

AGREEMENT between OWNER/BUILDER (O/B) and TRADE CONTRACTOR (TC)

THIS AGREEMENT is made this _____ day of _____, 20____ by and between _____ hereinafter called the "Trade Contractor" (TC), and _____ hereinafter called the "Owner builder" (O/B).

The TC and O/B hereby agree as follows:

1. Description of Work: The TC, under the direction of the Owner builder, shall be responsible for all normal expenses incurred while completing performance of services under this agreement including all labor, materials, subcontractors, tools, scaffolding, equipment, rentals, supplies, transportation, sales and payroll taxes, and other items required for the _____ work described in "Schedule A" attached hereto, except those items listed in Par. 3 below; and for strict compliance with the Contract Documents consisting of the Drawings and specifications provided by the O/B to the TC. During the term of this agreement the TC shall be an independent contractor and not an employee of the O/B. The TC is responsible for hiring, supervising and paying his own employees; and for obtaining any required TC permits from the local Building Standards Office.

The work shall be performed on the house located at _____

2. O/B's Interpretation: The O/B shall interpret the Drawing and Specifications, and his/her decisions will be final. The O/B's decisions in matters relating to artistic effect shall be final.

The O/B agrees that he will use its best efforts to have the plans and specifications meet the requirements of applicable laws or regulations; and it is presumed that TC is familiar with said governmental laws or regulations regardless of the provisions of the plans or specifications. If any Contract Documents provide for a method of work contrary to any such laws and regulations, the TC shall notify the O/B prior to the installation of the work, and the O/B shall provide revised specs on a timely basis for the work to be in compliance. TC agrees that should any changes be required by any governmental authority for work already completed, such changes shall be made by the TC without additional charge.

3. Payment Schedule

The O/B agrees to pay the TC as follows, with any and all progress payments contingent upon satisfactory completion of work as approved by the local building codes, building inspections, the O/B.

Progress payments:

When Due

First amount _____ (or See Schedule A attached)

Second amount _____ (or See Schedule A attached)

Third amount _____ (or See Schedule A attached)

Total Amount Due: _____ -

List of any TC items NOT INCLUDED in Total Amount above:

The O/B shall provide Mechanics Lien Waiver form to the TC prior to each progress payment which shall be required to be executed by TC before any payment shall be deemed earned or

payable, and which releases all real estate located at this site and the dwelling thereon and the OB from all mechanic's liens. No payment including final payment shall operate to release TC from any obligation under this Agreement including, but not limited to any responsibility for defects in materials or workmanship.

4. Start and Completion of Scheduled Work: The O/B shall notify the TC when their work can commence and the TC agrees to start work on or about a date agreed upon. TC agrees to commit their resources to complete their work within the **Time to Complete** stated below from their actual start time on the job, not including weather delays actually preventing work. **Time to Complete** _____ is _____.

5. Delays: When delays are caused by the O/B he shall offer the TC an extension of time equal to the delay, and the TC shall be entitled to no other further damages against the O/B. Delays caused by any and all other parties shall not entitle the TC to any damages from the O/B .

6. Cooperation between Parties: The O/B and shall cooperate with the TC for the prosecution of his work; and the TC shall cooperate with the O/B with other TC's employed by the O/B in order to insure high quality workmanship in every respect and the proper sequence of work scheduled by the O/B.

7. Inspections and Approvals: The work shall be subject to inspection and approval by the O/B and all applicable governmental authorities. The TC shall furnish any requested information in his possession for timely inspections to be conducted..

8. Failure to Perform Work: If the TC shall at any time: (1) refuse or neglect to supply a sufficient number of properly skilled workmen or sufficient materials of the proper quality; or (2) fail in any respect to perform the work with promptness or in accordance with the "Time to Complete" referred to in Article 3 above; or (3) cause by any action or omission the stoppage or delay of or interference with the work of the O/B or of any other TC's; or (4) fail in the performance of any of the covenants herein contained; or (5) be adjudged bankrupt or shall make a General Assignment for the benefit of his creditors; or (6) if a Receiver shall be appointed for the TC or for his assets; or (7) become insolvent or become a debtor in reorganization, composition, or arrangement proceedings; then the O/B at his option may provide labor or materials to prosecute the work, and may deduct the cost thereof from any money due to the TC under this Agreement, after serving a three day written notice, mailed or delivered to the last known address of the TC, of the existence of any of the foregoing causes, and unless the cause specified in such notice shall not have been eliminated within such three days.

After such notice and failure by the TC to eliminate such cause within the three days specified, the O/B may terminate the employment of the TC, and may enter on the premises and take possession of all materials, and may employ any others to complete the work. In case of such termination of employment of the TC, the TC shall not be entitled to receive any further payment under this Agreement until the work required hereunder shall be fully completed and accepted by the O/B; and at such time, if the unpaid balance to the TC exceeds the expense incurred by the O/B in completing the said work, such excess shall be paid to the TC; but if such expense shall exceed such unpaid balance, then the TC shall pay the difference to the O/B.

9. Removal of Work Condemned: The TC shall within twenty-four (24) hours of verbal or written notice from the O/B, proceed promptly to remove from the site all materials condemned by the O/B or any applicable governmental authority; and shall take down all portions of the work which the O/B or any applicable governmental authority has condemned as unsound or improper, or which in any way may fail to conform to the Contract Documents. Upon request of the O/B the TC shall repair or replace the work condemned at no additional cost to the O/B, and shall repair or replace all work performed by other trades damaged by such removal.

10. Payment of Permits and Fees: The TC shall pay for all licenses and permits pertaining only to his work. The TC agrees to comply with all laws and regulations specifically applicable to the work in force at the time of signing this Agreement. In case of failure to do so, he shall make all the necessary alterations in his work to conform to same without delay.

11. Removal of Rubbish and Equipment: TC agrees to dispose discarded building materials in a waste container, burn pile or location provided by O/B, or TC will be charged for cleanup costs. Any explosive fuel cells are NOT to be discarded in burn piles. TC also agrees to clean up personal trash, otherwise a \$50 charge may be deducted for each cleanup by O/B. Upon completion of his work TC shall remove all tools, scaffolding, equipment and scrapped materials pertaining to his work.

12. Guarantee: The TC shall repair or replace to the reasonable satisfaction of the O/B, at his own cost and at the reasonable convenience of the O/B, any damages or faults resulting from defective work that may occur during the period of one year from the date of occupancy of the work by the O/B or sale to another owner.

13. Liens, Third Party Claims: TC agrees to defend, indemnify and hold harmless the OB, the Site of the Project, and the dwelling located thereon from any mechanic's lien or claim which may arise out of Subcontractor's failure to timely pay any person or company for which they are responsible, and agrees to take all steps necessary to release and discharge any lien arising out of TC's failure to make timely payment to any such person and to reimburse Builder for all monies paid by Builder in obtaining the release of any such lien, including all costs, expenses and reasonable attorney's fees incurred by Builder in obtaining such release; unless TC's failure to pay results from OB's failure to pay TC for any monies due. If at any time there shall be filed any notice of lien or if there shall be evidence of any claim for which the O/B or the said premises may become liable, and which is chargeable to the TC or his subcontractors; or when damage shall be caused by this TC to another TC's work, then the O/B shall have the right to retain out of any payment then due an amount sufficient to completely indemnify the O/B against any such lien, or claim, or damages. If there shall prove to be any lien or claim after all payments are made, the TC shall refund to the O/B all moneys that the O/B may be compelled to pay in discharging or disposing of any other claim made in consequence of the TC's default.

14. Changes in Work: Change Order specifications and costs shall be written by the O/B and initialed and dated by the O/B and TC, and contain for each change the additional price amount, or deducted price amount or no charge modification, and any additional time to be allowed for its completion.

15. Indemnity Agreement: The TC shall indemnify, defend and hold the O/B harmless from any and all claims, liabilities and causes of action for any injury to or death of any person or for any damage to or destruction of property to the extent that such claims, liabilities or causes of action result from the acts or omissions of the TC, its employees and agents.

16. Liability Insurance: Before commencing the work, the TC shall procure and maintain insurance at his own expense until completion and final acceptance of the work, with not less than the following limits:

- A. Workman's Compensation and Employer's Liability insurance in accordance with the laws of the state in which the work is situated.
- B. Comprehensive General Liability Insurance and Automotive Liability (owner and non-owned) for personal injury and property damage with limits approved in advance by Owner builder.
- C. Before commencing the work, the TC shall furnish the O/B a Certificate of Insurance from his insurance companies showing that the above insurance is in force, stating policy numbers, effective dates, and limits of liability thereunder. All policies providing the above insurance shall be endorsed to provide that the insurance company shall notify the

O/B in writing ten (10) days prior to any cancellation of or change in the above insurance. The TC agrees that nothing contained in this paragraph shall limit or release the TC from his obligations otherwise provided for in this Agreement..

D. If the TC fails to procure and maintain at least the above insurance with the minimum limits of liability shown, the O/B shall have the right to procure and maintain the said insurance for and in the name of the said TC and the TC shall pay the cost thereof and shall furnish all necessary information to make effective and maintain such insurance.

17. Fire Insurance: Theft and Vandalism: The O/B will provide a standard form of Fire Insurance and extended coverage with Builder's Risk Endorsement to cover the O/B on the permanent structure including any materials and supplies on the site which are to be incorporated in the work . The TC shall be responsible for any coverage on his own materials, tools, equipment, scaffolds, etc. while on the site which will NOT be incorporated into the work.

18. Government Taxes: The TC agrees to pay and hold the O/B harmless against the payment of all taxes which may be payable under Federal, State, or local laws arising out of the performance of the work and materials provided by the TC for the contract price herein.

19. Claims by Either Party Against the Other: If either the TC or O/B believes he has a claim of any nature whatsoever against the other party, he shall give the other written notice of the amount and nature of such claim within six (6) months of the occurrence of the event upon which such claim is based.

20. Applicable Law: All matters relating to the validity, performance, interpretation or construction of this Agreement or the breach thereof shall be governed by the laws of the State of Georgia.

21. Dispute Resolution-Arbitration: Any claim arising out of or related to this Agreement or any work or services performed pursuant to or in connection with this Agreement shall be subject to arbitration. The parties to this Agreement expressly agree that this Agreement, and this dispute resolution provision, shall be governed by the Federal Arbitration Act, 9 U.S.C., Section 1, et seq. All claims subject to arbitration pursuant to this Agreement shall be decided in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association

Should either party bring suit in court to enforce the terms hereof, any judgment awarded shall include court costs and reasonable attorneys fees to the successful party.

AGREEMENT TO PERFORM: The said parties, for themselves, their successors, executors, administrators, and assigns, do hereby agree to the full performance of the covenants herein contained.

Owner/Builder

Trade Contractor

Company: _____

Company name: _____

Title: _____

Title: _____

Insurance Agent: _____

By: _____

By: _____

Signature

Signature

Schedule A - Description of work to be performed by and Payment Schedule to TC

1. Rough Frame house per drawings to dry-in stage including the following:
call OB for materials needed at least one day prior to being needed; cull out poor lumber not to be used in house and stack for return to supplier; add purloins in all walls over nine feet; roof to be stick-built (no manufactured trusses supplied); felt paper installed on roof; windows and exterior doors installed; wrap all house framing with Tyvek or other wrap as recommended by supplier; freezeboard ready for brick veneer; water tables built in all gables not to be bricked; boxing ready for vinyl soffit and aluminum fascia per details to be provided by OB.
2. Finish carpentry as follows:
install all interior doors; one raised tray ceiling; window, door and wall casings; crown (first floor and great room only), base, shoe and chairrail molding; stairway treads including oak on bottom three to four treads and oak handrails at bottom of steps and across second floor balcony.
3. Any nails provided by TC will be reimbursed when bills are submitted to O/B.

4. Progress Payments will be as follows:

Once a week payments will be made at the end of the week, normally on Fridays at the rate of \$500 per day when worked for a full crew of four people, and \$2500 per week for a full week; and prorated if less than a full crew or full week is worked. However, such weekly payments SHALL NOT EXCEED amounts described below:

For Rough framing weekly payments NOT TO EXCEED:

- a. \$ _____ until completion of first floor, exterior walls sheathed, interior walls erected
- b. \$ _____ until completion of second floor joists and decking, 2nd floor exterior walls sheathed, and interior walls and stairs erected
- c. \$ _____ until completion of 2nd floor ceiling, roof decked and felted, all boxing, windows and exterior doors installed, exterior wrapping; and all others items in plans and specs.

For Finish carpentry weekly payments NOT TO EXCEED:

- a. \$ _____ until half of the Finish carpentry work is completed.
- b. \$ _____ until all Finish carpentry work is completed.

DISCLAIMER: THIS FORM IS INTENDED TO PROVIDE EXAMPLES OF THE KINDS OF TERMS THAT, AT A MINIMUM, SHOULD BE INCLUDED IN SUCH A CONTRACT. IT IS NOT INTENDED TO SERVE AS A SUBSTITUTE FOR THE ADVICE OF AN ATTORNEY-AT-LAW. BEFORE ENTERING INTO A CONTRACT INVOLVING GIVING SOMETHING OF VALUE TO ANOTHER FOR GOODS, SERVICES OR MATERIALS, BE CERTAIN THAT YOU HAVE A CLEAR UNDERSTANDING OF ALL OF THE TERMS IN THE CONTRACT AND WHAT REMEDIES ARE AVAILABLE UPON DEFAULT OF ONE OF THE PARTIES. AN ATTORNEY-AT-LAW CAN HELP YOU WITH ANY QUESTIONS YOU MAY HAVE ABOUT THE PROPOSED CONTRACT.