

**FLEX HOUSE MODULAR HOME
PURCHASE AND SALE AGREEMENT**

THIS MODULAR HOME PURCHASE AND SALE AGREEMENT (“Agreement”) is made by and between SHELTER DYNAMICS, INC., a California corporation (“Seller”), and _____ (“Buyer”) as of [date]_____.

Recitals

A. Seller is in the business of designing and manufacturing modular homes including the modular home described in Section 1 of this Agreement.

B. Buyer is familiar with the design and features of this home and desires to purchase the Home from Seller, and Seller desires to sell the Home to Buyer, all on the terms and conditions of this Agreement.

Agreement

1. Definitions. The following defined terms shall have the following meanings when used in this Agreement.

1.1 Buyer. The “Buyer” under this Agreement is _____.

1.2 Seller. The “Seller” under this Agreement is Shelter Dynamics, Inc., a California corporation.

1.3 Home. The “Home” is a modular, single-family residential dwelling unit described by Seller as Model _____ meeting the Plans and Specifications (defined below) and as the same may be modified from time to time as provided in this Agreement.

1.4 Plans and Specifications. The Home, including options chosen by the Buyer, is more particularly described in detail in the “Plans and Specifications” for this Agreement attached hereto as Exhibit A.

1.5 Destination. The “Destination” is the location where the Buyer desires and has the right to have Home assembled and installed. The Destination for this Agreement is _____.

1.6 Effective Date. The “Effective Date” shall be the date of the mutual execution and delivery of this Agreement by Buyer and Seller and the delivery of the Initial Deposit by Buyer to Seller.

1.7 Initial Deposit. The “Initial Deposit” shall reserve the Buyer’s right to purchase the Home as provided in this Agreement, and shall be in the amount set forth in and be due on the date set forth in Section 7.a.

1.8 Initiation Notice. The “Initiation Notice” is the notice from Seller to Buyer that Seller is prepared to begin manufacture and construction of the Home as provided in Section 4 of this Agreement.

1.9 Initiation Date. The “Initiation Date” shall be the date on which Seller shall begin the manufacture and construction of the Home under the Initiation Notice as provided in Section 4 of this Agreement.

1.10 Rough Production. “Rough Production” shall mean the work to be completed by the Seller to manufacture and construct the Home as a water tight shell, including all exterior walls, flooring, roof, and windows, plus rough plumbing, rough mechanical and HVAC and rough electrical systems for the Home

1.11 Rough Production Payment. The “Rough Production Payment” shall be the Seller’s reasonable estimate of the amount necessary for labor, materials and profit for completion of the Home from the initiation of manufacture and construction to Rough Production.

1.12 Finish Production. “Finish Production” shall mean the work to be completed following Rough Production to bring the Home to the final condition of the Plans and Specifications and ready the Home for Delivery, including manufacture and construction of interior wall, cabinetry, finish trims and, as applicable, installation of fixtures and appliances.

1.13 Finish Production Payment. The “Finish Production Payment” shall be the Seller’s reasonable estimate of the amount necessary for labor, materials and profit for completion of the Home from Rough Production to the date of Delivery.

1.14 Outside Completion Date. The “Outside Completion Date shall be the date that is one hundred fifty (150) days after the Initiation Date.

1.15 Completion Notice. The “Completion Notice” shall be the written notice provided by Seller to Buyer that the Home has been completed through Finish Production pursuant to the Plans and Specifications, all governmental inspections of the Home to be undertaken by the Seller have been approved and the Home is ready for delivery to the Destination.

2. Home. Subject to the terms and conditions set forth in this Agreement, Buyer has requested to purchase from the Home from Seller, has tendered the Deposit Payment to Seller, and Seller has agreed, upon notice to Buyer, to manufacture and construct and to sell, convey, and deliver to the Home to Buyer.

3. Plans and Specifications. Buyer hereby acknowledges and agrees that Buyer has received, fully reviewed and approved the Plans and Specifications (as indicated by the Buyer’s and Seller’s initials found on Exhibit A) for the Home and that Buyer’s approval has been given after the opportunity to review the Plans and Specifications with consultants of Buyer’s selection, including without limitation structural engineers and contractors.

4. Initiation Notice. Buyer acknowledges and agrees that due to other projects which Seller is working on or completing Seller may not be in a position to initiate manufacture and construction of the Home on the Effective Date. In such event, Seller shall not be obligated to initiate the manufacture and construction of the Home until Seller is in a position to initiate and diligently complete the manufacture and construction of the Home. Notwithstanding the foregoing, Seller agrees to undertake the manufacture and construction of each project in the order in which Seller receives fully executed and completed agreements for projects. If Seller is not in a position to begin manufacture and construction of the Home on the Effective Date, Seller shall provide an Initiation Notice to Buyer of the Initiation Date, which shall be not more than twenty (20) days following the date of the Initiation Notice. If Seller is prepared to begin manufacture and construction of the Home immediately with the Initiation Date being the same as the Effective Date, which shall be signified by Seller and Buyer inserting their initials as set forth below, it is agreed Seller shall initiate the manufacture and construction of the Home, that no Initiation Notice is due from Seller to Buyer and Buyer's cancellation right, as provided in Section 5 of this Agreement shall be of no force and effect.

Seller's Initials

Buyer's Initials

5. Cancellation Right. From and after the Effective Date, each of the Seller and the Buyer shall have the right to cancel and terminate this Agreement with the financial obligations and consequences set forth in the following table:

<u>Phase</u>	<u>Seller's Termination Right</u>	<u>Buyer's Termination Right</u>
Effective Date to Initiation Date	Seller may terminate – Initial Deposit less \$1,500 returned to Buyer	Buyer may terminate – Initial Deposit less \$1,500 returned to Buyer
Initiation Date to completion of Rough Production	Seller may not terminate	Buyer may terminate – Payment by Buyer to Seller of the Initial Deposit, plus reasonable value of all materials and labor to the date of termination plus twenty percent (20%) of the Purchase Price
Post Rough Production through Delivery	Seller may not terminate	Buyer may terminate - Payment by Buyer to Seller of the Initial Deposit, the Rough Production Payment, plus reasonable value of all materials and labor incurred from and after the completion of the Rough Production to the date of termination plus fifteen percent (15%) of the Purchase Price

Upon the timely and effective cancellation and termination of this Agreement, Buyer shall return (without retaining a copy) to Seller the Plans and Specifications and shall not retain any rights in the Plans and Specifications. Buyer's release of Buyer's rights in the Plans and specifications shall survive the termination of this Agreement. Except as set forth herein upon the timely and effective termination of this Agreement neither party shall have any further rights or obligations under this Agreement.

6. Construction of Home. Upon the Effective Date or the Initiation Date, as the case may be, Seller shall begin and diligently continue the manufacture and construction of the Home. Seller shall respond from time to time to reasonable requests received from Buyer concerning Seller's progress in the manufacture and construction of the Home and any estimated dates for the completion of the Initial Construction, Finished Construction and the Delivery.

7. Purchase Price.

7.1 Total Purchase Price. The purchase price (“Purchase Price”) for the Home shall be in the amount _____ Dollars (\$_____). The Purchase Price shall be paid in the following installments:

a. The Initial Deposit in the amount of \$5,000.00 due from Seller to Buyer on the execution and delivery of this Agreement; \$1,500 of this Initial Deposit is non-refundable.

b. The Rough Production Payment in the amount of \$ _____ shall be due not later than ten (10) days after the Initiation Date; provided however if Seller is prepared to initiate the manufacture and construction on the Home within 20 days from the Effective Date, as provided in Section 4, the Rough Production Payment shall be due on the execution and delivery of this Agreement;

c. The Finish Production Payment in the amount of \$ _____ shall be due not more than five (5) days following the completion of the work scheduled for the Rough Production of the Home as determined by the approval of the Rough Production inspection by the Quality Assurance Agent, _____ and, if Buyer so elects, Buyer’s inspection of the Rough Production; and

d. The Final Payment in the amount \$ _____ and shall be due within ten (10) days after delivery of the Home by Seller to Buyer.

7.2 Form of Payment; Escrow. All payments are to be made in US Dollars. Seller shall establish an escrow (“Escrow”) with _____ as Escrow Holder. Within five (5) days after the Initiation Date, Buyer shall deposit with Escrow Holder in immediately available funds the full amount of the Purchase Price, less the Initial Deposit. Seller shall have the right to demand from Escrow and the Escrow Holder shall remit to Seller from the Escrow the Rough Production Payment, the Finish Production Payment and Final Payment pursuant to the schedule set forth in subsections 7.1.b, c and d. Buyer shall make any additional deposits to Escrow as shall be required to account for changes in the Purchase Price following a modification as provided in this Agreement. Buyer and Seller agree to execute and deliver in a timely fashion any escrow agreement provided by the Escrow Holder which includes terms and provisions consistent with this Agreement and are otherwise commercially reasonable. Buyer and Seller acknowledge and agree that the fees and costs of the Escrow Holder are included in the Purchase Price and are not to be separately billed to or incurred by Buyer.

7.3 Sales and Use Tax. The Purchase Price does not include applicable sales or use tax and Buyer shall be responsible for the payment of any applicable sales or use tax. Seller shall use Seller’s best efforts to advise Buyer as to the potential amount of and method of collection of any sales or use tax.

8. Completion. Seller represents and warrants that Seller's manufacture and construction of the Home shall be completed and the Home shall be ready for final delivery to the Destination and Seller shall provide Buyer with a written Completion Notice not more than the Outside Completion Date. If the Seller does not issue the Completion Notice on or before the Outside Completion Date, the Purchase Price shall be reduced by the product of one-tenth of one percent (0.1%) times the number of days from and after the Outside Completion Date to the date that Seller issues the Completion Notice. Seller and Buyer acknowledge and agree that in the event that the Completion Notice is not issued by the Outside Completion Date, Buyer's damages would be impracticable or extremely difficult to determine and the foregoing reduction of the Purchase Price is fair and reasonable under the circumstances. Notwithstanding the foregoing, Seller shall not be responsible for a delay in the issuance of a Completion Notice if the Completion Notice has not been issued because any final governmental inspections to be undertaken by the Seller have not been completed so long as Seller has requested such inspections in a reasonably timely manner. If the Completion Notice is not issued by Seller within ninety (90) days after the Outside Completion Date, Seller shall be deemed to be in default under this Agreement and Buyer shall have all rights and remedies available to Buyer following a default by Seller including without limitation cancellation of this Agreement.

9. Infrastructure. Buyer, at Buyer's sole cost and expense, shall arrange for the design and installation at the Destination of all infrastructure required for the Home, including a foundation that fully and adequately accommodates and supports the Home and conforms to the Plans and Specifications and the installation of all utilities to service the Home (including sewage connections or a sewage system). All such infrastructure shall be designed and installed in compliance with all laws and ordinances of state and local governments having jurisdiction over the Home at the Destination. Buyer acknowledges and agrees that none of the foregoing infrastructure work is the responsibility of the Seller or included in the Purchase Price.

10. Governmental Inspections. It shall be the responsibility of the Seller during the manufacture and construction of the Home, including at the completion of the Finish Production to have the Home inspected by and to pass inspections by all [state]_____governmental authorities having jurisdiction over the Home and the Home's manufacture and construction. Seller shall provide Buyer with copies of all written evidence that such inspections have been successfully completed. Buyer shall be responsible for all inspections by governmental authorities having jurisdiction over the Home from and after the delivery of the Home to the Destination including any inspection by any governmental authority in jurisdiction of the Destination.

11. Shipping and Delivery of Home. Upon receipt of all payments due under this Agreement (other than the Final Payment) and completion of the manufacture and construction of the Home through the Finish Production, Seller shall promptly arrange for the shipping of the Home, at Buyer's sole cost and expense, to the Destination. The shipping firm engaged by Seller to deliver the Home shall be fully licensed and the shipment shall be insured for an amount equal to or greater than the Purchase Price. Buyer shall pay all shipping and delivery fees associated with the transportation of the Home to the Destination, and acknowledges that shipping and

delivery charges are not included in and are additional to the Purchase Price. Seller shall provide logistical assistance and advice with respect to shipping and delivery as reasonably requested by Buyer.

12. Modification. If Seller believes a modification to the Home from the Plans and Specifications is necessary or advisable and constitutes a material variation from the Plans and Specifications, Seller shall meet and confer with Buyer to discuss such modifications, any adjustments to the Purchase Price as a result of the approval of the modification and any change in the timing of the manufacture and construction of the Home associated with the modification. Buyer may approve or withhold approval of such modification in Buyer's sole discretion. If Buyer withholds approval of such modification, Seller may terminate this Agreement and, if so terminated prior to the initiation of Rough Production by Seller, Seller shall return the Initial Deposit to Buyer and neither party shall have any further rights or liabilities under this Agreement. If the modification is proposed by Seller after the initiation of the Rough Production and Buyer withholds Buyer's approval of such modification, then either Seller may withdraw such proposed modification or if Seller does not withdraw such proposed modification Buyer may terminate this Agreement, and Seller shall return to Buyer all amounts of the Purchase Price paid by Buyer to Seller. If after the Effective Date the Buyer requests a modification to the Home that constitutes a material variation from the Plans and Specifications, Seller shall meet and confer with Buyer to discuss such modifications, any adjustments to the Purchase Price as a result of the approval of the modification and any change in the timing of the manufacture and construction of the Home associated with the modification. Buyer may thereafter approve or withhold approval of such modification in Buyer's sole discretion. If Buyer withholds approval of such modification, Buyer may terminate this Agreement pursuant to the terms and provisions of Buyer's cancellation rights as set forth in Section 5 of this Agreement.

13. Inspection Right. Buyer shall have the right after completion of the Finish Production and prior to delivery to inspect the Home at the site of the manufacture and construction of the Home at a time that is mutually convenient to Buyer and Seller (and which does not interfere with or delay Seller's manufacture or construction of the Home or Seller's other projects). Seller shall provide Buyer not less than ten (10) days' notice that Home is available for inspection and Buyer shall within five (5) days of such notice advise Seller if Buyer wishes to exercise its right to inspect the Home. The inspection shall take place on the first reasonably available date for the Buyer and Seller. If Buyer exercises the opportunity to have an inspection, following such inspection, Buyer shall advise Seller that Buyer approves the Home or approves the Home subject to the correction of any items necessary for the Home to substantially comply with the Plans and Specifications, or reject the Home. If Buyer approves the Home subject to corrections, Seller shall undertake to make any necessary corrections. Upon approval of the Home, including the completion of any necessary corrections so that the Home substantially complies with the Plans and Specifications, Seller shall prepare the Home for delivery to the Destination. If Buyer does not timely exercise its right to inspect the Home the Home shall be deemed approved as manufactured and constructed and Seller shall ready the Home for delivery and shall cause the Home to be delivered to the Destination.

14. Delivery and Installation. Seller shall arrange for delivery of the Home by common carrier to Buyer at Buyer's sole cost and expense at Buyer's Destination. The costs of the delivery are not included in the Purchase Price and Buyer shall independently arrange for payment of all delivery charges to the common carrier. Buyer acknowledges and agrees that Seller is not responsible for assembly or installation of the Home at the Destination; provided however Seller shall provide to the party with whom Buyer contracts for the assembly and installation of the Home with sufficient documentation and reasonable support to complete the full assembly and installation of the Home. Upon delivery of the Home at the Destination, Buyer shall have the right to inspect the Home to confirm that the Home complies with the Plans and Specifications, as the same may be modified during the term of the Agreement. Seller shall be responsible at no additional expense to Buyer to correct any material deviations of the Home from the final Plans and Specifications. Buyer may request Seller to assist or undertake in the assembly and installation of the Home at the Destination, and if Seller, in Seller's sole discretion, agrees, the Seller shall not perform such services unless and until Buyer has agreed to Seller's compensation for such services, including hourly rates, travel expenses and housing fees, and pays any deposit against such fees as requested by Seller. Subject to the foregoing, Buyer assu

15. Buyer's Rights on Seller's Breach. In the event of Seller's breach of this Agreement, and provided that Buyer has given Seller not less than fifteen (15) days' notice of the breach and Seller has not corrected such breach in this fifteen (15) day period, in addition to all other rights and remedies Buyer may exercise at law, Buyer shall have the right to retain all Plans and Specifications and to claim and remove from Seller's place of business the Home and all materials that Seller has specifically acquired and/or manufactured for incorporation into the Home. Should Buyer decide to take the Home, Seller agrees to fully cooperate with Buyer and provide access onto the property where the Home is located

16. Representations and Warranties of Seller. Seller hereby represents and warrants to Buyer:

16.1 Capacity and Authority. Seller has the right, power, legal capacity and authority to enter into, and perform its obligations under, this Agreement and the party executing and delivering this Agreement on behalf of the Seller is authorized to do so.

16.2 Manufacture and Construction. The manufacture and construction of the Home shall conform to the specifications at the date of delivery of for a period of one year following the date of delivery.

16.3 Limitations on Warranties.

a. The foregoing warranties are the sole and only warranties made by Seller to Buyer with respect to the Home and are in lieu of all other warranties, express or implied, of merchantability or fitness for a particular purpose.

b. Seller makes no representation or warranty with respect to any system or appliance installed in or part of the Home and which is covered by the manufacturer or

supplier of such system or appliance and Seller hereby assigns all of its rights in such supplier's or manufacturer's warranty to the Buyer. The assigned manufacturer and supplier warranties shall be set forth in list form to be delivered by Seller to Buyer at the time of the delivery of the Home, along with all warranty information, certificates and related documentation which Seller has received from any manufacturer or supplier of any system or appliance.

c. Seller's warranty under Section 16.2 shall be of no further force or effect if and from the date after Buyer makes any modification or change to the Home. Seller's warranty under Section 16.2 does not cover any defect due to or caused by the assembly and installation of the Home.

17. Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller that Buyer has the right, power, legal capacity and authority to enter into, and perform its obligations under, this Agreement and the party executing and delivering this Agreement on behalf of the Buyer is authorized to do so.

18. Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid and properly addressed as follows:

Seller: Shelter Dynamics Inc.

Buyer: _____

Any party may change its address for purposes of this paragraph by giving the other parties written notice of the new address in the manner set forth above.

19. Arbitration. The parties hereby waive any right to trial by jury and further agree that any controversy or claim relating to or arising from this Agreement shall be settled, first by the submission of the dispute to mediation, and if not resolved by mediation by binding arbitration. Mediation or arbitration on any such matter shall proceed in [_____], California in accordance with the Commercial Arbitration Rules of the Judicial Arbitration and Mediation Services (the "JAMS") as such rules may be modified herein or as otherwise agreed by the parties in controversy. Following 30 days' notice by any party of intention to invoke mediation or arbitration, any dispute not mutually resolved by mediation within such 30-day period shall be determined by a single arbitrator upon which the parties agree, or, in the event of

an absence of such agreement the single arbitrator will be appointed by JAMS. The parties may (but shall not be required to) agree that the same party may act as both mediator and arbitrator.

20. Legal Expenses. Each party shall pay all costs and expenses incurred or to be incurred by that party in negotiating and preparing this Agreement and in closing and carrying out the transactions contemplated by this Agreement, except to the extent otherwise provided herein. In the event that either party shall bring an action, including an arbitration, or employ legal counsel to enforce the terms and conditions of this Agreement, the prevailing party shall recover its reasonable legal fees and expenses.

21. Choice of Law. This Agreement shall be construed in accordance with, and governed by, the laws of the State of California as applied to contracts that are executed and performed entirely in California.

22. Entire Agreement. This Agreement, including the Exhibits attached hereto and incorporated by reference herein, contains the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written, oral or otherwise, among the parties hereto with respect to such subject matters.

IN WITNESS WHEREOF, the parties have executed this Purchase and Sale Agreement as of the date first written above.

Buyer:

Dated: _____, 20__

Seller:

Dated: _____, 20__

Shelter Dynamics, Inc.

By:

Its: