

**SPRING 2012 HOMEARAMA CULPEPPER LANDING
BUILDER PARTICIPATION AND LEASE AGREEMENT**

THIS AGREEMENT (“**Agreement**”), dated as of this ____ day of _____, 2012, is made and entered into by and between the TIDEWATER BUILDERS ASSOCIATION (“**TBA**”), and _____ (“**Builder**”).

RECITALS:

A. TBA will conduct an exhibition of new, single-family homes to be known as “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**” during the period of **May 5-20, 2012**, inclusive, or as close to those dates as possible (hereinafter referred to as “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**”). TBA has entered into an agreement (the “**Developer Agreement**”) with Culpepper Landing L.C. (“**Developer**”) providing for TBA to conduct “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**” at in Virginia Beach, Virginia (the “**HOMEARAMA Site**”).

B. Builder members of TBA will enter into this Agreement to participate in “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**”. The builder members of TBA participating in “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**” will purchase lots from the Developer and construct homes on such lots.

C. The Builder desires to become a participating builder in “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**” subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties stipulate and agree as follows:

1. Participating Builder. a. The Builder shall become a participating builder in “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**” pursuant to the terms and conditions of this Agreement. Simultaneously with the signing of this Agreement, the Builder has paid, and TBA has received, the Builder’s entry fee of One Thousand Five Hundred Dollars (\$1,500.00), which entry fee is non-refundable.

2. Purchase of Lot. The Builder shall purchase Lot No. _____ (the “**Lot**”) from the Developer located at the HOMEARAMA Site, which Lot will be conveyed subject to all the terms, conditions, covenants and restrictions of record and as set forth in the Developer Agreement/Contract.

3. Indemnification. The Builder shall indemnify, defend and hold harmless TBA and its agents, employees and invitees, and the members of the HOMEARAMA Committee, from and against any and all claims liabilities, damages, expenses, legal fees, causes of action or judgments of any kind or nature whatsoever arising out of or relating to the Builder’s participation in “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**”. This

indemnification, includes, without limitation, claims for bodily injury, death, damage, loss of personal property, breach of warranty, breach of contract and claims arising out of the acts of subcontractors or agents employed by the Builder. On demand of TBA or the HOMEARAMA Committee, the Builder will promptly undertake defense of the requesting party and its agents and employees in any litigation arising out of such claims and otherwise hold harmless the requesting party from any costs resulting from such a claim, including attorney's fees, and the Builder will pay any final judgment for any such indemnified matters.

4. Lease Agreement. Builder hereby leases to TBA the Lot and all improvements thereon located in **CULPEPPER LANDING in Chesapeake, Virginia**, subject to restrictions and easements of record, if any, with all appurtenances belonging thereto, for the period commencing at **7:00 AM on May 4, 2012 and ending at 11:59 p.m. on May 20, 2012**, or whatever different dates and times are subsequently established for **"SPRING 2012 HOMEARAMA AT CULPEPPER LANDING"**. The additional terms of this lease are as follows:

a. During the term of this lease the Builder shall have full responsibility for the maintenance of the designated premises, including house, garage, lawn, porches, decks, swimming pools and pool houses, and any other structure or personal property thereon, all of which shall be kept free of any defects and hazardous conditions that may give rise to injury to persons or damage to property. During said term and during the show hours each day of **"SPRING 2012 HOMEARAMA AT CULPEPPER LANDING"** the Builder shall have a proper representative on the Builder's premises.

b. The house on the Lot will be used for **"SPRING 2012 HOMEARAMA AT CULPEPPER LANDING"**. Any and all damage, wear and tear, deterioration, or depreciation arising from such use shall be assumed and borne by the Builder and shall not be the obligation or responsibility of TBA.

c. The TBA staff and HOMEARAMA Committee members may enter the house at any time during **"SPRING 2012 HOMEARAMA AT CULPEPPER LANDING"** to conduct **"SPRING 2012 HOMEARAMA AT CULPEPPER LANDING"** business and shall also be entitled to the full use and possession of the house during **"SPRING 2012 HOMEARAMA AT CULPEPPER LANDING"**.

5. Insurance Requirements. On or before **April 2, 2012**, the Builder shall have the following insurance coverages in force and shall provide to TBA evidence that such insurance coverages are in force, at Builder's sole expense, using the ACORD 27 Evidence of Insurance Form, naming TBA and its officers, employees and agents as additional insureds (excluding workers' compensation coverage) and providing that TBA shall be given not less than thirty (30) days written notice of any cancellation or termination of any of the insurance coverages. TBA's failure to obtain from Builder evidence that such insurance coverages are in force will not diminish, or otherwise be a defense to, Builder's liability for failing to comply with any provision of the Agreement. The required insurance coverages are as follows:

a. Casualty Coverage – This coverage shall include risk of direct loss insurance (all risks, including theft) on the Lot and all improvements thereon for an amount

equal to the replacement cost of the improvements on the Lot. This insurance must also cover all furniture and accessories in the house.

b. Comprehensive General Liability – This shall be written on an occurrence basis with limits of not less than \$1,000,000 combined single limit. The policy shall include coverage for Premises/Operations, Independent Contractors, Contractual liability, Property Damage arising out of the “XCU” Hazards, Completed Operations, Product Liability, Broad Form Property Damage and Personal Injury. If the policy has a general aggregate, it shall be endorsed to provide a minimum of \$2,000,000 general aggregate and \$1,000,000 aggregate for each project covered by the certificate.

c. Comprehensive Automobile Liability – The policy shall contain limits of not less than \$1,000,000 Combined Single Limit and include coverage for all owned, hired and non-owned, automobiles.

d. Excess/Umbrella Liability – The policy shall have limits not less than \$1,000,000 Combined Single Limit.

e. Workers’ Compensation – Workers’ Compensation Insurance for statutory benefits shall be provided and Employer’s Liability coverage of \$500,000 per occurrence shall be provided. The policy shall contain all-states endorsement. The policy shall also be endorsed to provide a waiver of subrogation in favor of TBA.

f. Each of the insurance policies shall be endorsed to provide that the insurance provided to TBA shall be primary insurance with respect to TBA and that any other insurance policy that TBA may have in effect shall be deemed excess and non-contributory insurance coverage. All of the insurance coverages must include a rider to cover furniture, fixtures and accessories.

6. “SPRING 2012 HOMEARAMA AT CULPEPPER LANDING” Rules and Regulations. The Builder shall comply with all of the rules and regulations governing “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**”, including, without limitation, the requirements outlined in this Agreement, in the “Tool Box Guide”, in the contract with the Developer for the purchase of the Lot, and in any declaration of restrictions governing CULPEPPER LANDING Subdivision or the “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**” Site, all as amended or supplemented from time to time. Any amendments to the “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**” rules and regulations as set forth in this Agreement, after being signed by the Builder, shall be approved by not less than two-thirds of all builders participating in “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**” and shall be subject to approval by TBA and the HOMEARAMA Committee. Also, the Builder is responsible for reading the "Tool Box" Guide and following the guidelines and rules and regulations as stated therein.

7. Signage; Use of HOMEARAMA Name. During the period of the lease there shall be no signs or advertising on the Lot or exterior of the house unless such signs or advertising are authorized in advance by TBA. TBA has the full right to place any signs or advertising wherever it desires. All interior signs that will be displayed by the Builder, and other

forms of recognition, are subject to prior approval by TBA. The Builder (and/or his agent) will not use any of the names “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**” “Tidewater Builders Association,” or “TBA” on any signage, in any printed material, in any electronic media, advertising or in any way whatsoever without obtaining the prior written approval from TBA as to the use of any such name.

8. Construction. The Builder shall comply with the following during construction of the house:

a. Remove rubbish and excess materials. This includes any materials or rubbish placed on adjoining lot(s) during construction. Excess material or debris cannot be dumped on vacant lots, and Builder shall agree to keep the street in front of the Lot clean according to city requirements.

b. Subcontractors, suppliers and material will not block access to other jobs or lots.

c. If Builder fails to perform any of its duties under this Agreement, then TBA may make any expenditure in connection with such house, and the Builder shall reimburse TBA, on demand, for all cash outlays.

d. TBA, at its sole discretion, has the right to eject from the HOMEARAMA Site, temporarily or permanently, the Builder or any agent or subcontractor of the Builder for refusal to follow instructions of any security personnel or designated association representative employed by TBA or refusal to abide by the established rules and hours for the conduct of “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**”.

9. Access. During “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**”, the Builder agrees to have its house open at the established hours and have a representative in his house during display hours each day. The Builder, or his representative, will unlock the house each day by 12:00 Noon. It is the Builder’s responsibility to, or to have his representative, lock the house each night at closing. Each Builder will provide TBA staff with two entry keys to his house on or before the date of the HOMEARAMA Builder Picnic. These keys will be available for the Builder to pick up at the conclusion of “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**”. If a house is sponsored, the sponsor has the right to hold a reception in the home with food and alcoholic beverages.

10. Possession. The house included in “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**” shall be held for exhibition only for the period of the show, which period shall be determined by the HOMEARAMA Committee. Builder will not give possession or occupancy of its house to any other party until 12:01 a.m. of the day following the official closing day of “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**”. It is understood that title can be given to a homeowner, but possession cannot be given until the conclusion of “**SPRING 2012 HOMEARAMA AT CULPEPPER LANDING**”. If the house is sold prior to or during the show, “**SPRING 2012 HOMEARAMA AT CULPEPPER**

LANDING” homeowners must purchase a ticket and park in the general parking lot during the show hours of Noon to 10:00 p.m.

11. Decoration and Furnishing. Decoration and furnishing of each house is required and is the responsibility of the Builder. TBA will make every attempt to help in obtaining a furniture company for each builder to furnish and decorate his house. If for any reason Builder loses its furniture company, it is the Builder’s responsibility to see that the house is decorated and furnished at its own expense. It is highly recommended that a contract be drawn between the Builder, the interior merchandiser and the furniture company.

12. Price of House. If price caps are set for **“SPRING 2012 HOMEARAMA AT CULPEPPER LANDING”** then the stipulations in this paragraph will be enforced. The maximum sales price for Builder’s **“SPRING 2012 HOMEARAMA AT CULPEPPER LANDING”** display house shall be no more than the price cap set if one is set. The price cap is the total sales price including all items that convey such as lighting fixtures and upgrades of any kind; as well as any sales commissions, discount points or fees if paid by Builder. If Builder installs a swimming pool or hot tub, the sales price of the house may increase no more than \$10,000 for a hot tub and \$15,000 for a swimming pool. If Builder builds out of this price range, then Builder becomes ineligible to compete for any **“SPRING 2012 HOMEARAMA AT CULPEPPER LANDING”** awards (Critics’ Choice as well as Peoples’ Choice). However, the landscaper, interior merchandiser, pool, deck, patio, and driveway will be exempt from this ruling and will be eligible for awards. If the house has been sold, the buyer cannot pay for any “extras” outside the price cap until after the close of **“SPRING 2012 HOMEARAMA AT CULPEPPER LANDING”**. Builder will be required to sign an affidavit stating the total sales price of the house and pool or hot tub just prior to awards judging. If the Builder builds a house that the principal of Builder plans to use as a personal residence, this house (except for those categories listed above) cannot be considered for any awards.

13. Dispute Resolution. If a dispute shall arise between two or more builders, or any other participating parties, the HOMEARAMA Chairperson will appoint a committee of two (2) disinterested builders, the Executive Vice President of TBA and the Staff Vice President of **“SPRING 2012 HOMEARAMA AT CULPEPPER LANDING”** to serve with the Chairperson to arbitrate the dispute, and the Builder agrees to accept and abide by the results of such arbitration.

14. Assignment of Purchase Contract. Builder will not assign his contract or right for the purchase of the Lot without first obtaining written permission to do so from TBA, which consent may be granted or withheld in TBA's sole discretion.

15. Sales Activity. Builder or its sales agent will not advertise or hold an open house of its **“SPRING 2012 HOMEARAMA AT CULPEPPER LANDING”** house during the open days of **“SPRING 2012 HOMEARAMA AT CULPEPPER LANDING”**. Builder, or its realtor, is permitted and encouraged to show the home by appointment. Real Estate companies may tour the site before 11:00 AM- they must contact TBA to schedule a day.

16. Architectural Review. Architectural Review will be conducted by the developer, CULPEPPER LANDING LC. All builders must meet architectural requirements of the developer's architectural guidelines.

17. Utilities. Builder will apply for utilities by February **24, 2012**, and have all utilities installed by **April 2, 2012** (i.e., electric, gas, telephone, cable TV, special connections/wiring). The house must have at least one working telephone on the first floor with easy access for emergencies. Builder's house will be constructed within the guidelines to meet Dominion Virginia Power's Comfort Assured standards or Columbia Gas of Virginia program in accordance with **"SPRING 2012 HOMEARAMA AT CULPEPPER LANDING"** promotions with the utility companies. Builder shall conform to promotions that TBA adopts in conjunction with Columbia Gas of Virginia and Dominion Virginia Power. Builder must meet with a representative of the designated utility company to go over utility requirements and the Builder must comply with these requirements. TBA will reimburse the builder for temporary power usage during construction if TBA receives an invoice and copies of the Dominion Virginia Power bills no later than **June 30, 2012**.

18. Completion Date. Builders are to have their yards ready for sod no later than **April 22, 2012**.

19. TBA Responsibilities. TBA shall be responsible to have the street area lit at night, and to have restroom facilities available for the general public during the **"SPRING 2012 HOMEARAMA AT CULPEPPER LANDING"** showing. TBA and Developer will be responsible for providing parking facilities for the general public.

20. Fencing. TBA shall have the right and privilege, at its sole discretion, to erect fencing at its expense on perimeter lot lines of any and all lots so as to fence off the **"SPRING 2012 HOMEARAMA AT CULPEPPER LANDING"** area from the other parts of the development. All other fencing shall be subject to approval by TBA and the Developer.

21. Trash Removal. Lots must be free and clear of trash, debris, and/or materials by **April 23, 2012**. Builder is responsible for immediately reimbursing TBA for all costs incurred if it becomes necessary for TBA to have it removed.

22. Cleaning/Repairs/Maintenance. Builder is responsible for the proper maintenance of its house. Each day the house must be clean and presentable to **"SPRING 2012 HOMEARAMA AT CULPEPPER LANDING"** visitors. Interior cleaning of homes, routine repairs and maintenance during **"SPRING 2012 HOMEARAMA AT CULPEPPER LANDING"** must be done between the hours of 6:00 a.m. and 11:00 a.m. If, on occasion, someone needs access to your home during the hours of 7:30 AM – 11:00 AM, and you are unable to get to the site to let them in, the builder must contact TBA staff to give them permission to allow them access. No one will be allowed on site between the hours of 10:00 p.m. and 6:00 a.m. unless for emergency repairs.

23. TBA Membership. Builder must maintain a builder membership in the Tidewater Builders Association. If not a current member, the Builder's application and dues must

be received by TBA by the time the lot drawing is held. A non-member builder cannot sign a lot contract with the developer until he has paid his TBA membership dues.

24. Home Warranty. Builder must be in a ten (10) year home warranty program and supply documentation.

25. Time. Time is of the essence as to Builder's performance of all its obligations created either by this Agreement or by its contract with the Developer. Builder shall be liable to the Tidewater Builders Association for the full and timely performance of all such obligations.

26. Advertising. If a two-thirds majority of the participating builders vote to hold a "Dusty Boots" Preview Week-end, all builders must participate prorata in the cost of the newsprint ads.

27. ADA. Builder must comply with the Americans with Disability Act (ADA) guidelines as set forth in the "Tool Box" Guide. In addition, a picture board or a continuous loop video, needs to be on display in garage showing every room in the house.

28. Spotlights. Builder will be responsible for providing and installing a minimum of two spotlights for their home by **April 25, 2012** (after installation of sod) if needed.

29. Gala Preview. The Charity Gala Preview will be held Friday, **May 4, 2012**. All builders, including your workers, decorators, etc. must be off site by a 7:00 a.m. to allow adequate time for TBA to prepare for this event. Also, builders hosting private parties must close the house and have all visitors off site by 10:00 p.m.

30. Lease of Space. Builder is prohibited from, for any consideration, either direct or indirect, assigning or renting the garage or other space within its entry home for exhibits or displays without the written approval of TBA. No exceptions. For complete details refer to the Tool Box Guide- Product/Service Displays in Garage/Home.

31. Voting- All Builders will abide by a two-thirds majority on all issues voted on.

32. Landscaping/Sod- TBA provides and coordinates installation of up to 600 sq yds of sod per home, and pays your landscaper \$4,000 directly per home.

33. Administrative Provisions.

a. Notices. All notices required by or given in connection with this Agreement shall be in writing and shall be deemed given and received when (i) personally delivered, (ii) one business day after being delivered by a nationally known overnight courier, (iii) one business day after being delivered by facsimile and the sender has electronic confirmation of the receipt of the facsimile transmission by the other party or (iv) three business days after being

deposited in the United States mail, postage prepaid, certified, return receipt requested, addressed as follows:

If to TBA: Tidewater Builders Association
2117 Smith Avenue
Chesapeake, VA 23320
Facsimile No.: 757-424-5954
Attn: Mr. Channing A. Pfeiffer, CEO

If to Builder: _____

Email: _____
Phone: _____
Fax: _____
Att: _____

Either party may change the address to which notices should be sent by written notice to the other party in compliance with this paragraph.

b. Assignment. This Agreement shall be binding on and inure to the benefit of the parties and their successors and assigns. No assignment by either party shall be permitted or be binding without the prior written consent of the other party, which consent will not be unreasonably withheld.

c. Complete Agreement. This Agreement constitutes the entire understanding and agreement between the parties in connection with the subject matter of this Agreement. All prior agreements, discussions, statements and representations (whether verbal or in writing) have been superseded by this Agreement and are void and of no effect.

d. Modification. No waiver or modification of this Agreement or of any covenant, condition or limitation in this Agreement shall be valid unless in writing and executed by the party to be charged with it.

e. Applicable Law. This Agreement will be performed in accordance with, governed by and construed in accordance with the laws of the Commonwealth of Virginia.

f. Severability. If any term, provision, covenant or condition of this Agreement is held by a court or regulatory body of competent jurisdiction to be invalid, void or unenforceable, the remainder of the Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

g. Headings. The headings used in this Agreement are used for convenience only and are not intended to be used to construe or interpret the substance of this Agreement.

h. Counterparts. This Agreement may be executed in one or more counterparts and by different parties to this Agreement in separate counterparts, each of which when so executed will be deemed to be an original and all of which taken together will constitute one and the same agreement.

i. Attorney's Fees. If any dispute between the parties related to this Agreement is adjudicated, arbitrated, mediated or resolved by any court, arbitrator, mediator or other third party, then the non-prevailing party shall pay all the reasonable attorney's fees, costs and expenses of the prevailing party in any such proceeding.

[Remainder of page intentionally blank; signatures on next page.]

Spring 2012 Homearama – CULPEPPER LANDING

BUILDER COMPANY NAME: _____

DATE _____

By: _____
Signature

Title: _____

Print Name: _____

TIDEWATER BUILDERS ASSOCIATION

DATE _____

By: _____
Channing A. Pfeiffer,
CEO