

This Construction Agreement,

made this ____, Day of ____, ____, between _____ Owner(s),
and _____, Contractor, License # _____.

The Owner and Contractor agree as set forth in the following:

1. The Construction and Extent of Agreement

- 1.1 Contractor agrees to construct on Owner's real property located at _____, in _____ County, Florida, in accordance with the plans and specifications signed and dated by Contractor and Owner on the ____ day of _____, 20____, and consisting of _____ pages.
- 1.2 The legal description of the Subject Property is Lot(s) _____, Block _____, _____ subdivision (or, if a metes and bounds description, attach as Exhibit "A").
- 1.3 Contractor accepts the relationship of trust and confidence established between it and Owner by this Agreement. It covenants with Owner to furnish its skill and judgment in furthering the interests of Owner. It agrees to furnish or caused to be furnished through suppliers and subcontractors, general construction management, supervision, labor and materials necessary to complete the Project referenced in this document.
- 1.4 If Owner refuses to accept a Vendor or Subcontractor recommended by Contractor, Contractor shall recommend an acceptable substitute and the Price, if applicable, shall be increased or decreased by the difference in cost occasioned by such substitution and an appropriate Change Order shall be issued.
- 1.5 This Agreement represents the entire agreement between Owner and Contractor, and supersedes all prior negotiations, representations, or agreements. This Agreement shall not be superseded by any provisions of the documents for construction and may be amended only by written instructions signed by both Owner and Contractor.

2. Payment

21. In consideration of the performance of the Contract, Owner agrees to pay Contractor in current U.S. funds as compensation for the services provided, \$ _____.
22. A non-refundable initial payment of 2 ½% or five thousand dollars, which ever is greater, will be due (3) days after signing this contract. The amount of initial payment received on this contract which will be applied toward contract is \$ _____ received on _____, leaving a remaining balance due of \$ _____.
23. Owner agrees to pay Contractor the Contract Price specified in paragraph 2.1, in accordance with the draw schedule identified as Exhibit "B" attached hereto or in accordance with the lender's required draw schedule if not attached.
24. In the event any amounts due to the contractor remain unpaid for more than ten (10) days after the due date thereof, then, and in such event, such amounts shall bear interest thereafter at the rate of 1.5% per month until payment in full has been made.

3. Time of Completion

- 3.1 Contractor shall commence work within thirty (30) days of the issuance of all building permits and verification from Owner in writing that all funds necessary for payment of the Contract Price are available, whichever shall last occur. Contractor shall diligently pursue and substantially complete all work to be performed under this Contract within a reasonable period of time, taking into consideration delays that are beyond the control of the Contractor, including, but not limited to, weather conditions, delays in selection or delivery of materials, change orders requested by Owner and delays in obtaining all necessary licenses or permits or the certificate of occupancy. Contractor shall not be liable to Owner for any losses, costs or damages resulting from or arising out of a delay or inability to perform this Contract as described herein or caused by any event beyond the control of the contractor.

4. Changes in the Project

- 4.1 Owner, without invalidating this Agreement, may order Changes in the Project consisting of additions, deletions, or other revisions, the Price and the Substantial Completion Date being adjusted accordingly. All such Changes in the Project shall be authorized by a written change order marked as addendum to the construction agreement exhibit (f).
- 4.2 Change Order is a written order to Contractor signed by Owner or his authorized agent issued after the execution of this Agreement, authorizing a Change in the Project and/or an adjustment in the Price or the Completion Date. The owner will pay to the Contractor an administration fee of \$200.00 for each Change Order, regardless of increase or decrease in price caused by the change.
- 4.3 All change orders charges become due within three (3) working days of commencement of approved change orders, or within three (3) working days of the time the cost of the change have been presented to the owner.
- 4.4 Should concealed conditions, meaning conditions beyond those stated in this agreement or conditions not reasonably anticipated by the Contractor, be encountered in the performance of the project, the Price and the Completion Date shall be equitably adjusted by Change Order on claim by Contractor made within 10 days' time after the first observance of the conditions.
- 4.5 Owner shall have authority to order minor Changes in the Project not involving an adjustment in the Price or an extension of the Substantial Completion Date and not inconsistent with the intent of the Drawings and Specifications. Such Changes must be approved by the contractor and not made on site in his/her absence nor without written approval.

5. Insurance

- 5.1 Owner and Contractor waive all rights against each other, Subcontractors, and their Subcontractors for damages caused by perils covered by insurance, except such rights as they may have to the proceeds of such insurance held by Owner and trustee.
- 5.2 Owner shall provide, unless otherwise indicated in this contract, the Builder's Risk insurance for the Project and shall bear the cost of Contractor's performance and payment bonds, if required.
- 5.3 Owner and Contractor waive all rights against each other and the Subcontractors and their Subcontractors for loss or damage to any equipment used in connection with the Project and covered by any property insurance.

- 5.4 Owner waives subrogation against Contractor, Subcontractors, and their Subcontractors on all property and consequential loss policies carried by Owner on adjacent properties and under property and consequential loss policies purchased for the Project after its completion.
- 5.5 If the policies of insurance referred to in this Section require an endorsement to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed.

6. Licenses, Permits and Deposits

- 6.1 When Contractor needs such licenses or permits or needs to pay deposits to complete the work described in this Contract, the following assigns responsibility including payment. If checked by "owner", no cost has been allowed for in this contract.

	OWNER	CONTRACTOR
Architectural Control Committee	_____	_____
Building Permit	_____	_____
Driveway Permit	_____	_____
Environmental Permit	_____	_____
Tree Permit	_____	_____
Landscape Permit	_____	_____
Sewer Systems/Septic Permit	_____	_____
Gas Tap Permit	_____	_____
Storm Water Manage. Permit	_____	_____
Sewer Tap	_____	_____
Water Systems Charge	_____	_____
Water Tap	_____	_____
Utility Deposits (phone /TV)	_____	_____
Gas System Charge	_____	_____
Utility Deposits (water/ power)	_____	_____
Soil Test	_____	_____
Flood Elevation Certificate	_____	_____
Model Energy Code Rating	_____	_____
Other (_____)	_____	_____
Wind Load Engineering	_____	_____
Pipe Clay/Foundation/Engineering	_____	_____
Builders Risk Insurance	_____	_____

7. Allowances

- 7.1 An allowance is a price used for budgetary establishment. It is used when a selection is needed from the owner outside the control of the Contractor; therefore a budgetary price is affixed to that selection. If the actual cost of that selection is less than the budget allows, there is a credit due the Owner. If the actual cost of the selection is more than the budget allows, there is a debit to the owner. Contractor and owner must provide receipts or invoices to determine the actual cost of any selection that calls for an Allowance.

\$_____ Appliances
\$_____ Electrical Fixtures
\$_____ Tub / Shower Tile / Surround (labor and material)
\$_____ Floor Tile (labor and material)
\$_____ Wood Flooring (labor and material)
\$_____ Carpeting (labor and material)
\$_____ Vinyl Flooring (labor and material)
\$_____ Cabinets (includes all cabinetry, countertops & built-ins)
\$_____ Fireplace(s)
\$_____ Hearth(s)
\$_____ Mantle(s)
\$_____ Brick (per 1000)
\$_____ Exterior Doors
\$_____ Garage Doors & Openers
\$_____ Windows
\$_____ Interior Doors
\$_____ Door Hardware (interior & exterior)
\$_____ Interior Window Treatments
\$_____ Wall Paper
\$_____ Shelving
\$_____ Mirrors
\$_____ Bath assc.
\$_____ Security System
\$_____ Concrete Driveways, Walks & Patios
\$_____ Porch / Exterior Pavers
\$_____ Interior Staircase(s)
\$_____ Decks
\$_____ Mailbox / Entrance Columns / Bulkheads
\$_____ Landscaping (includes grading, fill, dirt, sod, plants & labor)
\$_____ Other_____

All of the above listed allowance items that are blank or marked n/a have not been allowed for in this contract.

Subcontract Allowances

The Following allowances are for the completion of subcontracted services that may fluctuate based on owners interest and or taste. Any changes made with these subcontractors will reflect in an increase or decrease, in total contract price as determined at the time of the change.

\$_____ Foundation/Slab (material & labor)
\$_____ Framing Labor
\$_____ Plumbing (material & labor)
\$_____ Electrical (material & labor)
\$_____ HVAC (material & labor)
\$_____ Insulation (material & labor)
\$_____ Painting (interior & exterior) (material & labor)
\$_____ Interior Trim (material & labor)
\$_____ Gutters
\$_____ Other_____

Material Allowances

The following items are subject to allowance due to the frequent increase in material pricing associated with high demand and short supply. When the individual cost of any one item increases or decreases more then 5% a credit or debit will be issued. Contractor will endeavor to make all reasonable efforts to contain the cost associated with these allowances.

\$_____ 2x4 studs	# of each allowed_____
\$_____ 2x4 random	# of each allowed_____
\$_____ 4x8x1/2 4 ply CDX	# of each allowed_____
\$_____ 4x8x3/4 T&G	# of each allowed_____
\$_____ concrete / yard	# of each allowed_____
\$_____ 4x12x1/2 Sheetrock	# of each allowed_____
\$_____ Roofing Shingles	# of each allowed_____

8. Completion / Occupancy

- 8.1 Substantial completion occurs when the Certificate of Occupancy has been issued, or has been delayed solely by act or omission of the owner; or, when the owner occupies the Subject Property.
- 8.2 Within five (5) days of notification by Contractor that all work is substantially complete, Owner shall conduct a final inspection of the improvements and prepare a punch list, which, if reasonable and agreeable, shall be signed and dated by both parties. Contractor shall be responsible for completion of all reasonable items on the approved punch list. Contractor shall be entitled to receive all remaining amounts due under this Contract at the time the punch list is presented and signed by the parties.
- 8.3 Owner hereby grants to Contractor an exclusive leasehold on the real property described herein, effective upon execution of this agreement and continuing until substantial completion of construction, and payment in full to the Contractor. Owner shall not occupy the structure until the Contract Price, including any increases as the result of change orders, whether written or oral, are paid in full to the Contractor. In the event Owner occupies the property prior to making final payment to the Contractor, then Owner shall be deemed to have APPROVED AND ACCEPTED all labor, services and materials, as well as Contractor's performance hereunder as being complete. In addition, any such occupancy by the Owner or authorized by the Owner, shall result in the Owner being obligated to pay rent to the Contractor at the rate of one (1%) of the Contract Price for each month or portion thereof that any such occupancy continues until the Contract Price, as adjusted by any change orders, has been paid in full to the Contractor.

9. Warranty

- 9.1 Where Contractor's own forces perform any Work, Contractor warrants that all materials and equipment included in such Work will be new, unless otherwise specified.
- 9.2 Contractor reserves the right to sub-contract to himself any portion of this contract, at his own sole discretion, within the scope of any and all licenses held by same.
- 9.3 Contractor warrants the labor and materials supplied by Contractor and used in performing this contract will be free of defects for a period of one (1) year from the date of the certificate of occupancy. The responsibility and liability of the Contractor must be limited to things that can be controlled and reasonably foreseen. This construction contract shall be completed using standard construction practices of the day.
- 9.4 Any warranty regarding wood destroying organisms is given only by the licensed pest control operator and is limited to one (1) year from date of treatment, and is renewable at the sole option and expense of the Owner.
- 9.5 Contractor does not warrant any appliances or the heating and air conditioning equipment. Owner agrees to rely solely on the warranty of the respective manufacturers of such equipment unless the defect is caused by the manner of installation of such appliances or equipment.
- 9.6 Contractor warrants that the dimensions of any room shall be within 10% of the dimensions specified on the plans and that the overall heated square footage of the structure shall not be less than the amount specified on the plans unless owner makes or approves changes. All measurements and dimensions include wall structures and finishes.
- 9.7 No other warranty is expressed or implied unless accompanied with this agreement, signed by all parties and marked as exhibit (g).

10. Termination of the Agreement

- 10.1 If the Project is stopped for a period of 20 days under an order of any court or public authority having jurisdiction, through no act or fault of Contractor, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, or if the Project should be stopped for a period of 10 days by Contractor for the Owner's failure to make payment thereon, then Contractor may, upon ten days' written notice to Owner, terminate this Agreement and recover from Owner payment for all work executed, a Contractor's Fee equal to 15% of all improvements made to date and for the cost of any proven loss sustained on any materials, labor, equipment, tools, construction equipment, and machinery.
- 10.2 If Owner terminates this Agreement after the construction phase has commenced, he shall notify the contractor in writing and reimburse Contractor for any unpaid proven Cost of the Project due him in accordance with previous paragraph, including a contractor's fee equal to 15% of all work performed. Contractor shall, as a condition of receiving the payment, execute and deliver all such papers and take all such steps, including the legal assignment of these contractual rights, as Owner may require for the purpose of fully vesting in him the rights and benefits of Contractor under such obligations or commitments.
- 10.3 Contractor shall not assign its interest in this Agreement without the written consent of Owner.
- 10.4 The law of the place where the Project is located shall govern this Agreement.

- 10.5 Contractor retains the right to terminate this contract at any time for cause or no cause upon ten days written notice and receive compensation as described in Paragraph 10.1. Contractor will notify Owner in writing when exercising this option and such notification will be sent postage prepaid, registered or certified mail return receipt requested to all entities designated on the Notice OF Commencement as having interest in the project governed by this contract. Upon execution of this article Contractor will make full financial disclosure concerning this contract and provide this information to Owner within 14 working days for final settlement. Owner will disburse funds within 7 days of receiving financial disclosure according to the terms and proven cost of this document.

11. Arbitration

- 11.1 Except for claims by the Owner of defective construction, which are governed solely by the "right-to-cure" law disclosed in paragraph 12.1, all claims, disputes, and other matters in question arising out of, or relating to, this Agreement or the breach thereof, except for claims which have been waived by the making or acceptance of final payment must be decided by the arbitration proceedings as described herein, to be held in the county in which the real property described herein is located, and both parties agree to be bound by the decision rendered in such proceedings. Within thirty-days (30) of a written request for arbitration, each party shall select an arbitrator. If either party fails to select an arbitrator within this time frame, the first arbitrator selected may select the second arbitrator. Within ten (10) days thereafter the two arbitrators shall select a third arbitrator. All arbitrators shall be persons with experience in the construction industry. The arbitration shall be conducted in accordance with the Florida Arbitration Code (Chapter 682, Florida Statutes); provided, however, the final hearing shall be held not more than ninety (90) days after the receipt of the request for arbitration and the final decision shall be rendered not more than thirty (30) days after the conclusion of the final hearing.
- 11.2 The award rendered by the arbitrators shall be final and judgment may be entered on it in accordance with applicable law in any court having jurisdiction thereof, if within the time prescribed by the arbitrator no action has been taken to comply with said order.
- 11.3 Unless otherwise agreed in writing, Contractor shall carry on the Work and maintain the Contract Completion Date during any arbitration proceedings, and Owner shall continue to make payments in accordance with this Agreement, unless Contractor has exercised Paragraph 10.5.
- 11.4 The same arbitrator or arbitrators shall hear all claims that are related to or dependent on each other, even though the parties are not the same unless a specific contract prohibits such consolidation.
- 11.5 In the event of any disputes arising out of or in connection with this contract, the prevailing party therein shall be entitled to recover reasonable attorney fees and costs, whether same were incurred prior to or during any judicial proceedings, including, but not limited to, any trial or appellate proceedings, as well as prior to or during any of the alternative dispute resolution mechanisms.

12. Right to Cure / Recovery Fund / Lien Law

- 12.1 FLORIDA LAW (CHAPTER 558, FLORIDA STATUTES) CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST A CONTRACTOR, SUBCONTRACTOR, SUPPLIER, OR DESIGN PROFESSIONAL FOR AN ALLEGED CONSTRUCTION DEFECT IN YOUR HOME. SIXTY DAYS BEFORE YOU FILE YOUR LAWSUIT, YOU MUST DELIVER TO THE CONTRACTOR, SUBCONTRACTORS, SUPPLIER, OR DESIGN PROFESSIONAL A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE YOUR CONTRACTOR AND ANY SUBCONTRACTORS, SUPPLIERS, OR DESIGN PROFESSIONALS THE OPPORTUNITY TO INSPECT THE ALLEGED CONSTRUCTION DEFECTS AND MAKE AN OFFER TO REPAIR OR PAY FOR THE ALLEGED CONSTRUCTION DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE CONTRACTOR OR ANY SUBCONTRACTORS, SUPPLIERS, OR DESIGN PROFESSIONALS. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER FLORIDA LAW.
- 12.2 PAYMENT MAY BE AVAILABLE FROM THE CONSTRUCTION INDUSTRIES RECOVERY FUND IF YOU LOSE MONEY ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A STATE-LICENSED CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS:
- Construction Industry Licensing Board
1940 N. Monroe Street
Tallahassee, Florida, 32399-0784.
Telephone: 850-487-1395
- 12.3 ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001 – 713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR PROVIDE MATERIALS AND ARE NOT PAID-IN-FULL HAVE A RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS, OR MATERIAL SUPPLIERS OR NEGLECTS TO MAKE OTHER LEGALLY REQUIRED PAYMENTS, THE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX AND IT IS RECOMMENDED THAT WHENEVER A SPECIFIC PROBLEM ARISES, YOU CONSULT AN ATTORNEY.

13. Owner's Responsibilities

- 13.1 Owner shall provide, or cause to be provided, full information regarding his/her requirements for the project. Owner further agrees to complete specifications and Features information sheet marked Exhibit C. Failure to completely provide all information in a timely manner hereby gives Contractor written consent to use his/her best judgment in any and all non-specified areas.
- 13.2 Owner shall secure and pay for necessary planning approval fees, easements, utility assessments, and use charges.
- 13.3 Owner shall furnish reasonable evidence satisfactory to Contractor that sufficient funds are available and committed for the entire cost of the Project. Unless such reasonable evidence is furnished, Contractor is not required to commence any work.
- 13.4 Where owner supplies plans for the construction of the project contracted for in this agreement the following items are required: 1) foundation plan, 2) floor plan, 3) electrical plan, 4) four elevations, 5) stair detail, 6) wall elevation, 7) roof plan, and 8) wind load analysis stamped by engineer. In addition to these, specifications additional drawings may be required for certain details. Contractor takes no responsibility for additional cost caused by improper specifications or errors on plans provided by owner.
- 13.5 Owner and Owner's family members or agents shall not in any manner utilize, communicate or contract with Contractor's employees, subcontractors, subcontractor's employees or agents, or material suppliers, nor perform or permit any work on the Subject Property, without the prior written approval of the Contractor, which approval may be withheld in the Contractor's unrestricted discretion. If such consent is given, then Owner shall be solely responsible for the payment, shipment, delivery, insurance, installation, and damages for delay arising there from and agrees to hold contractor harmless in any and actions that may arise.

14. Exhibits, Comparables and Priority of Documents

- 14.1 The following exhibits must be signed by both parties and all originals to remain in possession of Contractor. At owners request contractor will make available all exhibits to the owner for the purpose of reproduction.
- 1) Exhibit A Legal Description of the Parcel or Property
 - 2) Exhibit B Draw Schedule
 - 3) Exhibit C Specifications and Features
 - 4) Exhibit D Complete Set of Plans
 - 5) Exhibit E Referenced contracts (sub agreements)
 - 6) Exhibit F Addendum to Construction Agreement (if any do occur)
 - 7) Exhibit G Written Warranty (if any)
- 14.2 The priority of documents are as follows
- 1) This contract
 - 2) Specifications and Features Sheet
 - 3) Drawn details and plans
- 14.3 The following two properties will be used as comparable properties used to establish the finishes and textures as well as the overall quality of the property listed below. The manner in which these properties are finished will be used to establish Industry Standards as they concern this contract.

- 1) _____
- 2) _____

15. Acceptance

THE UNDERSIGNED AGREE TO ABIDE BY THE TERMS OF THIS CONTRACT AND RELATED EXHIBITS SPECIFICALLY REQUIRED HEREIN. PURSUANT TO SECTION 501.1375, FLORIDA STATUTES, IF CONTRACTOR BUILDS MORE THAN TEN (10) RESIDENTIAL UNITS PER YEAR, THE BUYER OF A ONE-FAMILY OR TWO-FAMILY RESIDENTIAL DWELLING UNIT HAS THE RIGHT TO HAVE ALL DEPOSIT FUNDS (UP TO 10 PERCENT OF THE PURCHASE PRICE) DEPOSITED IN AN ESCROW ACCOUNT. THIS RIGHT MAY BE WAIVED, IN WRITING, BY THE BUYER. BY SIGNING THIS AGREEMENT, OWNER DOES HEREBY WAIVE THIS STATUTORY RIGHT.

_____ Date _____
print name signature of owner

_____ Date _____
print name signature of owner

_____ Date _____
print name signature of contractor