



AIA[®] Document A111[™] – 2021

Standard Form of Agreement Between Owner and Home Builder for Construction of a Single Family Home

AGREEMENT made as of the _____ day of _____ in the year _____
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

and the Home Builder:
(Name, legal status, address, license or registration number, and other information)

for the following Project:
(Name, location, and detailed description. Provide legal description and any statutorily required description of the property)

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

FEDERAL, STATE AND LOCAL LAW MAY IMPOSE REQUIREMENTS ON CONTRACTS FOR RESIDENTIAL CONSTRUCTION. THE OWNER AND HOME BUILDER SHOULD CONSULT LOCAL AUTHORITIES OR AN ATTORNEY TO VERIFY REQUIREMENTS APPLICABLE TO THIS AGREEMENT.

The Owner and Home Builder agree as follows.

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ARTICLE 1 INITIAL INFORMATION UPON WHICH THIS AGREEMENT IS BASED

§ 1.1 The Owner's representative:

(Name, address, email address, and other information)

§ 1.2 The Home Builder's representative:

(Name, address, email address, and other information)

§ 1.3 The Owner will retain the following consultants and separate contractors:

(List name, discipline, legal status, address, and other information.)

§ 1.4 The Home Builder's key personnel are identified below:
(Identify name, title, and contact information.)

§ 1.5 The Home Builder shall retain the following contractors, subcontractors, and suppliers:
(List name, discipline, address, and other information.)

§ 1.6 The Contract Documents

The Home Builder shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Home Builder;
- .2 the drawings and specifications, dated and enumerated as follows:

Drawings:

(Either list the drawings here or refer to an exhibit attached to this Agreement.)

Number

Title

Date

Specifications:

(Either list the specifications here, refer to an exhibit attached to this Agreement, or refer to the drawings included in Section 1.6.2.)

Section

Title

Pages

- .3 written orders for changes in the Work, pursuant to Article 8, issued after execution of this Agreement; and
- .4 other documents, if any, identified as follows:

ARTICLE 2 STATUTORY AND OTHER REQUIREMENTS

§ 2.1 Consumer protection notice requirements:

(State or local law may require inclusion of specific consumer protection notices for residential projects. Insert any statutorily required language and information here and attach specific documents required by statute, if any. Identify the documents in Article 18.)

§ 2.2 Warranty requirements:

(State or local law may require inclusion of specific warranty requirements for residential projects. Insert any statutorily required language and information here and attach specific documents required by statute, if any. Identify the documents in Article 18.)

§ 2.3 Mechanic's lien notification requirements:

(State or local law may require inclusion of specific mechanic's lien notification or related requirements for residential projects. Insert any statutorily required language and information here and attach specific documents required by statute, if any. Identify the documents in Article 18.)

§ 2.4 Jurisdiction and jurisdiction-specific requirements:

(List the pertinent governmental authorities having jurisdiction over the Project and provide, as applicable, any municipal, flood, environmental protection, sustainability, historic preservation, zoning and other unique or site specific jurisdictional requirements.)

§ 2.5 Other statutory requirements:

(Insert any other statutorily required language and information here and attach specific documents required by statute, if any. Identify the documents in Article 18.)

§ 2.6 Additional requirements upon which the Agreement is based:

(Identify special characteristics or requirements of the Project not identified elsewhere, such as property or site covenants, conditions, and restrictions; and Homeowners' Association requirements. Attach specific documents, if any, and identify the documents in Article 18.)

ARTICLE 3 CONTRACT TIME

The Home Builder shall commence construction and achieve Substantial Completion of the Work, as defined in Section 11.2.1, as follows:

(Insert the calendar dates for Commencement of Construction and Substantial Completion. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Date of Commencement of Construction:

Date or dates of Substantial Completion:

The dates of Commencement of Construction and Substantial Completion are subject to adjustments as provided in the Contract Documents.

ARTICLE 4 CONTRACT SUM AND PAYMENTS

§ 4.1 Contract Sum

§ 4.1.1 The Owner shall pay the Home Builder the Contract Sum, in current funds, for the Home Builder's performance of the Contract subject to additions and deductions as provided in the Contract Documents. The Contract Sum shall be the following:

(Insert a stipulated sum or other provision for determining the Contract Sum.)

§ 4.1.2 Allowances:

(Identify any agreed upon allowances, including a statement of their basis. Unless otherwise provided, allowance amounts do not include the costs for delivery and unloading at the Project site, labor, installation, overhead and profit, or similar costs.)

§ 4.1.3 Home Builder's assumptions, exclusions, and clarifications:

(Either list here or refer to an exhibit attached to this Agreement.)

§ 4.2 Payments

§ 4.2.1 Payments shall be made in accordance with the schedule below:

(Provide payment amounts and milestones for when payments are to be made, or refer to an attached exhibit.)

Amount

Milestone

§ 4.2.1.1 Identify documentation that must be provided, or state other conditions that the Home Builder must meet, for any or all of the payments to be made by the Owner.

(Provide any Owner requirements for payment to be made, such as lien releases or other proof of payment to subcontractors or suppliers, third-party inspection requirements, etc., or refer to an attached exhibit.)

§ 4.2.2 Based upon the payment schedule established in section 4.2.1, the Owner shall make payments to the Home Builder not later than _____ () days after the Home Builder notifies the Owner in writing that payment is due and provides all documentation or other data substantiating the Home Builder's right to payment as the Owner may require pursuant to Section 4.2.1.1.

§ 4.2.3 If payments are made pursuant to a payment schedule established by a construction lender, payments are subject to satisfaction of all requirements imposed by the construction lender. If requested by the Home Builder, the Owner shall provide a copy of the lender's requirements to the Home Builder.

ARTICLE 5 INSURANCE

§ 5.1 The Home Builder shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 13.2, subject to the terms and conditions set forth in this Section 5.1.

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than _____ (\$) each occurrence, _____ (\$) general aggregate, and _____ (\$) aggregate for products-completed operations hazard.

§ 5.1.1.1 The Home Builder shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Home Builder's obligations under Section 7.12.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Home Builder, with policy limits of not less than _____ (\$) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 5.1.3 The Home Builder may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers' Compensation at statutory limits.

(States have differing statutory requirements and laws governing workers' compensation and other liabilities for injured workers and other third parties. The parties should consider consulting legal or insurance counsel to make sure appropriate insurance and other provisions are included in this agreement.)

§ 5.1.5 Employers' Liability with policy limits not less than ____ (\$ __) each accident, ____ (\$ __) each employee, and ____ (\$ __) policy limit.

§ 5.1.6 The Home Builder shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.

§ 5.1.7 Other Insurance Provided by the Home Builder

(List below any other insurance coverage to be provided by the Home Builder and any applicable limits.)

Coverage

Limits

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property located at the site. The Home Builder is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.

§ 5.3 Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

§ 5.4 Unless specifically precluded by the Owner's property insurance policy, the Owner and Home Builder waive all rights against each other, and any of their consultants, contractors, subcontractors, suppliers, agents, and employees, each of the other, for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Binding Dispute Resolution

The method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- ☐ Arbitration
- ☐ Litigation in a court of competent jurisdiction
- ☐ Other *(Specify)*

If the Owner and Home Builder do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, claims will be resolved in a court of competent jurisdiction.

§ 6.2 If the parties have selected arbitration as the method for binding dispute resolution, the arbitration, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association (AAA), in accordance with the AAA Home Construction Arbitration Rules and Mediation Procedures in effect on the date of this Agreement. Disputes involving claims or counterclaims that do not fall within the AAA Home Construction Arbitration Rules and Mediation Procedures; or involving more than two parties; or with issues of joinder or consolidation, shall be administered under the AAA Construction Industry Arbitration Rules in effect on the date of this Agreement.

ARTICLE 7 GENERAL PROVISIONS

§ 7.1 Definitions

§ 7.1.1 The Contract

The Contract Documents form the Contract. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only in writing in accordance with Article 8.

§ 7.1.2 The Work

The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided, by the Home Builder to fulfill the Home Builder’s obligations.

§ 7.1.3 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

§ 7.1.4 Intent

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

§ 7.1.5 Day

The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 7.1.6 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.
(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)

§ 7.2 General Requirements

§ 7.2.1 The Home Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 7.2.2 The Home Builder shall perform the Work in accordance with the Contract Documents. The Home Builder shall not be relieved of the obligations to perform the Work in accordance with the Contract Documents by the activities, tests, inspections or approvals of the Owner.

§ 7.2.3 The Home Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities; property or site covenants, conditions, and restrictions; and Homeowners’ Association requirements. If the Home Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, or property or site covenants, conditions, and restrictions, or Homeowners’ Association requirements, the Home Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 7.2.4 The Home Builder shall be responsible to the Owner for acts and omissions of the Home Builder’s employees, and other persons or entities, performing portions of the Work for, or on behalf of, the Home Builder or any of its contractors, and subcontractors.

§ 7.2.5 The Home Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 7.3 Owner's Selections

The Home Builder shall prepare a schedule for Owner's selections of products and materials, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The schedule for Owner's selections shall (1) provide a list of product and material selections to be made by the Owner and the date by which selections shall be made, (2) identify the products or materials for which the Home Builder will provide samples or information for review and consideration by the Owner and the dates by which the samples or information will be provided, and (3) allow the Owner reasonable time to review and consider selections. If the Home Builder fails to submit a schedule for Owner's selections, the Home Builder shall not be entitled to any increase in the Contract Sum or extension of the Contract Time based on the time required for review of selections.

§ 7.4 Construction

The Home Builder shall supervise and direct the Work, using the Home Builder's best skill and attention. The Home Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Home Builder's Work.

§ 7.5 Labor and Materials

§ 7.5.1 Unless otherwise provided in the Contract Documents, the Home Builder shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

§ 7.5.2 The Home Builder shall enforce strict discipline and good order among the Home Builder's employees and other persons carrying out the Work. The Home Builder shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 7.6 Warranty

In addition to any warranty provided by statute, the Home Builder warrants to the Owner that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. All other warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 11.2.3.

§ 7.7 Taxes

The Home Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Home Builder, that are legally enacted when this Agreement is executed, whether or not yet effective or merely scheduled to go into effect.

§ 7.8 Permits, Fees and Notices

§ 7.8.1 The Home Builder shall obtain and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work. The Home Builder shall provide the Owner with copies of all permits, licenses, and inspection approvals.

§ 7.8.2 The Home Builder shall comply with notice and other requirements of agencies having jurisdiction over the Work.

§ 7.9 Use of Site

The Home Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents, and shall not unreasonably encumber the site with materials or equipment.

§ 7.10 Cutting and Patching

The Home Builder shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 7.11 Cleaning Up

The Home Builder shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Home Builder shall remove its tools, construction equipment, machinery and surplus material; and shall properly dispose of waste materials.

§ 7.12 Indemnification

To the fullest extent permitted by law, the Home Builder shall indemnify and hold harmless the Owner from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Home Builder, its contractors or subcontractors, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

§ 7.13 Access to Work

The Home Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress.

ARTICLE 8 CHANGES IN THE WORK

§ 8.1 The Owner and Home Builder may agree in writing upon changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, with the Contract Sum and Contract Time being adjusted accordingly in writing. If the Owner and Home Builder cannot agree to a change in the Contract Sum, the Owner shall pay the Home Builder its actual cost plus reasonable overhead and profit.

§ 8.2 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

ARTICLE 9 OWNER RESPONSIBILITIES

§ 9.1 Information and Services Required of the Owner

§ 9.1.1 Prior to commencement of the Work, at the written request by the Home Builder, the Owner shall furnish to the Home Builder reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract and that any applicable contingencies for funding have been satisfied. The Home Builder shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 9.1.1, the Contract Time shall be extended appropriately.

§ 9.1.2 The Owner shall furnish information about property or site covenants, conditions, and restrictions; Homeowners' Association requirements; and any other special characteristics or requirements of the Project.

§ 9.1.3 The Owner shall furnish surveys to describe physical characteristics, legal limitations, and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the Home Builder requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 9.1.4 The Home Builder shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 9.1.5 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization, where essential to the execution of the Project.

§ 9.1.6 Except for permits and fees that are the responsibility of the Home Builder under Section 7.8.1 and the Contract Documents, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

§ 9.2 The Owner may reject Work that does not conform to the Contract Documents and may require inspection or testing of the Work. If the Contract Documents reference a standard for performance or quality of the Work, failure to meet the standard shall be considered to be non-conforming Work.

§ 9.3 Owner's Right to Stop the Work

If the Home Builder fails to correct Work that is not in accordance with the Contract Documents, the Owner may direct the Home Builder in writing to stop the Work until the correction is made.

§ 9.4 Owner's Right to Carry Out the Work

If the Home Builder defaults or neglects to carry out the Work in accordance with the Contract Documents and fails, within a seven day period after receipt of written notice from the Owner, to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such default or neglect. In such case, the Contract Sum shall be adjusted to deduct the cost of correction from payments due the Home Builder.

§ 9.5 Owner's Right to Perform Construction and to Award Separate Contracts

§ 9.5.1 The Owner reserves the right to perform construction or operations related to the Project, and to award separate contracts in connection with other portions of the Project.

§ 9.5.2 The Home Builder shall coordinate and cooperate with the Owner, and with separate contractors employed by the Owner.

§ 9.5.3 Costs caused by delays, improperly timed activities, or defective construction, shall be borne by the party responsible.

ARTICLE 10 TIME

§ 10.1 Time limits stated in the Contract Documents are of the essence of the Contract.

§ 10.2 If the Home Builder is delayed at any time in the commencement or progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Home Builder's control, the Contract Time shall be subject to equitable adjustment.

ARTICLE 11 PAYMENT REQUIREMENTS AND COMPLETION

§ 11.1 Payment Requirements

§ 11.1.1 The Home Builder warrants that title to all Work for which payment is due in accordance with the schedule set forth in section 4.2 will pass to the Owner no later than the time of the payment. The Home Builder further warrants that all Work for which payments have been received from the Owner shall, to the best of the Home Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

§ 11.1.2 Upon receipt of payment from the Owner, the Home Builder shall promptly pay each contractor, subcontractor, and supplier, any amount owed in accordance with the terms of the applicable contracts and purchase orders.

§ 11.1.3 The Owner shall have no responsibility for payments to a contractor, subcontractor, or supplier, except as otherwise may be required by law.

§ 11.1.4 A payment, or partial or entire use or occupancy of the Project by the Owner, shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

§ 11.1.5 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Home Builder shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Home Builder. If approved by the applicable court, when required, the Home Builder may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 11.2 Substantial Completion

§ 11.2.1 Substantial Completion is the stage in the progress of the Work when the Work is sufficiently complete in accordance with the Contract Documents so the Owner can occupy the Work.

§ 11.2.2 When the Home Builder considers that the Work is substantially complete, the Home Builder shall prepare and submit to the Owner a list of items to be completed or corrected prior to the final payment. Upon receipt of the

Home Builder's list, the Owner will make an inspection to determine if there are any additional items to be completed or corrected that are not on the Home Builder's list.

§ 11.2.3 After the parties agree upon the list prepared in accordance with Section 11.2.2, the Home Builder shall prepare a Certificate of Substantial Completion for the Owner's approval that shall establish the date of Substantial Completion and fix the time within which the Home Builder shall finish all items on the agreed upon list prepared in accordance with Section 11.2.2. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. As of the date of Substantial Completion, the Owner shall be responsible for security, maintenance, heat, utilities, damage to the Work not caused by the Home Builder or its subcontractors, and insurance, unless the parties agree otherwise.

§ 11.3 Final Completion and Final Payment

§ 11.3.1 Upon receipt of notice from the Home Builder that the final payment is due, the Owner will promptly inspect the Work. When the Owner finds the Work acceptable and the Contract fully performed, the Owner will make final payment to the Home Builder in accordance with the requirements of Section 4.2.

§ 11.3.2 Final payment shall not become due until the Home Builder submits to the Owner releases and waivers of liens, and data or documentation establishing payment or satisfaction of all obligations, Claims, security interests or encumbrances arising out of the Contract.

§ 11.3.3 Acceptance of final payment by the Home Builder shall constitute a waiver of all claims by the Home Builder except those previously made in writing and identified by the Home Builder as unsettled at the time of notification that the final payment is due.

ARTICLE 12 PROTECTION OF PERSONS AND PROPERTY

§ 12.1 The Home Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Home Builder shall take reasonable precautions to prevent damage, injury, or loss, to employees on the Work, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Home Builder shall promptly remedy damage and loss to property caused in whole or in part by the Home Builder, or by anyone for whose acts the Home Builder may be liable.

§ 12.2 Hazardous Materials

§ 12.2.1 The Home Builder is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Home Builder encounters a hazardous material or substance not addressed in the Contract Documents, and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Home Builder, the Home Builder shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner in writing. Upon receipt of the Home Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Home Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Home Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Home Builder's reasonable additional costs of shutdown, delay and start-up.

§ 12.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Home Builder, its contractors, subcontractors, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact, the material or substance presents the risk of bodily injury or death as described in Section 12.2 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 12.2.3 If, without negligence on the part of the Home Builder, the Home Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as

required by the Contract Documents, the Owner shall indemnify the Home Builder for all cost and expense thereby incurred.

ARTICLE 13 CORRECTION OF WORK

§ 13.1 The Home Builder shall promptly correct Work rejected by the Owner and failing to conform to the requirements of the Contract Documents. The Home Builder shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 13.2 In addition to the Home Builder's other obligations, including warranties under the Contract, the Home Builder shall, for a period of one year after Substantial Completion, correct Work not conforming to the requirements of the Contract Documents.

§ 13.3 If the Home Builder fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 9.4.

ARTICLE 14 COPYRIGHTS

§ 14.1 The Owner or Home Builder, whichever is providing the Drawings, Specifications, and other documents listed in Section 1.6, warrants that it has appropriate permission from the copyright owner of the Drawings, Specifications, and other documents, to use them to construct the Project.

§ 14.2 The party providing the Drawings, Specifications, and other documents listed in Section 1.6, shall defend suits or claims for infringement of copyrights and shall hold the other party harmless from loss on account thereof.

ARTICLE 15 TERMINATION OF THE CONTRACT

§ 15.1 Termination by the Home Builder

If, through no fault of the Home Builder, the Owner fails to make payment as provided in Section 4.2.2 after a period of 30 days from the date payment is due, the Home Builder may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner payment in accordance with Section 15.3.1.

§ 15.2 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Home Builder shall be entitled to receive payment in accordance with Section 15.3.2.

§ 15.3 Compensation

§ 15.3.1 In the event of a termination under Section 15.1, the Home Builder shall be compensated for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

§ 15.3.2 In the event of a termination under Section 15.2, the Home Builder shall be compensated for Work executed, and costs incurred by reason of such termination, including costs attributable to termination of Subcontracts; and a termination fee, if any, as follows:

(Insert the amount of or method for determining the fee payable to the Home Builder by the Owner following a termination for the Owner's convenience, if any.)

§ 15.4 Termination by the Owner for Cause

§ 15.4.1 The Owner may terminate the Contract if the Home Builder

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to contractors or subcontractors for materials or labor in accordance with the respective agreements between the Home Builder and the contractors or subcontractors;
- .3 repeatedly disregards laws; ordinances; or rules, regulations, or orders, of a public authority having jurisdiction; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

§ 15.4.2 When any of the reasons set forth in Section 15.4.1 exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Home Builder seven days' written notice, terminate employment of the Home Builder and may:

- .1 take possession of the site and of all materials thereon owned by the Home Builder, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 15.4.3 When the Owner terminates the Contract for one of the reasons stated in Section 15.4.1, the Home Builder shall not be entitled to receive further payment until the Work is finished.

§ 15.4.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Home Builder. If such costs exceed the unpaid balance, the Home Builder shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

ARTICLE 16 CLAIMS AND DISPUTES

§ 16.1 Claims

§ 16.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 16.1.2 Time Limits on Claims. The Owner and Home Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to this Agreement within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Home Builder waive all claims and causes of action not commenced in accordance with this Section 16.1.2.

§ 16.2 Claims for Consequential Damages

The Home Builder and Owner waive claims against each other for consequential damages arising out of or relating to the Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses; for losses of use, income, profit, financing, business, and reputation; and for loss of management or employee productivity, or of the services of such persons; and
- .2 damages incurred by the Home Builder for principal office expenses including the compensation of personnel stationed there; for losses of financing, business, and reputation; and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 15.

ARTICLE 17 MISCELLANEOUS PROVISIONS

§ 17.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located.

§ 17.2 Assignment of Contract

Neither party to the Contract shall assign the Contract without written consent of the other.

§ 17.3 Tests and Inspections

§ 17.3.1 At the appropriate times, the Home Builder shall arrange for, and bear the cost of, tests, inspections, and approvals, of portions of the Work, required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 17.3.2 If the Owner requires additional testing, the Home Builder shall arrange for the performance of those tests. The costs of such tests, except as provided in Section 13.1, shall be at the Owner's expense.

ARTICLE 18 SCOPE OF THIS AGREEMENT

§ 18.1 This Agreement represents the entire and integrated Agreement between the Owner and the Home Builder and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Home Builder.

§ 18.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document A111-2021, Standard Form of Agreement Between Owner and Home Builder for Construction of a Single Family Home
- .2 Other:

This Agreement entered into as of the day and year first written above.

(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

OWNER *(Signature)*

(Printed name and title)

HOME BUILDER *(Signature)*

(Printed name, title, and address)

LICENSE NO.:

JURISDICTION: