

**CONTRACTOR AGREEMENT (ANV Construction Group)
REVISED May 31st 2023
VERSION 22**

A) INFORMATION

A-1) THIS AGREEMENT is made as of _____, between The ANV Construction Group-Craftsmanship homes line product in the State of Virginia (hereinafter referred to as "Contractor or builder") and _____, _____ (hereinafter referred to as "Owner").

A-2) WITNESSETH that in consideration of the mutual promises hereinafter set forth and for other goods and valuable considerations, receipt and sufficiency of which the parties hereby acknowledge, the parties hereto do hereby agree as follows:

A-3) OWNER REQUESTS Contractor to build and Contractor agrees to build a custom designed home on Owners Lot located at _____ (The said house to be built being called "Building" and the Owner's land parcel being called "Lot").

A-4) NON-BROKER SALE: The Parties acknowledge that the Contractor Agreement ("Agreement") was brought about solely by Contractor's Sales Personnel and **no outside broker or agent was the procuring cause of sale**. Each party specifically agrees to hold the other party harmless and to defend the other party against any claim made by any broker for compensation of any kind, including but not limited to a co-op commission, real estate agent commissions in connection with the Agreement.

B-THE BUILDING AND PRICE

B-1) PRICE and PAYMENT: The Owner agrees to pay the Contractor for the performance of the work herein set forth (See Section B2 of this contract Below) the sum of (See draw addendum) amount to be disbursed (See draw addendum). Anything purchased above and beyond addendum #7 on lock number #3 must be paid in cash before construction begins in lock #5 addendum# 12

B-2) THE home, price, size, features (standard and optional), responsibilities, proof of purchase are all outlined in: Addendums #1 to addendums #12.

B-3) EARNEST MONEY DEPOSIT

Contractor Agreement: _____ and _____

Owner Initials

Contractor Initials

- 1) Upon signing this agreement: \$2,500 plus 1/10 of one percent of the total amount shown in lock #3 (See price work up)
- 2) Earnest money deposit shall be applied to final contract price, it is not in addition to.

DEPOSIT RELEASE AND REFUNDS:

- 3) In the event that Owner, after making application, cannot receive a building permit, rejected by multiple lenders, or if Owner does not approve the final plans and specifications in writing (including without limitation all elevation plans) all deposits shall be returned to Owner, except amounts paid to other vendors and \$2500 of the total deposit. This includes but is not limited to; less all architectural fees and any other pre-approved fees incurred by Contractor. Invoices from architects and services shall be provided to show amount due.
- 4) If Owner shall decide to cancel contract for any other reason after written approval of all final plans and specifications (other than in the event of a default by Contractor), all deposit monies shall be forfeited. Completed architectural plans remain the property of Contractor. Use of plans without written permission of Contractor will result in a penalty to Owner of up to \$25,000 per page or maximum allowed by the state of Virginia.

B-4) Draw Disclaimers

- 1) Draw Schedule task list and percentages may be amended by lender.
- 2) All parties agree that the task has to be substantially completed about (90%) for the payment for that task to be released by the bank or escrow agent.
- 3) Contractor or lender is authorized to adjust the draw schedule of payments in accordance with financing requirements of the Owner's lender, however only before construction begins.
- 4) All parties have to agree to any draw schedule changes and must be in lock #5.
- 5) All draw schedule changes have to be agreed to and docu-signed before construction begins.
- 6) Payments should be sent to the Contractor no later than 7 days after completion of work for each draw and delivery of invoice to the lender and or escrow agent.
- 7) If payment is not received within 7 days of request for draw and delivery of invoice, and the inspection report states that the tasks in question are complete, the Contractor has the right to halt construction until draw is received by Contractor.

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Owner Initials

Contractor Initials

8) If the owner has refused a payment approved by the lender, contractor and (bank or escrow) inspector or the owner has occupied the home; the owner can be fined by the contractor \$500 (weekly) penalty at the contractors discretion.

9) If the owner withholds any funds for any reason the warranty has been voided.

10) If the owner withholds any funds for any reason the owner indemnifies the contractor of any code violations.

11) If the owner withholds any funds for any reason the contractor will file a lien on the property for the said amount.

B-6) DIRECT PAYMENT AUTHORIZATION BY LENDER: The parties hereto agree that all payments due the Contractor for work done and materials furnished **will be made directly to the Contractor by the Lender or Escrow Agent and the Owner herein authorizes and directs the Lender to make payments directly to the Contractor.**

B-7) NOTICES: All notices hereunder, to Contractor shall be sent to Contractor at **PO Box 3094 Merrifield VA**, or such other address that Contractor may by written notification advise Owner. Notice to Owner shall be sent to Owner at _____, _____ (Address) or such other address that Owner may receive written notification. Advise Contractor if this address changes.

B-8) PRICE LOCK (100 DAYS) :

A) The price is valid for 100 days. If the Contractor is unable to commence the house construction after 100 days (start of house construction herein is defined as receiving the building permit), the contractor (in rare cases) may increase the cost to build. Delays within the Lock-in Period are not limited to however including but not limited to delays in approvals by government agencies, restrictions by governmental agencies and/or regulations, delays by surveyors, delays in road improvements and/or over-lot grading plans, acts of nature, state of emergency declaration, weather, pandemics, wars and conflicts, shipping issues. Issues that can increase the price are general shortage of labor or union strikes, equipment add-ons, material shortages or major inflation, contractor or employee shortages or additions, or any other major business or market unexpected occurrence, based on the discretion of the contractor only. Contractor shall notify Owner in writing and offer to Owner the following options:

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(A-1) Receiving a refund of all earnest money previously paid by Owner including any soft draw, less any incurred cost by Contractor, thereby terminating this Agreement and relieving both Owner and Contractor of their respective obligations hereunder; or
 (A-2) Agreeing with Contractor upon an increase in the price and proceeding with performance under this agreement.

B-9) DELETIONS: It is understood and agreed that if Owner chooses to delete, or not to receive, any portion of the construction as stated in this contract, such as materials, appliances, etc, Owner will not be entitled to any discount or credit unless approved by Contractor upon ratification of this agreement. This is valid before, during or after construction.

B-10) CONTRACTOR SELECTION CENTER: All items are in our showroom or in our options list. Any and all color selections, options and the like have to made though our showroom or our options list. Contractor will not install any items the Owner supplies.

B-11) CHANGE ORDERS:

- A) *Pre-construction:* The contractor agree to give as much time needed to close a lock, however once the lock is closed the owner can make no changes to the items accepted or refused in that lock. Owner understands that price may change until the owner makes an official lock.
- B) *During Construction:* Both Owner and Contractor agree that every step will be taken to prevent change orders during construction. After every lock there is a \$10,000 fee to re-open the lock. This is in addition to the cost of the change order.
- C) If a lock is re-opened during construction, all estimated completion times will be put in disarray and completion times maybe significantly adjusted.
- D) Owner understands that Contractor takes steps to source raw materials well in advance, including before construction begins, and that changes cause great organizational challenges, that can effect multiple projects the contractor has under construction.
- E) If the owner does not receive the expected appraisal needed to start the project. A portion of the deposit will be released back to the owner. The approximate amount the contractor will keep is about \$1000. If the owner requests more work than is needed to get the appraisal, more funds will be held. The amount is based on the discretion of the builder.

C) CONTRACTOR

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C-1) CONTRACTOR RELEASE; If in case of sever price inflation, pandemic outbreaks, mass labor shortages, extreme environmental events, unusual lot issues, over burdened market challenges, as defined by the contractor, extreme emotional customer relationship and response, the contractor has the right to void this contract before construction begins. The full deposit will be returned, minus fees paid to third party vendors, management and administrator fees, and sales commissions.

C-2) CONTRACTOR TIME FOR COMPLETION:

- A) The work to be performed by the Contractor shall be substantially completed within 9 to 18 months of completion of the foundation walls, except as otherwise provided herein.
- B) The parties hereto agree and acknowledge that due to normal variations in the construction process, including but not limited to weather delays, utility delays, site work delays, ordering, manufacturing and installation of Owner's selections, the completion date may be earlier or later than projected.
- C) Contractor will endeavor to inform Owner of the final move-in date approximately thirty days before the scheduled completion date.
- D) Owner acknowledges that, unlike the routine, steady pace of the manufacturing business, progress on the project will come in spurts, with periods of great activity and other periods of apparent inactivity. Often there are tasks which are not readily visible such as inspections, deliveries, scheduling changes, labor and material shortages. *Adding to the phenomenon is the covid recovery, lumber, labor, copper, drywall, and other products may be rationed industry wide and cause further delays.*
- E) Homeowner and contractor agree that the finish date can vary greatly.
- G) Further more; The Contractor shall not be liable for any delay in the prosecution or completion of the work: (1) caused by the negligence or default of the Owner, or (2) as a result of changes or alterations in the plans and specifications made by the Owner, contractor or county, or (3) any occurrence for which a state of emergency is declared, extreme weather or area schools are closed for in person learning, including but not limited to major weather event, municipal or statewide business shutdown, pandemic, or (4) by damage by fire, earthquake or other casualty for which the Contractor is not responsible, or (5) by strike, walk-outs or any other acts of suppliers of labor or materials, or (6) material shortages or (7) county related inspection or permitting delays due to delayed scheduling or county staffing issues, or (8) any other occurrence over which the Contractor has no control or for which the Contractor is not responsible, and such occurrence is agreed upon by Contractor and Owner. In any such event the time herein fixed for the completion of the work shall be extended for a period equivalent to twice the

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time lost by reason of the aforesaid causes. For example, if one day is lost due to aforesaid cause, two additional days shall be granted for time of completion.

C-3) CONTRACTOR'S CHANGES FLOOR PLANS; The Building shall be erected in a good and workmanlike manner in accordance with all applicable laws, codes, ordinances and regulations, and in all material respects in accordance with the building plan, specifications, and color selection sheets which are made a part of this Agreement, all of which are hereafter referred to as the "Agreement". Contractor shall furnish all the materials and perform all the work as required to complete the Building in accordance with this Agreement, except that work and material to be performed by the Owner. There can be no work to the home or work to be performed or materials furnished by Owner. Contractor reserves the right to make minor, non-material changes in the plans and specifications, for the purposes like but not limited to: mechanical, electrical installation, building code and normal architectural design changes subsequent to the date of this agreement. **Any changes of a material nature, including without limitation changes that would affect the elevation or floorplan of the Building, shall require the Owner's prior written consent. Email approval is not-acceptable as written consent, everything must be completed in docuSign. EXCEPT HVAC duct chase as this will adjust every home interior wall layout.**

C-4) CONTRACTORS CHANGES MATERIALS;

- A) In the event that materials or components selected as optional items are not available due to unforeseen circumstances, Contractor shall have the right to install or construct replacements for the optional items in whole or in part, provided such replacements are of similar quality.
- B) If the item that needs replaced is a selection of a fixture or upgrade, the item must be approved in advance by Owner, and Owner shall receive a refund for any payments made for options that were not installed or Owner shall receive a pro rata or appropriate refund for the portion omitted. If Contractor for any reason is unable to install a standard option, Owner may select a replacement option of similar quality and appearance or, if a replacement option is not available, receive a refund from the Contractor equal to the Contractor's cost of the standard option.

C-5) CONTRACTORS PERMITS Contractor will be responsible for getting the building permit approved only, any fees occurred at the county must be paid by the homeowner. All other permits are the responsibility of the owner including but not limited to Site work approved, health department approval, HOA approval, Demolition approval, Septic & well approved, V-dot, corps of engineers, city sewer, water, electrical and gas approval. Owner shall provide and pay for electric, water, sewer, and heating fuel or energy to be used during the course of construction.

Contractor Agreement: _____ and _____

C-6) CONTRACTOR'S WORK:

- A) Owner agrees not to interfere with the progress of the work. Should the Owner interfere with the construction or fail to approve scheduled payments in accordance with the terms of this Agreement, Contractor may consider such failure a breach of this Agreement and such breach will excuse Contractor from further performance. In such event, Contractor shall promptly receive all sums due hereunder for work performed plus a 20% management fee.
- B) Owner agrees to communicate to the required staff member of the contractors. Any communication with other sub-contractors, vendors employees or the like that is hired by the contractor is strictly prohibited.
- C) Owner agrees not to enter the property for any reason what-so ever as construction is taking place unless accompanied by the required employee of the contractor. The owner and agreed upon employee of the contractor must meet outside of the physical property unless inspection is taking place. If this prevision is breached multiple incidents the owner could be fined unto \$150 to \$500 per incident. Multiple violations of this section can account as a breach of contract.

C-7) CONTRACTORS INSURANCE / RISK OF LOSS: Contractor shall carry general liability and workman's compensation insurance to cover and protect Contractor against Contractor's risk of liability and risk of injury (including death) to employees and subcontractors associated with the work. Homeowner must get insurance called "builders risk" for the lot in mention.

C-8) COMPLIANCE WITH CODES / ADDITIONAL COSTS:

- A) Contractor shall be responsible, at Contractor's cost and expense, to comply with this agreement for the construction of the Building.
- B) In the event that any municipality or governmental ordinance, code or regulation requires changes including but not limited to plumbing, electrical, HVAC, structural, foundation and framing or other requirements different from or in addition to that called for by this Agreement, Contractor shall advise Owner in writing and owner is responsible for the additional costs due to the changes. If above said authorities force the owner to adjust the plans the \$10,000 fee is waved but the owner is still responsible for the cost of the changes if any. If an option is purchased (say a wet bar) and is refused by authorities the owners will receive the cost paid refunded in full with-out a \$10,000 fee penalty.

C-9) COPYRIGHT AND CONTRACTORS HOUSE PLANS:

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- A) The house plans of herein stated Building are the property of the Contractor and will not be distributed in any manner for any reason without sole permission of Contractor.
- B) Owner will be fined \$25,000 per page or the maximum allowed by the state of Virginia for pre-determined liquidated damages if Owner or its agent uses the house plans beyond the scope of this Agreement and without written permission of the Contractor.
- C) As house plans are confidential property of Contractor, Owner is not entitled to copies of details, architectural drawings, or any material belonging to Contractor that is not public information.
- D) Owner will receive first floor, basement, Second floor plans showing framing dimensions.(drywall, addition trim, 2x6 exterior walls will reduce the dimensions). The owner will have Front elevation, Sides elevation and rear elevation of the home.

D) HOMEOWNER

D-1) LOCKING SYETEM (homeowner changes):

Home owner understands that once each step has been locked there is major progress started on the project. **Changes to the process after the agreement has been locked has delays and will occur a \$10,000 fee plus the cost of the option that is being added if necessary, even deleting or changes items that have no charge will still occur a fee of \$10,000.**

- Lock #1-Footprint (exterior walls on three floors)
- Lock #2-Front Elevation
- Lock #3-Final Price work up
- Lock #4-Interior wall layouts
- Lock #5-All color selection, section A2-red-grading plan options, small cash options.

D-2) PLACEMENT OF BUILDING EXCAVATION:

- A) Homeowner with their own funds and separate contract unrelated to the contractor, will have the building ground excavated, and site stakeouts posted by a grading plan engineer.
- B) The contractor will then place the building based on the grading plan engineers marks.
- C) Contractor holds no responsibility of the location of the building.

D-3) OWNER INSURANCE;

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Owner Initials

Contractor Initials

A) Builders risk. Owner to obtain Builder's Risk Insurance, and will add Contractor as additional insured. This should protect from non-contractor or non-third party vendor injury, vandalism, fire during construction etc.

B) Homeowners insurance. The Contractor only warranties the home itself, not damage to personal property due to warranty issues this should be covered by homeowners insurance. This is purchased after the homeowner moves into the home.

D-4) OWNERS LENDERS: Due to the administration cost of doing business with multiple lenders and potential delays to construction and other risks due to possibly varied draw schedules of multiple lenders, Contractor has devised a Preferred Lenders list. Contractor reserves the right to abstain from this Agreement if a lender other than one approved by Contractor is used.

D-5) UNAUTHORIZED WORK BY OWNER IN THE BUILDING:

A) Only Contractor and Contractor's agents are authorized to work on Building construction. Owner or Owner's agents or any agent hired or not hired by Contractor shall not conduct any work in any manner during the construction period that is not listed in this agreement.

B) All and any material in the home must be provided by the contract and listed in this agreement. If you are promised something from the superintendent, owner, sales person of any other staff or vendor VIA verbal statements, emails, faxes or the like are completely void unless contained in this agreement or its addendums.

C) All changes must be made in docusign.

D) Any violation of this stipulation will be considered a "back door deal" and a serious violation of this agreement and may account as a breach of contract.

E) Any unauthorized individual including Owner and Owner's agents must only enter the Building at the specified times allocated by Contractor on request from the Owner in writing. Entry at all other times will be considered trespassing.

D-6) BACK DOOR DEALS AND COMMUNICATIONS-

A) The homeowner agrees not to install anything during the duration of the construction process. All items must be installed per this agreement.

B) **All and any communications about features, prices options, or the like must be done with the assigned sales person before construction begins and superintendent, owner or project manager after construction begins.** If the superintendent says an option or feature is included in the price it is not valid until it is ratified in the contract by both parties VIA dousign

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- C) Any items found in the home not authorized in this agreement and addendums will be removed.
- D) If it is obvious that the homeowner installed or paid a vendor, employee or the like to install an unauthorized item, the items the item will be removed at the owners cost.

D-7) POST CONSTRUCTION WORK BY OTHERS:

- A) If the owner has work completed on the home, post settlement, Owner hereby agrees that in such instances, that work will not be warranted by Contractor, and that entire task is completely voided by the contractor, vendor or manufacturer. So if electrical changes are added the entire electrical system is now voided.
- B) Homeowner changes to the Electrical, plumbing, HVAC, removing of siding or other exterior covering, attached sunroom, finished basements, Drilling into the home from the outside will void the said warranties. **Contractor recommends changes to the home after the warranties have expired.**

D-8) SITE WORK DURING CONSTRUCTION:

- A) Owner agrees that during the contractors construction process the owner will only attempt to complete the minimum tasks required to complete the site work.
- B) The owner agrees to refrain from any construction unnecessary to obtain the site work inspection. This includes but is not limited to Pools, fences, landscaping (only what is required), decks, Patios, sheds, detached garages, extravagant or unnecessary driveways, koa or other ponds, fountains, tree houses, swing sets, etc. All of theses tasks must be completed after the building final inspection is completed.
- C) The Contractor will take effort not to damage any of the owners property. However the contractor takes no liabilities to owners responsibility or property. If damage is caused to the owners site work responsibilities or property like landscaping, driveways, fences, pools, drain pipes or the like the contractor is not liable in any way. Both the Contractor and Owner agree to do most of the finial site work (owners responsibility) after the contractor has started paint as to minimize damage to the site work and property.
- D) The owner has every right to enter the property, however during the home construction the owner agrees to stay 10' away from the structure.
- E) Once drywall and doors are installed; the owner agrees not to enter the home at anytime for any reason, unless the homeowner is inspecting the home based on pre-agreed upon time.

D-9) UNUSUAL CONDITIONS:

- A) In the event that the Contractor encounters any unusual conditions during the course of construction, including but not limited to, rock, quicksand, sinkholes, water, springs

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or other conditions requiring additional work has to be completed by a third party vendor paid separately by the homeowner. Rare events that may occur such as rock by blasting or drilling or by their special excavation, or adding river stone and controlled backfill.

- B) In the event that the foundation has to be strengthened a third party engineering firm will confirm the additions and the Owner will be responsible for the charges. This includes thickness of the slabs, footers or walls, Frost footers, additional sump-pumps or drain tile, additional concrete pumps,
- C) Contractor shall promptly give Owner written notice thereof of work that needs to be completed by the contractor. If the contractor is needed to make adjustments to the home a written estimate of the cost of such additional work shall be given to the client with-in five (5) days. Owner shall have the option of agreeing for Contractor performing the extra work or of terminating this Contract. Owner shall give the Contractor written notice of his election within five (5) days of Owner's receipt of the Contractor's notice. If Owner elects to terminate this Agreement, Owner shall pay to the Contractor upon receipt of an invoice and final lien waivers for work performed, the costs of labor and materials performed and furnished by Contractor to the date of the Contractor's notice to the Owner, plus an additional ten percent (10%). The Contractor shall apply any advances made by the Owner to such payment due from the Owner upon termination as aforesaid and shall refund the excess, if any. If the Owner fails to reply in writing within ten (10) days of the Contractor's notice, the Contractor, may, at its option, elect to treat this Agreement as terminated and Owner shall be liable for the payments upon termination as set forth herein above. Contractor shall give Owner written notice of said election via Email.
- D) In the event Owner elects to proceed with the additional work and Contractor determines that the actual costs will exceed the estimate during the course of completing any such additional work, Contractor shall obtain Owner's approval prior to performing any work in excess of such estimate. In the event Owner does not agree to Contractor's estimate of the additional cost, or any revision thereof, Owner may terminate this Agreement and, upon Owner's receipt of final lien waivers from Contractor for all work completed to date, Owner shall pay Contractor for such work performed to date.
- E) In the event that additional concrete is required for deeper footers than the size shown on the drawings, or a concrete pump is required more than one time, due to site or unforeseen weather conditions, upon prior written authorization from Owner, Contractor may supply and install the additional concrete and / or provide additional concrete pump, and Owner agrees to reimburse the Contractor for the additional costs.

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D-10) UNUSED MATERIALS: It is understood and agreed that the Owner shall not be entitled to any unused material which has not been incorporated into the construction.

D-11) NO LIABILITY FOR WORK OF OTHERS:

- A) As a convenience to Owner, Contractor may recommend subcontractors, lenders, surveyors, attorneys and the like with which it regularly does business with to assist in the Owners responsibilities.
- B) Contractor assumes no liability for the performance of work by said parties, and Owner agrees that any services performed by said parties are rendered solely for the benefit of Owner.
- C) Owner agrees that recommended vendors for the Owners responsibility by the contractor to the homeowner, are not mandatory and contractor is not responsible for the site work or third party activities for any reason whats so ever. **This includes number of steps in garage, steps in the front stoop and steps on the rear walk-up, or window wells.**
- D) Contractor assumes no liability for location of buildings on the lot, provided building is located near (with-in a few inches) or exactly where surveyor staked the lot and grading plan requirements.

D-12) SAFETY AND ACCESS TO BUILDING:

- A) Owner shall not have access or entry to the Building unit during construction without prior written approval of Contractor, nor may Owner store any of its possessions in or about the Building unit or the construction site prior to the delivery of possession to the Owner hereunder.
- B) Any violation of this provision that adversely impacts the build process, at the election of the Contractor, may be considered a material breach of the Agreement and, in addition to any other remedies available to it, Contractor may declare this Agreement terminated, and, in such event, any amount paid toward the Contract Price may be retained by Contractor as fixed and liquidated damages.
- C) Further, should Owner enter the Building at any time in violation of this paragraph, Owner will be making unauthorized entry and Contractor assumes no liability or responsibility for any injuries suffered by Owner and Owner indemnifies Contractor from any and all loss or damage arising therefrom. Escorted access is allowed and will be provided by Contractor to Owner at the time of scheduled walk-throughs. Contractor shall provide Owner with convenient and consistent times for such walk-throughs, throughout the construction process.

D-13) UTILITIES:

- A) Contractor does not connect to any Utilities beyond 1 foot past the foundation.

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- B) Owner will be responsible for any incurred costs for running any utilities including gas, water, sewer, power and cable to the property line.
- C) Please note the HVAC is turned off during drywall sanding. It will be the responsibility to provide propane tanks during the drywall phase in the winter if needed.
- D) Propane tanks will be needed through out winter if the heat is not activated.

D-14) HOMEOWNER PERMITS: Owner shall be responsible for paying for, at the Owner's expense, all necessary permits or authorizations from all applicable local and/or State and Federal bureaus or departments, including, but not limited to, any and all building permits, site plans, Corps of Engineers, or utilities which may be required for the construction or occupancy of the Building. Owner shall provide and pay for electric, water, sewer, and heating fuel or energy to be used during the course of construction.

The contractor will be responsible for all requirements from the county, in terms of building permit, except for the cost of the permit itself. The Contractor at their own expense get the permits approved by the county however any fee's will be the responsibility of the owner.

D-15) INDEX OF ADDENDUMS (with lock #'s)

- Addendum #1 -Responsibility (lock #1)
- Addendum #2-Standard features (lock #1)
- Addendum #3-Basement specs (lock #1)
- Addendum #4-Footprint of the home (lock #1) (exterior walls all three floors, max bedrooms and bathrooms)
- Addendum #5 (a) 50 year squeak free warranty
- Addendum #5 (b) Roof shingle warranty
- Addendum #5 (c) Foundation structure warranty
- Addendum #5 (d) Carpet/SPC Floor/Tile warranty
- Addendum #5 (e) Drywall and paint
- Addendum #5 (f) Appliances warranty
- Addendum #5 (g) Fixtures and faucets
- Addendum #5 (h) Electrical, Plumbing, HVAC Labor Disclaimer and warranty.
- Addendum #6 -Front elevation (lock#2)
- Addendum #7-Final options and price work up (lock#3)
- Addendum #8-Draw schedule 9 (lock#3)

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Addendum #9-Coupon (lock#3)

Addendum #10- Interior wall layout (lock#5)

Addendum #11-All Color selection (lock#5)

Addendum #12-Cash receipt for additional options. Cash receipt for section A2- or added to site work contingency draw payments at 1st hard draw.

Both parties understand that the third party engineer and bank/escrow information **can not** be released to the said parties until lock #3 is completed and can not be changed.

Addendum #8-Interior wall layout (lock #4)

Addendum #9-All color selections (lock #5)

Addendum #10-Cash receipt For site work issues (red section A, or additional purchases outside of lock#3) (lock#5)

Both parties agree that there will be no architectural, structural engineering or administrative work started until all five locks are completed and the soft draw is received from the bank or escrow to the builder.

E-AGREEMENTS

E-1) ENTIRE AGREEMENT / CHANGES:

- A) It is understood and agreed that the entire agreement of the parties is contained in this construction Agreement, plans and specifications. THE PARTIES WARRANT THAT THERE EXISTS NO OTHER AGREEMENTS, WRITTEN OR ORAL PERTAINING TO THIS TRANSACTION.
- B) No changes will be made in the plans and specifications unless a work-change order has been prepared in writing, signed by the Contractor and Owner though docusign, specifically stating the details of the change in construction and the additional cost thereof and fees associated with adjusting the contract.
- C) Contractor reserves the right to refuse to approve changes to the plans and specifications after this Agreement is ratified.
- D) Any changes requested by Owner and agreed by the Contractor shall require payment prior to work being performed. Further, such changes may cause delay in completion of construction.
- E) PLEASE see section D-1) of this contract about \$10,000 re-open fee once the contract is locked up.

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E-2) ORAL STATEMENTS OR PROMISES/Emails or the like:

- A) If Owners are entering into this Contract in reliance on any oral, email or other form of communications; representation or promise about (a) the New Home, (b) the Limited Home Warranty, (c) price increase or decrease, (d) standard features, options, or upgrades, (e) cost or interest rate of mortgage loan, (f) broker commission, (g) closing cost credits or (h) any other statement, representation, or promise (collectively being herein after termed "statements") that is not part of this written body of this Contract, such statements must be written by Owner and ratified VIA Docusign.
- B) Owner acknowledges that this contract cannot be amended or modified in any way by oral statements, emails, faxes, promises or the like.
- C) If no statements are written in this agreement, or in attached Addendums, Owner acknowledges that no oral statements are a part of this contract.
- D) Owner acknowledges that Contractor is under no obligation to accept or ratify any oral statement, emails or promise made by any person, including Contractor's sales representative or agents, unless it is docusigned by both parties.

E-3) BINDING EFFECT: This Agreement shall be binding upon the parties, their heirs, executors, administrators, successors and permitted assigns.

E-4) AGREEMENT NOT ASSIGNABLE: This Agreement shall not be assigned by Contractor or Owner.

E-5) DEFAULT FEES AND LIMITATIONS OF LIABILITIES

- A) If a dispute arises and all parties exhausted their attempts at a resolution, Each party is responsible for their own attorney fees towards arbitration. Arbitration fees will be split between parties equally.
- B) Before construction begins, the maximum amount the contractor or owner can be responsible is the total amount of the deposit.
- C) The maximum amount the contractor or owner can be liable for during construction for construction related items is \$30,000, and the 10% of the last draw amount deposited.
- D) After the building has passed final inspection and the owner takes possession the maximum the contractor can be liable for is \$50,000.
- E) If the contractor is not proven to be in breach of contract, and the owner has another builder or contractor finish the home with-out written consent via docusign of the builder the owner has to pay the full draw amounts due of the started tasks plus \$50,000.
- F) The owner, its agents or hired vendors are strictly prohibited for any work in the home during the construction of the building.

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G) Both parties agree not to wave their right to file a class action law suite and agree that dispute resolution (E-6) below is legally binding.

E-6) DISPUTE RESOLUTION during construction: Any and all disputes between the parties relating to or arising out of any alleged breach of this Agreement, the Work, any alleged breach of a statutory obligation, any claim for damages against Contractor, any claim for negligence, fraud, breach of express warranty, breach of implied warranty, any consumer protection action violation, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to any form of binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Contractor’s services and/or work, the Contractor may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution. The Owner and Contractor shall endeavor to resolve claims, disputes, and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be conducted by The McCammon Group. Unless otherwise agreed in writing, the mediation shall be conducted in accordance with the construction Industry Mediation Rules of the American Arbitration Association currently in effect. The parties shall share the mediator’s fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. If the parties do not resolve a dispute through mediation pursuant to this section, the method of binding dispute resolution shall be litigation in the Circuit Court of county the home is being built or the U.S. District Court for that County. Both parties specifically waive their rights to a jury trial or class action law suits. to resolve any and all claims, including but not limited to those sounding in contract, tort, or statute, against the other arising out of or connected in any way to the Project or this Agreement because the parties hereto believe that the complex aspects of their dealings with one another make a jury determination neither desirable nor appropriate. This Agreement shall be governed by the law of the State of Virginia. Notwithstanding any other provision in this Paragraph or in this Agreement, Owner agrees that Contractor shall have the right to file and pursue in the applicable court(s) any statutory lien allowed by law in Virginia or any other state where the Contractor is performing under this Agreement.

1) TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, OWNER EXPRESSLY WAIVES THE RIGHT TO SUE FOR SPECIFIC PERFORMANCE OF THIS AGREEMENT AND FOR ANY CLAIMED RIGHT TO ALLEGE THAT THE

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REMEDIES AND/OR OBLIGATIONS CONTAINED HEREIN LACK MUTUALITY. All disputes must be settled VIA dispute resolution.

E-7) NON-COMPETE CLAUSE

- A) The owner agrees to not contact or use any vendor or subcontractor of the Contractors for any reason; the owner must get approval of construction activities by the said vendor or subcontractor in writing approved via Docusign.
- B) The owner is strictly prohibited to use any Sub contractor or builders vendor that has worked on the project for business related issues. This includes recommendations to other parties.
- C) Using the contractors sub-contractors to build anything outside the said address is prohibited. This will be considered a serious violation of the contract, and the owner maximum limitation per incident is \$50,000 (fifty thousand dollars).
- D) Owner agrees that they are not a registered homebuilder or remodeler, and do not plan to become a homebuilder, contractor, remodeler or general contractor for a minimum of 5 years, after the ratification of this contract. Unless previously agreed to. This includes becoming a class-a license holder or hiring a class-a license holder as an employee.

E-8) ADVICE NOT BINDING: Any advice on any topic, including Owner's responsibility, given by an employee, commissioned or salaried, is not in any way the responsibility of Contractor and is not binding.

If requested by Owner, Contractor will provide an estimate of the cost of the Owners responsibilities and other expense outside based on Contractor's general knowledge of site work required on residential lots. Owner hereby acknowledges and agrees that such site cost estimate is a very rough estimate only, is not part of this Agreement and is not binding in any way on Contractor. It is the Owners responsibility to complete the tasks listed on the "owners responsibility" and Owner hereby waives and releases any and all claims against Contractor based on or otherwise concerning any such site cost estimate.

E-9) Representations of square footage are approximate, estimated by a third party firm, it is calculated using exterior dimensions and are not made part of this Agreement. Owner hereby represents that any statements made by Contractor, or any

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agent or representative of Contractor, not set forth in writing in this Agreement are completely void.

F-MEETINGS AND INSPECTIONS

F-1) INSPECTION / OCCUPANCY:

- A) Contractor shall at any reasonable time permit Owner to inspect said construction and Building jointly with contractor and owner.
- B) Owner shall not be entitled to keys or possession of Building prior to payment of all sums due under this Agreement.
- C) IN NO EVENT SHALL THE OWNER OCCUPY OR TAKE POSSESSION BEFORE FINAL PAYMENT HAS BEEN MADE AND/OR THE OWNER OBTAINS PRIOR WRITTEN CONSENT OF THE CONTRACTOR Through DOCUSIGN. IN THE EVENT OWNER BREACHES THIS PROVISION THEY SHALL BE DEEMED TO HAVE ACCEPTED THE HOME "AS IS" AND DOES THEREBY WAIVE ANY CLAIMS AGAINST CONTRACTOR TO COMPLETE THE BUILDING OR OTHERWISE.
- D) A breach of this provision by the Owner shall be considered a breach of the contract by the Owner and shall entitle the Contractor to stop work or terminate this contract and recover from the Owner payment for all work executed and a profit of twenty percent (20%).
- E) Contractor is not obligated to have any inspection of the Building, after the final building inspection is approved, and the only work items Contractor is obligated to perform after the occupancy, is the warranty work.
- F) Once contractors warranties expire the statue of limitation against the contractor expires. Manufactures and vendor warranty may still be valid however the statute of limitation against the manufacture expires at the end of their warranties, The written warranties on **addendum # 12 to addendum #14.**

F-2) NOTICE OF COMPLETION / FINAL INSPECTION/PRE-SETTLEMENT WALK THROUGH:

- A) Except as set forth herein above, the dwelling shall be considered completed when (i) it has been constructed in substantial conformity with the plans and specifications herein above mentioned, and (ii) when said dwelling house has passed final inspection by the county building inspector. Site work is the responsibility of the owner, the building final is responsibility of the contractor.
- B) Upon completion of performance under this Agreement, Contractor shall give Owner notice of said completion and Owner shall thereafter, within ten (10) days of said

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notice by Contractor, inspect the premises with a representative of Contractor and advise Contractor, in writing of any defects, deficiencies or deviations in material or labor. This will be called the Pre-settlement list PUNCH OUT LIST. The drywall will be inspected form 4 feet away or more.

- C) Once these items are completed Cosmetic items like, scratches, dents, dings, chips, burns, cracks etc are not warranted, only what is listed in the warranties will be warranted. Contractor shall promptly, at Contractor's cost and expense, correct such defects, deficiencies or deviations .
- D) If there is a dispute between the parties as to whether or not any item is a defect, deficiency, or deviation, then such dispute will be submitted to the building architect or engineer and the reasonable decision of the architect shall be binding on the parties.
- E) Failure of Owner to list the item on the Pre-settlement PUNCH OUT LIST, shall be deemed a waiver of any claim thereafter by Owner of any defect, deficiency or deviation, except for any defects or items covered by warranty, and Owner does hereby release Contractor from any claim arising there from.
- F) Contractor will not be responsible for settlement of yard, after the final grade, seeding and fertilizing. The contractor will not be responsible for environmental causes or issues to the home once the owner has moved n including mold, radon, or the like.
- G) Once the owner takes possession of the home the owner must get homeowner insurance that covers leaks, sump pumps, fire and water damage, including flood insurance if needed and the like.
- H) The Builder its staff and vendors are responsible for the warranty items and not the damage caused this item. This is the responsibility of the insurance company to reimburse the builder for any major damage. Most non major damage that occurs that is serviced by the builder is complimentary and not required.

F-3) If occupancy permit is denied by the local government agency due to incomplete or defective work items for which the Owner is responsible, then the Contractor at his sole discretion may complete such items and the Owner agrees to pay the Contractor his costs plus 20%.

F-4) LIMITATIONS OF LIABILITY:

A) It is understood and agreed that the Contractor's liability for any defects in construction is limited to the remedy provided in the “one year” “two Year” "Ten Year Structural Warranty" and “third party warranty listed to be provided in this contract . Once the Contractors warranty expires the statute of limitation for any liability against the contractor expires, third party vendors, product manufacturers (like fireplace company) third party warranty companies still apply.

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B) Under no circumstances shall the Contractor be liable for any special, indirect or consequential damages, including without limitations any damages based on a claimed diminution (appraisal) in value of the home, even if Contractor has been advised of the possibility of such damages, unless there is gross negligence on the part of the Contractor.

C) Moreover, the Contractor expressly disclaims liability and the Owner expressly waives any and all claims for property damage and/or personal injury resulting from environmental conditions, including but not limited to radon gas and formaldehyde.

F-5) PRE-CONSTRUCTION MEETING;

A) Before construction begins a pre-construction meeting takes place during normal business hours.

B) In this multi-hour meeting all the plans will be reviewed, no changes can be made. All contract, addendums and the like will be reviewed, finalize all specifications and options pertained to the construction of Owner's home, as well as approve any revised draw schedules.

C) In the event the loan amount is less than the contract amount, the owner agrees to pay the difference in cash at that moment or the item will be deleted.

F-6) MOLD INSPECTIONS:

A) A few days before or the day of settlement the owner can request the contractor will get a third party mold test completed,, with the builders own funds. **Once the mold test has passed; it is the sole responsibility for the owner to prevent, remedy or destroy any mold.** The owner indemnifies the contractor of any mold issue once the owner have gone to settlement.

B) Mold is a naturally occurring biological agent, that may be associated with defects in construction. Contractor’s liability related to or regarding mold at the Property during construction shall be limited to only remediation any property damage caused by such mold. After Construction mold is the owners responsibility

C) Contractor shall have no liability for all other damages related to or regarding mold, including, but not limited to, personal injury, loss of income, emotional distress, loss of use, loss of value, and adverse health effects. This includes during and after construction., no mater what the cause.

D) Any implied warranties, including an implied warranty of workman-like construction, an implied warranty of habitability, or an implied warranty of fitness for a particular use, are hereby waived and disclaimed. All warranties are contained in this agreement.

F-7) PRE-DRYALL INSPECTION: Before insulation and after all interior rough-ins, the Owner and there agent will have the opportunity to inspect the entire building and make note of all the defects if any to the contractor in writing per the PRE-DRYWALL

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inspection. Reports, lists, infections before this meeting will not be reviewed until this meeting as many small issues are often left out until the pre-drywall punch out prior to the meeting.

G-MARKETING

G-1) BUILDING USE:

A) Contractor reserves the right to show Building to prospects and potential clients prior to Owner receiving occupancy permit and right to the home; provided that Contractor shall and does hereby indemnify Owner from any and all claims, losses and damages, including without limitation damage to property and injury or death to persons, arising from such prospects and potential clients entering onto the Lot.

B) Contractor reserves the right to use photographs of Building in advertisements during and after construction completion, without prior consent of and any compensation to Owner.

C) After occupancy, Owner may not request Contractor to abstain from using completed home photographs, video or the like.

D) Contractor reserves the right to release & discuss, any public information of the building.

G-2) SIGNAGE: After contract ratification and until completion of construction contract, Contractor has the option to install a sign on the property, subject to all applicable laws and ordinances. The maximum size of the sign (not including posts) should not exceed 4 ft in width and 8 ft in height.

G-3) STORAGE IN HOUSE: The Owner or any of its representatives shall not at any time during construction store any items inside or outside the Building or buildable area during construction. Contractor reserves the right to remove such material from the site after verbally or in writing notifying the Owner at Owner's expense or stop construction unless such material is removed. Contractor will not be held responsible if stored material is stolen or vandalized.

G-4) Owner also acknowledges that advertising and promotional materials (including but not limited to the model homes, advertisements, brochures and sales literature such as price lists, standard features list, options and packages lists) as well as any prior written or oral statements or representations made by any agent or representative of Contractor, are not enforceable against the Contractor and are not a part of this Agreement unless included herein in writing.

H-RIGHT TO PRIVACY

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H-1) CONFIDENTIALITY:

- A) Owner understands that this Agreement represents a private, contractual relationship between Owner, owner occupants and Contractor and that the maintaining of the privacy of this relationship is essential to each party’s successful performance under this Agreement.
- B) In furtherance thereof, Owner covenants and agrees that the financial terms of this Agreement, as well as any and all claims or disputes which arise out of this Agreement, including, without limitation, any warranty given by Contractor to Owner under the terms of the Agreement (hereinafter, collectively, the "Confidential Information") shall not be disclosed, discussed or otherwise communicated by Owner to any third party (other than to Owner’s legal counsel and Owner’s Lender as required in connection with any financing), including, without limitation, members of the media, websites, blogs, etc about the Contractor, unless subpoenaed and required to do so by a court of competent jurisdiction.

H-1) NON-DISPARAGEMENT:

- A) All disputes must be held in private under the rules of dispute resolution The owner can comment directly and verbally only to individuals however disparaging, slander or other negative comments or all online posts, blog, media reports, flyers, or any other mass media are prohibited, unless stated in a post mediation agreement.
- B) Owner and contractor shall not at any time disparage, or slander each other about the building or process to any website, chat room, social media or traditional media platform, blog, organization or entity.

2) **BREACH:** Any breach by Owner of the foregoing Confidentiality and Non-Disparagement covenants shall constitute a material breach of condition and material default under this Agreement. If the breach is caused by an on-line post of any kind. The owner must remove it immediately. If after a cease and desist order is delivered to the client a fee of \$500 (weekly) can be added to the damages if the post is not removed.

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