECORATION.** Except as otherwise approved by BUILDER in writing, all materials to be selected by BUYERS under this Contract for the Residence must be obtained from BUILDER's existing suppliers, be available for installation so as not to unreasonably interfere with the progress of construction, be consistent with the Plans, and be installed by BUILDER or its subcontractors. BUYERS will make all selections of the elective materials, colors, etc. in writing on forms acceptable to BUILDER. All selections shall be made by BUYERS in a timely manner so as to not delay BUILDER's construction schedule, but in all events within _____ days (*30 if left blank*) after the later of commencement of construction or the Effective Date. To the extent BUYERS fail to make selections in a timely manner, BUILDER may (but shall not be obligated to) make the selections consistent with the Plans and the Purchase Price shall be increased automatically by \$_____ (*\$50.00 if left blank*) for each day of delay as determined by BUILDER. BUYERS (not BUILDER) are responsible for any errors on the selection sheets and for any decisions not reduced to writing on the selection sheets.

10. **SPECIAL HEALTH CONDITIONS.** If BUYERS or any children or other proposed occupants of the Residence have any health and/or medical conditions (such as, without limitation, physical disabilities limiting mobility, and allergies or sensitivities to dust or natural, biological or synthetic materials) that require revisions to the Plans and/or the use of nonstandard construction materials, practices or techniques, BUYERS must notify BUILDER in writing specifying such conditions and the revisions to the Plans and/or nonstandard construction materials, practices, or techniques that are required, as set forth below. To the extent such written notice from BUYERS is not given to BUILDER prior to BUILDER's execution of this Contract, such written notice from BUYERS must be given to BUILDER within seven days after the Effective Date. To the extent BUYERS fail to give such written notice to BUILDER within such seven day period, or to the extent BUYERS and BUILDER agree not to adjust the Plans or construction materials, practices or techniques due to the additional cost thereof or otherwise, BUILDER shall have no liability or responsibility to BUYERS or any children or other occupant for any injury, illness or damage (direct, indirect, special or consequential) caused by or resulting from the construction of the Residence in accordance with this Contract (without any adjustment for health and/or medical conditions). To the extent the Plans and/or construction materials, practices or techniques are adjusted per BUYERS' written notice under this Section, BUILDER shall have no liability or responsibility to BUYERS or any children or other occupant for any injury, illness or damage (direct, indirect, special or consequential) for the failure of the specified adjustments or other work to be adequate or effective with respect to any health and/or medical condition. To the extent not already reflected in the Purchase Price, the Purchase Price shall automatically increase by 115% of the amount of BUILDER's additional out-of-pocket costs incurred in connection with the specified changes in the Plans and any such nonstandard construction materials, techniques or practices, and BUYERS shall pay to BUILDER, within five days, such additional amount of Non-Refundable Deposit in connection therewith as may be specified by BUILDER to BUYERS.

11. **SUBSURFACE AND SIMILAR CONDITIONS.** The Purchase Price (and any applicable allowance) is predicated upon the assumption that no rock, shale or other undigable subsurface conditions, springs or other water conditions, unusual utility or sewer elevations or locations, unstable soil, soils having inadequate load bearing capacity, or movement of earth to or from the Property will be encountered. In the event any such conditions are so encountered, BUILDER shall notify BUYERS and, subject to any applicable allowance, the Purchase Price shall automatically increase by the amount of BUILDER's additional out-of-pocket costs, if any, incurred to remedy such situation (including, without limitation, extended foundation footings and walls, piling and/or structural suspended slabs), and BUYERS shall pay to BUILDER, within five days, such additional amount of Non-Refundable Deposit as may be required by BUILDER in connection therewith.

12. **CHANGES IN GOVERNMENT REQUIREMENTS.** The Purchase Price is predicated upon a continuation after the Effective Date of this Contract of the currently applicable building codes and the enforcement policies thereunder, permitting requirements and fees, and similar government and utility requirements. In the event any change in such matters becomes effective after the Effective Date of this Contract and the change affects the Costs for the Residence, BUILDER shall notify BUYERS and the Purchase Price shall automatically increase by the amount of BUILDER's additional out-of-pocket costs incurred in connection therewith.

13. **SURFACE DRAINAGE.** Unless otherwise expressly provided in the Plans, the Purchase Price includes a surface drainage system consisting solely of grading of the Property in accordance with the overall grading plans for the development as provided by the developer and installation of gutters, downspouts and splash blocks. If any other grading, drains, sump pump discharge extensions or other installations become necessary for the Property to drain properly (even after Closing) or if grading in accordance with the developer's plans is impractical or ineffective due to grading of adjacent properties by other parties, BUILDER shall notify BUYERS of any such conditions and, if prior to Closing, the Purchase Price shall automatically increase by the amount of BUILDER's additional out-of-pocket costs incurred in connection therewith or, if after Closing, BUYERS shall pay such additional costs.

14. **INSURANCE AND CASUALTY LOSS.** BUILDER shall maintain builder's risk property insurance respecting the Residence through the Closing Date, liability insurance, and such other insurance coverages, including, without limitation, workers' compensation coverage, as BUILDER may deem necessary or appropriate or as may be required by law. If BUYERS directly engage another contractor or a subcontractor to perform additional work on the Property (which shall always require BUILDER's written consent), BUYERS shall cause such other party to provide BUILDER with written evidence of satisfactory worker's compensation and liability insurance coverage prior to such other party performing work on the Property. In the event of damage or destruction to the Residence prior to closing, this Contract shall remain in full force and effect and BUILDER shall proceed to reconstruct, repair and complete the Residence as soon as reasonably possible and the Closing Date shall be delayed accordingly. Notwithstanding the foregoing, if the damage or destruction is due to the negligence or willful misconduct of BUYERS or BUYERS' other contractors or subcontractors, BUILDER shall have the right to elect either (i) to terminate this Contract, in which case BUILDER shall be entitled to retain the Deposit as liquidated damages and neither party shall have any further obligations to the other with respect to the Property, or (ii) to require an increase in the Purchase Price in the amount of 10% of the costs of demolition, reconstruction and repair in order to compensate BUILDER for its additional time and effort related thereto.

15. **LIENS.** BUILDER agrees to complete the construction of the Residence free of all liens for labor or materials furnished by or through BUILDER in such construction and to indemnify and hold BUYERS harmless from and against any mechanics' or materialmen's liens with respect thereto, except with respect to any items for which BUYERS are obligated to pay but refuse or fail to make payment in full.

16. **TITLE INSURANCE.** Prior to Closing, BUILDER shall deliver to BUYERS a commitment from a title insurance company selected by BUILDER, pursuant to which the title company shall agree to issue to BUYERS, at BUILDER's expense, an Owner's Policy of Title Insurance on the then current and approved form of ALTA Owner's Policy insuring in the full amount of the Purchase Price that, at the time of recordation of the deed from BUILDER to BUYERS, there is vested in BUYERS fee simple title to the Property, subject only to (i) the Permitted Encumbrances (as defined below) and (ii) the Approved Title Matters (as defined below). Subject to the "except" clause in Section 15, the title insurance policy shall include coverage against mechanic's liens at no additional cost to BUYERS. If such commitment discloses any defects or other matters reasonably objectionable to BUYERS (other than the Permitted Encumbrances), BUYERS shall notify BUILDER of the same in writing within seven (7) days after receipt of such commitment. Thereupon, BUILDER shall exercise reasonable efforts to correct the objections and the Closing Date shall be automatically extended (if necessary) for up to 30 days. Any matter not specifically and timely objected to by BUYERS in writing within such seven (7) day period (herein referred to as "Approved Title Matters") shall be deemed to have been approved and accepted by BUYERS. In the event any defect or other matter timely and reasonably objected to by BUYERS is not corrected by BUILDER prior to the Closing Date (as extended) and is not such that it can be discharged out of the proceeds otherwise payable to BUILDER on the Closing Date, BUYERS shall have the option of (i) consummating the purchase of the Property and accepting such title thereto as BUILDER is able to convey, or (ii) terminating this Contract in which case the Deposit shall be returned to BUYERS and neither party shall have any further obligation to the other hereunder. "Permitted Encumbrances" means: (a) easements, restrictions, declarations, and reservations of record as of the date of this Contract and not inconsistent with residential use; (b) taxes and assessments, general and special, not due and payable as of the Closing Date; and (c) the rights of the public in and to parts of the Property in streets, roads or alleys.

17. **SURVEY.** BUYERS, at BUYERS' expense, may obtain a survey of the Property to assure that there are no encroachments, overlaps, boundary line or acreage disputes. BUILDER shall have no responsibility to BUYERS or any other party for any encroachment, overlap, boundary line or acreage dispute or other matter not caused by BUILDER and which is or would have been disclosed by a complete and accurate survey.

18. **TAXES AND ASSESSMENTS.** BUILDER shall pay all taxes, general and special, and all installments of special assessments, against the Property which are due and payable on or before the Closing Date, and BUYERS shall assume the payment of all such taxes and installments of special assessments becoming due and payable thereafter, except that all such taxes and installments of assessments becoming due and payable with respect to the calendar year in which the Closing Date occurs shall be prorated between BUILDER and BUYERS as of the Closing Date. If the amount of such taxes and assessments cannot be ascertained by the Closing Date, proration shall be computed based upon the amount of taxes and assessments on the Property for the previous calendar year even though the Property may have had a lower assessed valuation or tax rate for such prior year. The foregoing provisions shall not require BUILDER to pay in one lump sum any special assessment which BUILDER may elect to pay in one lump sum or in installments. BUYERS shall independently satisfy themselves as to the amount and duration of all special assessments.

19. **RECORDED DECLARATIONS.** BUYERS acknowledge that the Property may be subject to recorded declarations, maintenance agreements or other documents that place certain restrictions on building materials and uses of the Property, require maintenance of the area and assess homes association dues. BUYERS are responsible for obtaining a copy of any such recorded declarations and other documents and for reading and understanding them prior to closing. BUYERS agree to abide by all of the provisions of such recorded declarations and documents. At closing, BUYERS shall directly pay or reimburse BUILDER for any homes association dues paid or payable for the period after closing. BUYERS recognize that homes association dues are approximately \$_____ per (check one) month year (subject to adjustment per the documents), plus an initiation or reserve fee of \$_____ (subject to adjustment per the documents).

20. **CLOSING AND POSSESSION.**

(a) Unless otherwise specified or permitted by BUILDER, the settlement statement and other closing documents to be signed by BUILDER shall be prepared by and the final closing shall occur at the title company and location designated by BUILDER. If BUILDER in its discretion allows a final closing to occur at another title company or location desired by BUYERS or BUYERS' lender, a \$200.00 service fee shall be payable by BUYERS to BUILDER, plus BUYERS shall be responsible for paying all charges and fees assessed against BUILDER that are in excess of the charges and fees payable by BUILDER for a closing at BUILDER's designated title company.

(b) If BUYERS or BUYERS' lender delay closing after the Closing Date specified by BUILDER, BUYERS shall pay BUILDER at Closing, in addition to the Purchase Price, an amount equal to all additional out-of-pocket costs incurred by BUILDER as a result of such delay (including, without limitation, additional construction loan interest, insurance expenses, property tax expenses, utility expenses and other carrying costs), as specified by BUILDER.

(c) On the Closing Date, BUILDER shall duly execute and deliver to the closing agent a special warranty deed conveying the Property to BUYERS free and clear of all liens and encumbrances whatsoever, except the Permitted Encumbrances and the Approved Title Matters and except as provided in Section 15 above. If the title company is ready, willing and able to issue the title insurance policy referred to in Section 16 above, but for the recordation of such deed, BUYERS thereupon shall deliver to the closing agent the balance of the Purchase Price and all other amounts then due BUILDER hereunder.

(d) BUYERS or BUYERS' lender shall have the right to require an escrow at Closing with the title company for the costs of any uncompleted major items such as landscaping, sod, exterior painting, etc. (such uncompleted items to be escrowed do not include warranty, remedial and similar punch list items or any minor uncompleted items). The amount to be escrowed with the title company for each uncompleted item shall equal 125% of the actual estimated cost of each item as specified by BUILDER, except that if the escrow is required as a result of BUYERS' request for delay with respect to installation of an item, the escrowed amount shall equal only 100% of the cost thereof, plus BUYERS shall be responsible for escrowing and paying all reinspection fees out of BUYERS' own funds. The escrowed funds for each item shall be released to BUILDER upon BUILDER's written verification to the escrow agent of completion of such item. At Closing, BUILDER and BUYERS shall establish a special escrow for uncompleted landscaping if and as required by the developer.

(e) BUYERS shall have reasonable access to the Property during BUILDER’s normal daytime business hours prior to Closing but shall not occupy or place any personal or other property in the Residence until after actual Closing (which means payment of the full Purchase Price and other amounts due from BUYERS, recording of the deed, and actual receipt of all funds by BUILDER) and issuance of a certificate of occupancy or (if available) temporary certificate of occupancy. BUYERS shall not be entitled to have any keys to the Residence prior to such actual Closing.

(f) Utilities shall remain in BUILDER’s name until Closing, at which time BUILDER shall shut off utilities in its name. BUYERS should call the applicable utility companies approximately three days before Closing to transfer the utilities into their name as of Closing.

21. **INSULATION.** The insulation installed or to be installed in the Residence is as follows according to information received from the manufacturer and/or installer:

<u>AREA</u>	<u>TYPE OF INSULATION</u>	<u>THICKNESS</u>	<u>R-VALUE</u>
Exterior Walls	_____	_____	_____
Flat Ceilings	_____	_____	_____
Vaulted Ceilings	_____	_____	_____
Garage Cold Walls	_____	_____	_____
Garage Ceiling if Living Space Above	_____	_____	_____

This disclosure is made in accordance with the Federal Trade Commission’s Regulation 16 CFR 460. The higher the R-value, the greater the insulating power.

BUILDER is not required to construct the Residence in accordance with the thermal efficiency standards for new residential construction set forth in the Code of American Building Officials 1992 or 1993 Model Energy Code or any other model code that may be adopted as the standard by any state agency. If the Residence fails to qualify for the state standard or an equivalent or if BUILDER decides not to determine the qualification of the Residence, (i) BUILDER shall have the right to exempt the Residence from the state standards and (ii) BUYERS acknowledge that the Residence may not qualify for certain federal mortgage programs.

22. **RADON, MOLD, MICROBIALS AND OTHER ENVIRONMENTAL POLLUTANTS.** BUYERS acknowledge that: (i) radon gas has been identified as a national health problem; (ii) the greater Kansas City area has been determined to have relatively high radon gas levels in some residences; (iii) mold, fungi, bacteria and other microbials exist naturally in the environment and commonly exist in residences and will exist in the Residence as a result of rain, humidity and other moisture in the Residence and on materials during the normal construction process and as a result of the use of wood and other materials that commonly have mold, fungi, bacteria and other microbials at the time of delivery to the job site, (iv) BUYERS are informed, or have had the opportunity to become informed, about radon, mold, fungi, bacteria and other microbials and other environmental pollutants (“Environmental Pollutants”) and the potential health risks of Environmental Pollutants; (v) BUILDER, developer and real estate brokers and salespersons do not claim or possess any special expertise in the measurement or reduction of Environmental Pollutants, nor have they provided any advice to BUYERS as to acceptable levels or possible health hazards of Environmental Pollutants; (vi) BUILDER has not made any investigation to determine whether there is Environmental Pollutants in the Residence or affecting the premises and has not made any analysis or verification of the extent of any environmental or health hazard, if any, that may affect the premises or residents; (vii) there can be no assurance that any systems, devices or methods incorporated into the Residence that assist in reducing Environmental Pollutant levels will be effective and BUILDER has no responsibility for the operation, maintenance or effectiveness of such systems, devices and methods; (viii) good housekeeping and home maintenance practices of the homeowner to minimize moisture in the Residence are essential in preventing or eliminating the growth of mold, fungi, bacteria and other microbials and BUYERS agree to perform all such good housekeeping and home maintenance practices; and (ix) BUILDER makes no representation or warranties, express or implied, with respect to the level of Environmental Pollutants or hazardous environmental conditions or with respect to indoor air quality that may exist in the Residence at any time or with respect to the effect thereof on the premises or the residents. Any testing or remediation desired or required with respect to Environmental Pollutants shall be at BUYERS’ expense and shall not automatically extend BUYERS’ obligation to close on the Closing Date.

23. **CLOSING PUNCLIST, LIMITED WARRANTY AND LIMITATION OF CLAIMS.**

(a) BUILDER (or its representatives) and BUYERS shall do a walk-through orientation and inspection of the Residence, which shall occur during BUILDER’s normal daytime business hours on a date specified by BUILDER and prior

to the Closing Date. During the walk-through, BUYERS and BUILDER shall agree in writing as to then unfinished items and as to cosmetic and aesthetic items to be corrected (so called "punch list"). In the event of disagreement or dispute, BUILDER shall make the decision on cosmetic and aesthetic conditions to be on the "punch list" in accordance with BUILDER's standard practices. Items on the punch list shall be completed or corrected by BUILDER within 60 days following the Closing Date, weather permitting and with BUYERS' cooperation on scheduling. Subject to such punch list and the express limited warranty contained herein, BUYERS shall be deemed to have accepted the cosmetic and aesthetic condition of the Residence as it exists at the time of the walk-through inspection.

(b) Subject to the other provisions of this Section, BUILDER, at its expense, shall make all repairs and replacements of any nature or description to the Residence, interior or exterior, structural or non-structural, as shall become necessary by reason of defective workmanship or materials which are brought to BUILDER's attention in writing within one year after the Closing Date. The choice between repair or replacement shall be solely that of BUILDER.

(c) Notwithstanding the provisions of subsections (a) and (b) above or any other provision of this Contract to the contrary, BUYERS agree not to expect or require perfection and BUILDER shall not be liable or responsible for or obligated to repair, replace or remediate any of the following:

(i) minor imperfections in work performed or in materials supplied, which BUYERS hereby acknowledge are normal and expected, or defects which are the result of characteristics of the materials when properly used;

(ii) shrinkage, movement and cracks in woodwork, doors and hardwood floors, or variations in color in stained woodwork due to wood grain, variations in wood density or construction methods;

(iii) any nail-pops or cracks in sheetrock that are not reported to BUILDER within six months after the Closing Date (BUYERS recognize that cracks and nail pops are expected and normal);

(iv) any floor or stair squeaks or creaks (BUYERS recognize that floor and stair squeaks and creaks are expected and normal);

(v) any floors that may be or become out of level in a minor amount;

(vi) yellowing, fading, discoloration or marking of materials caused by sunlight, lack of sunlight, cleaning products, candle or incense burning, or other causes;

(vii) shrinkage, movement, cracks, pits, depressions, pop-outs, powdering, unevenness, spalling and scaling in driveways, sidewalks, garage and basement floors, and other concrete slabs and in concrete walls; weather, salt, chemical or use disintegration of concrete or other materials; or color variations in concrete or other materials;

(viii) any workmanship performed or materials supplied (A) by any third party as to whom BUYERS instruct BUILDER to contract with and with whom BUILDER would not otherwise contract, (B) by BUYERS or anyone engaged by BUYERS (excluding BUILDER), (C) in accordance with any plans supplied or required by BUYERS and not approved by BUILDER, or (D) in accordance with the standards of residential construction in the area in which the Residence is located;

(ix) any septic tank systems, hot tubs, swimming pools, lawn sprinkler systems, fences, and related installations;

(x) any defects or damage to the extent caused or made worse by (A) the negligence, improper maintenance, abuse or improper operation by anyone other than BUILDER or its employees, agents, suppliers or subcontractors, (B) the failure of BUYERS to perform general maintenance or to properly care for the Residence, including, without limitation, maintenance of proper humidity levels, (C) the failure of BUYERS to give notice to BUILDER of the defect within a reasonable time after discovery by BUYERS, or (D) any installations, additions or alterations made by anyone other than BUILDER or its employees, agents, suppliers or subcontractors;

(xi) any damage to basement finishes, room additions or other improvements installed or constructed other than by or through BUILDER;

(xii) conditions resulting from normal wear and tear, normal deterioration, or normal aging or from any commercial or other non-residential use of the Residence;

(xiii) damage from pets, pests, termites, rodents, insects, accidents, earthquakes, fire, explosion, smoke, lightning, high winds, hail, ice, power outages, and other external causes, casualty losses or acts of God, or damage caused in any way by the elements or by any source of water, including, without limitation, sprinkler systems, groundwater, stormwater runoff, ice dams, windblown rain or snow, potable water suppliers, septic or sewer backup, drain backup and sump pits;

(xiv) radon, mold, fungi, bacteria and other microbials or other environmental pollutants;

(xv) conditions or damages resulting from sinking, shifting, settling, heaving, or expansion of soil or subsurfaces or from causes and events beyond BUILDER's reasonable control;

(xvi) ground and subsurface water drainage and sump pump matters;

(xvii) sewage blockage or backups resulting from damage to or blockage of sewer lines at or near manholes, at or near street crossings or in lateral or main lines; and

(xviii) frozen pipes and damages from frozen pipes, if BUYERS have declined to increase the Purchase Price to add certain protective items to the Residence during the construction thereof.

(d) Sod, trees and shrubs will be alive and in good condition when installed by BUILDER, but BUILDER does not guarantee the continued life or satisfactory growth of sod, trees or shrubs. BUILDER does not guarantee the life, removal, trimming or replacement of previously existing trees or landscaping in the event of death, disease or damage.

(e) While BUILDER will use reasonable efforts to match existing colors, finishes and textures when repairs or replacements are made, BUILDER is not responsible for (i) discontinued patterns or color variations in wallpaper, vinyl, carpet, tile, grout or mortar; (ii) color or texture variations in paint, stain, varnish, stucco, concrete or other finishes or materials; (iii) color, grain, texture or size variations in wood and stone; or (iv) discontinued hardware, fixtures, faucets, or other materials.

(f) BUILDER's warranty does not cover any appliance, piece of equipment, or other item that is a consumer product for purposes of the Magnuson-Moss Warranty Act (15 U.S.C. §2301 *et seq.*). BUILDER shall assign (to the extent they are assignable) over to BUYERS any warranties given to BUILDER by suppliers of fences, swimming pools, hot tubs, sod, landscaping, sprinkler systems, appliances, machinery, equipment, HVAC and other systems and consumer products incorporated into the Property. A copy of each supplier written warranty will be made available to BUYERS upon request.

(g) BUYERS have been or shall be provided at or prior to closing with a copy of BUILDER's Service Policy (if any) relating to the procedures for call backs and warranty service.

(h) BUYERS shall cooperate to make the Property available to BUILDER and its subcontractors and suppliers during normal working hours (i.e. 8:00 a.m. to 5:00 p.m., Monday through Friday) for inspections and work to address punch list and warranty service requests. Failure by BUYERS to give BUILDER the opportunity for such inspections and work or to make the Property available following reasonable attempts by BUILDER or its subcontractors or suppliers to schedule will relieve BUILDER of any obligation with respect to the specific punch list and/or warranty service request(s). BUYERS shall be responsible for moving all furniture and other personal property in connection with such work.

(i) To the extent BUYERS receive or are entitled to receive insurance proceeds or warranty benefits from third party programs (excluding Builder's express limited warranty) for conditions covered by BUILDER's express limited warranty, BUILDER is relieved of its obligations with respect to the specific condition(s) and/or damage. If BUILDER has

already made repairs or replacements for such specific condition, BUYERS shall assign the insurance proceeds or other warranty benefits to BUILDER to the extent of the amount of BUILDER's direct costs of such repair or replacement.

(j) Except as otherwise provided by applicable law, BUILDER's warranty is made solely to BUYERS and is not transferable to a subsequent owner or occupant of the Residence or any other person or entity.

(k) BUYERS acknowledge that no real estate broker or salesperson has made any representations or warranties with respect to the Property.

(l) Except as otherwise provided by applicable law, BUYERS shall not be entitled to reimbursement or other payments from BUILDER for any warranty or other repairs contracted by BUYERS without prior written approval of BUILDER.

(m) **TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE ONLY REMEDY OF BUYERS AGAINST BUILDER AND ITS AGENTS WITH RESPECT TO DEFECTIVE OR FAULTY WORKMANSHIP OR MATERIALS IN THE PROPERTY IS THE COVERAGE PROVIDED UNDER BUILDER'S EXPRESS LIMITED WARRANTY, AND BUYERS WAIVE THE RIGHT TO SEEK DAMAGES OR OTHER LEGAL OR EQUITABLE REMEDIES AGAINST BUILDER AND ITS AGENTS UNDER ANY BREACH OF CONTRACT, BREACH OF IMPLIED WARRANTY, NEGLIGENCE, MISREPRESENTATION, NONDISCLOSURE, STRICT LIABILITY, BREACH OF GOOD FAITH AND FAIR DEALING, OR OTHER THEORY OF LAW (EXCLUDING BREACH OF SUCH EXPRESS LIMITED WARRANTY) WITH RESPECT TO SUCH DEFECTIVE OR FAULTY WORKMANSHIP OR MATERIALS IN THE PROPERTY. THIS WAIVER SHALL NOT APPLY TO CLAIMS AGAINST A MANUFACTURER UNDER ANY MANUFACTURER'S WARRANTY.**

(n) **BUILDER HAS MADE AND WILL MAKE NO WARRANTIES OTHER THAN THE EXPRESS LIMITED WARRANTY SPECIFICALLY SET FORTH IN THIS CONTRACT. BUILDER DISCLAIMS, AND BUYERS WAIVE, ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, THAT ARE NOT EXPRESSLY SET FORTH IN THIS CONTRACT, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF HABITABILITY AND WORKMANLIKE CONSTRUCTION. TO THE EXTENT ANY IMPLIED WARRANTY MAY NOT BE DISCLAIMED OR WAIVED, THE DURATION OF SUCH IMPLIED WARRANTY IS LIMITED (TO THE MAXIMUM EXTENT PERMITTED BY LAW) TO THE DURATION OF BUILDER'S EXPRESS LIMITED WARRANTY. UNLESS OTHERWISE REQUIRED BY STATE LAW, THE SPECIFIC LIMITED WARRANTY SET FORTH IN THIS CONTRACT DOES NOT COVER PERSONAL INJURY (INCLUDING, WITHOUT LIMITATION, PHYSICAL OR MENTAL PAIN AND SUFFERING OR EMOTIONAL DISTRESS), DAMAGE TO PERSONAL PROPERTY OR BELONGINGS, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF USE, COSTS OF OWNERSHIP OR OCCUPANCY, COSTS OF RELOCATION DURING REPAIRS OR OTHER INCIDENTAL COSTS).**

(o) **THE FOREGOING WAIVER, DISCLAIMER AND LIMITATION OF REMEDIES SHALL NOT APPLY TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IF AND TO THE EXTENT SUCH WARRANTIES ARE IMPLIED BY LAW IN THIS TRANSACTION.**

24. **BUILDER'S RIGHT TO REPURCHASE.** In the event that after Closing BUILDER's performance pursuant to its warranty or any other post-Closing obligations or liabilities will, has, or would require BUILDER to incur total cost greater than the lesser of (i) 10% of the Purchase Price or (ii) \$30,000.00, or in the event that BUILDER is or is claimed to be liable to BUYERS for breach of warranty, breach of contract, negligence or under any other theory of law in an amount greater than the lesser of (i) 10% of the Purchase Price or (ii) \$30,000.00, BUILDER shall have the option (but not the obligation) of fulfilling and satisfying all of its remaining obligations and liabilities to BUYERS by purchasing the Property from BUYERS for a sum equal to the Purchase Price paid by BUYERS, plus any verified expenses paid by BUYERS for other tangible improvements made by BUYERS to the Property after the Closing Date that become part of the real property. BUILDER shall have no obligation to reimburse or otherwise compensate BUYERS for any interest costs, closing costs, taxes, insurance, utilities, moving costs or other similar "soft" costs incurred by BUYERS in connection with the purchase of the Property by BUYERS, the ownership of the Property by BUYERS, the sale of the Property by BUYERS, or the purchase or lease of any replacement property. BUILDER's written offer to purchase in conformity with this Section shall relieve BUILDER of all further obligations and liabilities to BUYERS, if BUYERS do not accept such offer within thirty (30) days after the date such offer is made. Closing of any such purchase by BUILDER shall occur within forty-five (45) days after BUYERS' acceptance of BUILDER's offer, unless otherwise agreed. At such closing, BUYERS shall

deliver to BUILDER a special warranty deed transferring title to BUILDER free and clear of all mortgages and all other title matters that did not exist at the time of title transfer from BUILDER to BUYERS. All property taxes, installments of special assessments and homes association assessments shall be prorated as of the closing date.

25. WAIVER OF JURY TRIAL. BUYERS AND BUILDER HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING, COUNTERCLAIM OR DEFENSE BASED ON THIS CONTRACT, OR ARISING OUT OF, UNDER OR IN ANY WAY CONNECTED TO THIS CONTRACT OR THE PROPERTY, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO RELATING TO THIS CONTRACT OR THE PROPERTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BUYERS AND BUILDER ENTERING INTO THIS CONTRACT.

26. NO WORK BY BUYERS; RELEASE AND INDEMNIFICATION. BUYERS understand that the Lot will be a construction site and it will be dangerous for BUYERS and their guests to be at the site. BUYERS shall not bring or allow any young children to be on the construction site at any time. BUYERS and representatives of BUYERS may visit and observe the work during its progress but shall not interfere with the work being conducted or place themselves at risk of injury. BUYERS shall not perform or have any party (other than BUILDER and its subcontractors, suppliers and materialmen) perform any work or observations or inspections on the Residence prior to the Closing without the prior written consent of BUILDER (which BUILDER may deny) and providing BUILDER with written evidence of adequate workers compensation and general liability insurance maintained by BUYERS or such other persons. To the maximum extent permitted by law, BUYERS hereby release and agree to indemnify and hold BUILDER and its agents harmless from and against any and all liabilities, damages, costs and expenses (including reasonable attorneys' fees) arising from any actual or claimed bodily injury (including death) or property damage of whatever kind or character suffered or sustained by BUYERS or by any of their agents, servants, employees, invitees or guests in connection with any labor, observations or inspections performed by BUYERS or by any of their agents, servants, employees, invitees or guests in the construction of the Residence or during any time that any of the foregoing may be present on the Property during construction.

27. PRE-CLOSING REMEDIES FOR BREACH.

(a) If BUYERS fail to comply with their part of this Contract as herein provided and such failure is not cured within seven days after BUILDER gives notice thereof to BUYERS, then BUILDER on or before the Closing shall have the option of (i) terminating this Contract, in which event the Deposit shall be retained by BUILDER as liquidated damages (due to the difficulty of measuring actual damages and as a fair and reasonable estimate of damages as the parties can now determine) and neither party shall have any further obligation to the other hereunder (except as provided in the next two sentences of this subsection (a)), or (ii) enforcing this Contract. Notwithstanding any such termination, BUYERS shall remain responsible for and shall pay for all items purchased or contracted by BUYERS directly from or with any third party and BUYERS shall have no right to stop construction thereof or to remove the same from the premises or to recover the costs thereof from BUILDER. If Section 2(b) provides for payment of additional amounts as part of the Deposit, then such additional amounts (if not already paid) shall be paid to BUILDER by BUYERS as part of the liquidated damages. If BUILDER does not terminate this Contract after a default by BUYERS, the Purchase Price shall be automatically increased by the amount of BUILDER'S additional out-of-pocket costs incurred as a result of BUYERS' default (including, without limitation, additional construction loan interest, insurance expenses, property tax expenses, utility expenses, and other carrying costs).

(b) If BUYERS have complied with their part of this Contract and BUILDER, on or before the Closing Date, has materially breached any of its obligations hereunder and BUILDER has not commenced to cure such breach within seven days after BUYERS give notice thereof to BUILDER and thereafter promptly and diligently completed the curing thereof, then BUYERS, on or before the Closing, shall have the option of (i) terminating this Contract, in which event the Deposit shall be returned to BUYERS and neither party shall have any further obligation to the other hereunder, or (ii) subject to Section 28 below, enforcing this Contract with all rights and remedies legally available to BUYERS.

(c) All notices to be given to the other party under this Section above shall be in writing and be deemed to have been duly given when delivered in person or by delivery service or sent by certified mail, return receipt requested, postage prepaid, or sent by confirmed fax or e-mail transmission, to the other party at the address set forth below its or their respective names on the signature page hereof or such other address as may be specified by such party in accordance with the provisions of this Section. Notice to BUYERS' realtor (if any) shall also constitute notice to BUYERS.

28. **BUILDER TERMINATION RIGHT.** If at any time before Closing (i) BUILDER determines that BUYERS are materially hindering, disrupting or delaying BUILDER's normal construction process or procedures or (ii) there is a disagreement or dispute between BUYERS and BUILDER as to the quality, nature or character of the work or any other matter relating to the Property or this Contract, BUILDER may, at its option, terminate this Contract, and all obligations and liabilities of the parties to each other under this Contract and applicable law with respect to the Property, by giving written notice of termination to BUYERS and returning to BUYERS the full amount of the Deposit and any change order or allowance overage payments paid by BUYERS to BUILDER, plus the sum of \$500.00. BUILDER's failure to exercise such termination right shall not affect any other rights BUILDER may have under this Contract or applicable law.

29. **OUTSIDE FACTORS.** BUYERS acknowledge and agree that BUYERS (i) have made such inquiry of the matters set forth below as BUYERS deem necessary, (ii) have satisfied themselves with respect to the acceptability, adequacy or suitability of such matters, and (iii) shall be estopped from making any claims against BUILDER or its agents with respect to such matters, which are as follows:

- (a) Access to and from the Property and throughout the area;
- (b) Current and potential future zoning affecting the area and the potential future effect on the Property (such as, without limitation, views, noise, trees and roadways) of potential future development and construction in the area;
- (c) Fire protection, police protection, schools, hospitals and other health care facilities, public transportation and recreational facilities located in the area;
- (d) Topography, flood control, flood control studies, and major physical characteristics of the area;
- (e) Climate of the area;
- (f) Taxes and special assessments affecting the Property; and
- (g) The effect upon the environment in and around the area of the construction and development in the area.

30. **WAIVER.** No party shall be deemed to have waived any action or non-action on the part of the other or the right to insist upon strict performance of any of the terms or provisions of this Contract or to exercise any right or remedy herein contained, unless such party expressly approves or waives such action, non-action, term, provision, right or remedy in writing and then only to the extent of such approval or waiver.

31. **JOINT LIABILITY.** The duties, liabilities and obligations of the BUYERS hereunder shall be joint and several with each BUYER undertaking full responsibility for compliance with the terms and provisions of this Contract and the satisfaction of such duties, liabilities and obligations. Each BUYER shall have the authority to act for and bind all BUYERS with respect to any additions, substitutions or revisions to the Plans (including change orders), or any amendments, supplements or terminations of this Contract.

32. **SEVERABILITY.** If for any reason any one or more terms, provisions, or conditions of this Contract are determined by a court of competent jurisdiction to be invalid or unenforceable, the validity, effectiveness and enforceability of the remaining portions of this Contract shall not be affected thereby but shall continue in full force and effect.

33. **ENTIRE AGREEMENT; ASSIGNMENT.** This Contract, together with the Plans and any addenda or attachments hereto, constitute the entire agreement between the parties and supersedes all prior negotiations, representations, statements, understandings and agreements between the parties. Each party acknowledges that no representations, inducements, promises or agreements have been made, orally or otherwise, by a party, or anyone acting on behalf of a party, which are not set forth in this Contract. BUILDER is not responsible for any representations made by any realtor(s). This Contract shall not be assignable by either party without the prior written consent of the other party. All provisions of this Contract shall survive the Closing and delivery of the deed.

34. **AMENDMENT.** Except as otherwise expressly provided herein, this Contract may be amended, supplemented or terminated, in whole or in part, only by a written instrument signed by BUILDER and BUYERS.

35. **GOVERNING LAW.** This Contract shall be governed by and construed in accordance with the laws of the State of Kansas.

36. **AGENCY DISCLOSURE.** The attached Agency Disclosure Addendum (if any) is an integral part of this Contract.

The following affiliations or relationships of BUILDER and/or BUYERS with licensed real estate brokers or agents are confirmed:

Robert P. Garver is a principal of BUILDER and a licensed real estate salesperson.

37. **RESPA DISCLOSURE:** As required by the Real Estate Settlement Procedures Act of 1974, BUYERS acknowledge that BUILDER has not, directly or indirectly, required BUYERS, as a condition of sale, to purchase either a fee owner's or mortgagee's title insurance policy from any particular title company. BUILDER has advised BUYERS that BUILDER will purchase, at its expense, a fee owner's title policy from _____. BUILDER has also advised BUYERS that if BUYERS do not wish BUILDER to purchase the title policy from such company, BUYERS may elect to obtain such insurance from a company of BUYERS' choice and BUYERS shall pay, at closing, the title insurance premium for such policy.

38. **EROSION CONTROL DEVICES.** BUYERS hereby grant to BUILDER and the subdivision developer reasonable access to the Lot after closing for the purpose of inspecting and maintaining erosion control devices until final stabilization of the full property is achieved by sodding and landscaping. BUYERS agree not to prevent or inhibit BUILDER's and the subdivision developer's reasonable access and BUYERS agree not to remove or damage any erosion control devices installed by BUILDER or the subdivision developer and further agrees to notify BUILDER and the subdivision developer of any damage to such devices.

39. **BUILDER'S FORM.** BUYERS acknowledge that (i) this Contract form was prepared by BUILDER and was not prepared by or under the supervision of any real estate broker or salesperson involved in this transaction or the developer of the subdivision, (ii) such real estate brokers and salespersons are not responsible for the provisions of this Contract form and make no representations that such provisions are standard in real estate contracts, (iii) such real estate brokers and salespersons have advised BUYERS to carefully review this Contract and to seek competent legal or other professional advice before signing it, and (iv) such real estate brokers, salespersons and the developer of the subdivision are not parties to this Contract and are not responsible or liable for the performance or nonperformance of this Contract by either BUILDER or BUYERS.

40. **EXECUTION.** This Contract may be executed by the parties in multiple counterparts and delivered by facsimile or scanned e-mail transmission as so executed.

41. **ADDITIONAL TERMS:** _____

42. **ADDENDA.** The following addenda or attachments are incorporated herein by reference (*Check if Applicable*):

- Allowances – Attachment _____
- Specifications – Attachment _____
- Agency Disclosure Addendum – Attachment _____
- Kansas Energy Efficiency Disclosure – Attachment _____
- Kansas Miscellaneous Addenda – Attachment _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

[Remainder of page left blank intentionally. Signature page follows.]

BUYERS SHOULD CAREFULLY READ THE TERMS OF THIS CONTRACT AND ALL ADDENDA BEFORE SIGNING. IF NOT UNDERSTOOD, CONSULT AN ATTORNEY BEFORE SIGNING. WHEN SIGNED BY ALL PARTIES, THIS IS A LEGALLY BINDING CONTRACT.

BUILDER:

WOLF CREEK HOMES, LLC

By: _____
Name: Robert P. Garver
Title: Manager

Address: 3375 West 198th Street
Stilwell, KS 66085
Telephone No.: (913) 592-5300
Fax No.: (913) 592-5328
E-mail: rgarverbuilder@yahoo.com

Date: _____, 201__

BUYERS:

Signature

Print Name

Signature

Print Name

Address: _____

Telephone No. _____

Fax No. _____

Mobile No. _____

E-mail: _____

Date: _____, 201__

KANSAS ENERGY EFFICIENCY DISCLOSURE

As required by KSA 66-1228

Kansas law requires the person building or selling a previously unoccupied new residential structure which is a single family or multifamily unit of four units or less shall disclose to the buyer or a prospective buyer, at any time upon request or prior to the signing of the contract to purchase and prior to closing if changes have occurred or are requested, information regarding the energy efficiency of the structure. For new residential structures that are completed and suitable for occupancy, but unsold, the completed disclosure form shall be made available to the buyer or a prospective buyer by the builder or seller when the residence is shown and at any other time upon request.

Common Address or Legal Description of Residence:

Part 1: Builder *must* describe the following energy efficiency elements of this house:

	Actual Value	2006 IRC/IECC* Zone 4	2006 IRC/IECC* Zone 5
Wall Insulation R-Value	_____	R-13	R-19 <i>(or R-13 cavity + R-5 insulated sheathing)</i>
Attic Insulation R-Value	_____	R-38	R-38
Foundation Insulation R-Value			
Basement Walls	_____	R-10/13**	R-10/13**
Crawlspace Walls	_____	R-10/13**	R-10/13**
Slab-on-Grade	_____	R-10, 2 ft depth	R-10, 2 ft depth
Floors over Unheated Spaces	_____	R-19	R-30
Window U-Value	_____	0.40	0.35
	Actual Value	Current Federal Manufacturing Standards***	
Water Heater			
Gas or Propane (Energy Factor)	_____	$0.67 - (0.0019 \times \text{****}) =$ _____	
Electric (Energy Factor)	_____	$0.97 - (0.00132 \times \text{****}) =$ _____	
Heating and Cooling Equipment			
Warm-Air Furnace (AFUE)	_____		0.78
Air Conditioner (SEER)	_____		13
Air-Source Heat Pump-Cooling (SEER)	_____		13
Air-Source Heat Pump (HSPF)	_____		7.7

(Note: Federal standards for geothermal heat pumps are not available.)

Part 2: Builder *may* provide the following additional information about this house:

- _____ This residence has been/will be built to meet the energy-efficiency standards of the International Energy Conservation Code of 2006 (IECC 2006).
- _____ This residence has received a Home Energy Rating (HERS) index score of 100 or less based on an energy audit performed in accordance with the Mortgage Industry National Home Energy Rating Systems Standards (July 1, 2006) by a rater certified by Residential Energy Services Network (RESNET).
- _____ This residence is an Energy Star Qualified Home and has been verified and field tested in accordance with RESNET standards by a RESNET-accredited provider.

Seller Signature: _____ Date: _____

Seller Name and Address: Wolf Creek Homes, LLC, 3375 West 198th Street, Stilwell, KS 66085

Buyer Signature: _____ Date: _____

Buyer Signature: _____ Date: _____

*See next page for more information on existing standards and explanation of abbreviations.
 **The first R-value applies to continuous insulation; the second to framing cavity insulation.
 ***Equipment meeting federal standards may not always be available.
 ****Insert rated storage volume in gallons.

Information on Existing Standards and Explanation of Abbreviations

R-value = Thermal Resistance Rating of insulation materials. The higher the R-value, the better the material resists heat flow (i.e., the better it insulates).

U-value = Heat Loss Rating of windows. The lower the U-value, the less the window loses heat (i.e., the better it prevents heat loss).

Equipment Performance Ratings (the higher the number, the more efficient the equipment)

AFUE = Annual Fuel Utilization Efficiency: used to rate gas or propane warm-air furnaces and small boilers.

SEER = Seasonal Energy Efficiency Ratio: performance indicator for residential air conditioners and air source heat pumps.

HSPF = Heating Seasonal Performance Factor: measures heating performance of air-source heat pumps.

Energy Star qualified homes are at least 15% more energy efficient than homes built to the 2006 International Energy Conservation Code (IECC). Energy Star is a joint program of the U.S. Environmental Protection Agency and Department of Energy.

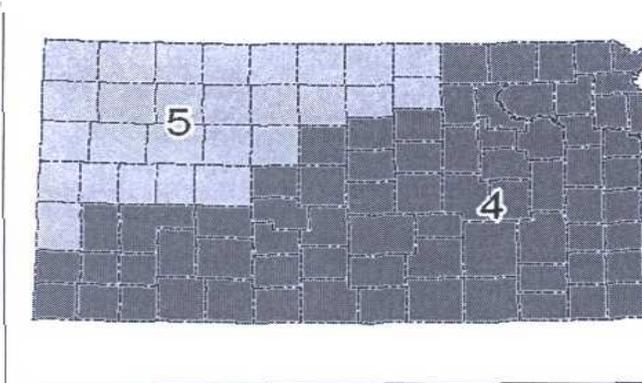
The International Energy Conservation Code (IECC), developed by the International Code Council, sets standards for energy efficiency in homes and commercial and industrial buildings. It is revised on a three-year cycle, with a supplement issue midway through each cycle.

The International Residential Code (IRC), developed by the International Code Council, brings together all building, plumbing, mechanical, fuel gas, energy, and electrical provisions for one- and two-family residences.

The HERS Index is a scoring system established by the Residential Energy Services Network (RESNET) in which a home built to the specifications of the HERS Reference Home (based on the 2004 International Residential Code) scores a HERS Index of 100, while a net zero energy home scores a HERS Index of 0. The lower the score, the more energy efficient a home is in comparison to the HERS Reference Home. Each 1-point decrease in the HERS Index corresponds to a 1% reduction in energy consumption compared to the HERS Reference Home. Thus a home with a HERS Index of 85 is 15% more energy efficient than the HERS Reference Home and a home with a HERS Index of 80 is 20% more energy efficient.

RESNET Standards ensure that accurate and consistent home energy ratings are performed by accredited home energy rating systems nationwide; increase the credibility of the rating systems with the mortgage finance industry; and promote voluntary participation in an objective, cost-effective, sustainable home energy rating process. This accreditation process will be used by the mortgage industry to accept home energy ratings and by the states to assure accurate, independent information upon which a state may recognize the home energy ratings as a compliance method for state building energy codes; as qualification for energy programs designed to reach specific energy saving goals; and as a way to provide its housing market the ability to differentiate residences based on their energy efficiency. The Mortgage Industry National Home Energy Rating Systems Standards (July 1, 2006) can be found at http://www.natresnet.org/standards/mortgage/RESNET_Standards-2006.pdf.

IECC Climate Zones 4 & 5



Zone 4			
Allen	Edwards	Labette	Reno
Anderson	Elk	Leavenworth	Rice
Atchison	Ellsworth	Lincoln	Riley
Barber	Finney	Linn	Rush
Barton	Ford	Lyon	Russell
Bourbon	Franklin	Marion	Saline
Brown	Geary	Marshall	Sedgwick
Butler	Grant	McPherson	Seward
Chase	Gray	Meade	Shawnee
Chautauqua	Greenwood	Miami	Stafford
Cherokee	Harper	Montgomery	Stanton
Clark	Harvey	Morris	Stevens
Clay	Haskell	Morton	Sumner
Coffey	Hodgeman	Nemaha	Wabaunsee
Comanche	Jackson	Neosho	Washington
Cowley	Jefferson	Osage	Wilson
Crawford	Johnson	Ottawa	Woodson
Dickinson	Kearny	Pawnee	Wyandotte
Doniphan	Kingman	Pottawatomie	
Douglas	Kiowa	Pratt	

Zone 5	
Cheyenne	Sheridan
Cloud	Sherman
Decatur	Smith
Ellis	Thomas
Gove	Trego
Graham	Wallace
Greeley	Wichita
Hamilton	
Jewell	
Lane	
Logan	
Mitchell	
Ness	
Norton	
Osborne	
Phillips	
Rawlins	
Republic	
Rooks	
Scott	

KANSAS MISCELLANEOUS ADDENDA

I. Builder hereby gives the following notice to Buyer as required by legislation enacted by the State of Kansas in 2003:

**REQUIRED NOTICE TO CONTRACTOR
PRIOR TO FILING ACTION**

KANSAS LAW CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO CONSTRUCTED YOUR HOME. NINETY DAYS BEFORE YOU FILE YOUR LAWSUIT, YOU MUST DELIVER TO THE CONTRACTOR A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE YOUR CONTRACTOR THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE CONTRACTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT.

II. Builder hereby gives the following notice to Buyer as required by legislation enacted by the State of Kansas in 2007:

INFORMATION REGARDING CERTAIN CRIMINAL OFFENDERS

KANSAS LAW REQUIRES PERSONS WHO ARE CONVICTED OF CERTAIN CRIMES, INCLUDING CERTAIN SEXUALLY VIOLENT CRIMES, TO REGISTER WITH THE SHERIFF OF THE COUNTY IN WHICH THEY RESIDE. IF YOU, AS THE BUYERS, DESIRE INFORMATION REGARDING THOSE REGISTRANTS, YOU MAY FIND INFORMATION ON THE HOMEPAGE OF THE KANSAS BUREAU OF INVESTIGATION (KBI) AT <http://www.Kansas.gov/kbi> OR BY CONTACTING THE LOCAL SHERIFF'S OFFICE.

III. Builder hereby gives the following notice to Buyer as required by legislation enacted by the State of Kansas in 2008:

REQUIRED NOTICE REGARDING RADON GAS

EVERY BUYER OF RESIDENTIAL REAL PROPERTY IS NOTIFIED THAT THE PROPERTY MAY PRESENT EXPOSURE TO DANGEROUS CONCENTRATIONS OF INDOOR RADON GAS THAT MAY PLACE OCCUPANTS AT RISK OF DEVELOPING RADON-INDUCED LUNG CANCER. RADON, A CLASS-A HUMAN CARCINOGEN, IS THE LEADING CAUSE OF LUNG CANCER IN NONSMOKERS AND THE SECOND LEADING CAUSE OVERALL. KANSAS LAW REQUIRES SELLERS TO DISCLOSE ANY INFORMATION KNOWN TO THE SELLER THAT SHOWS ELEVATED CONCENTRATIONS OF RADON GAS IN RESIDENTIAL REAL PROPERTY. THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT RECOMMENDS ALL HOME-BUYERS HAVE AN INDOOR RADON TEST PERFORMED PRIOR TO PURCHASING OR TAKING OCCUPANCY OF RESIDENTIAL REAL PROPERTY. ALL TESTING FOR RADON SHOULD BE CONDUCTED BY A RADON MEASUREMENT TECHNICIAN. ELEVATED RADON CONCENTRATIONS CAN BE EASILY REDUCED BY A RADON MITIGATION TECHNICIAN. FOR ADDITIONAL INFORMATION GO TO www.kansasradonprogram.org.

BUILDER:

WOLF CREEK HOMES, LLC

By: _____
 Name: Robert P. Garver
 Title: Manager

BUYERS:

 Signature

 Print Name

 Signature

 Print Name