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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Hon. R. Scott Sprouse, Circuit Court Judge

Trial Court Case No. 2019CP041942
Appellant Case No. 2023-001681

Natalie Zitek, individually, and on behalf of
all others similarly situated, ... Plaintiff,

v.

D. R. Horton, Inc., Jane Doe#1-10; and,
John Doe #1-50, ... Defendants,

AND

D.R. Horton, Inc., ... Third-Party Plaintiff,

v.

AJ Landscaping & Grading, LLC a/k/a A J Landscaping &
Grading, LLC; AllPro Textures, LLC; Alpha Omega
Construction Group, Inc.; American Concrete and Precast,
Inc.; a/k/a ACP Concrete, Inc.; A&J Framing, Inc.; Alpha
E.M.C.; A-Z, Inc.; Atlanta Floor Designs Center; A Grade
Above Others, LLC; Brand-Vaughan Lumber Co, Inc.; BKF
Builders, Inc.; Builders Designhouse, LLC; BMC East LLC
d/b/a Coleman Floor, LLC; Builders Firstsource Southeast
Group, LLC, a/k/a Builders Firstsource, Inc.; Bravo
Carpenters, Inc.; Caryl Mechanics II, Inc., a/k/a Caryl
Mechanicals, Inc.; Cannaday Siding & Gutter, Inc.; Cortes
Painting, LLC; CBU Enterprises, Inc.; CPI Security
Systems, Inc.; DOM Group, LLC; Ferguson Enterprises,
Inc.; Five Star Construction Inc.; Five Star Foundations,
LLC; Galloway-Bell, Inc., a/k/a Galloway-Bell, Inc. II; Get
Floored, LLC; GBS Building Supply; US LBM, LLC, f/k/a
GBS Building Supply, Inc.; General Shale Brick Inc.;
Greener Pastures, Inc., a/k/a Green Pastures of Aiken, LLC;

IBS Asset, LLC d/b/a Blue Ridge Building Products; Installed Building Products, LLC, a/k/a Installed Building Products II LLC; JLS Masonry, Inc.; Kings Landscaping, LLC; Landshapers, LLC; Lade-Danlar, Inc.; Lansing Building Products, Inc.; Long Heating & Air Conditioning, Inc.; L&M Electric, Inc; Manale Landscaping, LLC; MJ Cowboys, LLC; M&L General Construction, LLC, a/k/a M&L General Construction, Inc.; M&L Reyna Construction, LLC; M&M Foundations, LLC; Nazareth Builders, LLC; NB Contractors, LLC; Poinsett Development, LLC; Poinsett Homes, LLC; P&T Construction, Inc., a/k/a P & T Construction, Inc.; P & L Enterprises, LLC; Probuild Company, LLC a/k/a Probuild Holdings, Inc.; Rite Rug Company, Inc., a/k/a, Rite Rug Co.; Rodney Howard Grading Inc., a/k/a Rodney Howard Grading Co.; Sandlapper Concrete, LLC; Sodfather Inc., Landscape Contractors; Stock Building Supply, LLC; Topbuild Home Services, Inc., a/k/a Gale Contractors Service; Tucker Materials, Inc, a/k/a Gypsum; Silver Line Building Products Corp.; Dupree Plumbing Co., Inc.; UTM Enterprises, Inc; and Willow Tree Landscaping, Inc., and Silver Line Building Products Corporation, ...

Third-Party Defendants,

of which Galloway-Bell, Inc. a/k/a Galloway-Bell, Inc. II is the

Respondent,

AND

D.R. Horton, Inc. is the

Appellant.

**RECORD ON APPEAL
VOLUME II**

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RECORD ON APPEAL
Horton Appellant – Respondent Galloway
Appeal 2023-001681

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DOM GROUP, LLC; FERGUSON)
 ENTERPRISES, INC.; FIVE STAR)
 CONSTRUCTION INC.; FIVE STAR)
 FOUNDATIONS, LLC; GALLOWAY-)
 BELL, INC. A/K/A GALLOWAY-BELL,)
 INC. II; GET FLOORED, LLC; GBS)
 BUILDING SUPPLY – US LBM, LLC,)
 F/K/A GBS BUILDING SUPPLY, INC.;)
 GENERAL SHALE BRICK INC.;)
 GREENER PASTURES, INC. A/K/A)
 GREENER PASTURES OF AIKEN, LLC;)
 IBP ASSET, LLC D/B/A BLUE RIDGE)
 BUILDING PRODUCTS; JLS MASONRY,)
 INC.; KINGS LANDSCAPING, LLC;)
 LANDSHAPERS, LLC; LADE-DANLAR,)
 INC.; LANSING BUILDING PRODUCTS,)
 INC.; LONG HEATING & AIR)
 CONDITIONING, INC.; L&M ELECTRIC,)
 INC; MANALE LANDSCAPING, LLC;)
 MJ COWBOYS, LLC; M&L GENERAL)
 CONSTRUCTION, LLC, A/K/A M&L)
 GENERAL CONSTRUCTION, INC.; M&L)
 REYNA CONSTRUCTION, LLC; M&M)
 FOUNDATIONS, LLC; NAZARETH)
 BUILDERS, LLC; NB CONTRACTORS,)
 LLC; POINSETT DEVELOPMENT, LLC;)
 POINSETT HOMES, LLC; P&T)
 CONSTRUCTION, INC., A/K/A P&T)
 CONSTRUCTION, INC.; P&L)
 ENTERPRISES, LLC; PROBUILD)
 COMPANY, LLC A/K/A PROBUILD)
 HOLDINGS, INC.; RITE RUG CO.;)
 RODNEY HOWARD GRADING, INC.)
 A/K/A RODNEY HOWARD GRADING)
 CO.; SANDLAPPER CONCRETE, LLC;)
 SODFATHER INC., LANDSCAPE)
 CONTRACTORS; STOCK BUILDING)
 SUPPLY, LLC; TOPBUILD HOME)
 SERVICES, INC., A/K/A GALE)
 CONTRACTORS SERVICE; TUCKER)
 MATERIALS, INC., A/K/A GYPSUM;)
 UTM ENTERPRISES, INC; DUPREE)
 PLUMBING COMPANY, INC. AND)
 WILLOW TREE LANDSCAPING, INC;)
)
)

Third-Party Defendants

Defendant, D.R. Horton, Inc. (“D.R. Horton”) moves pursuant to Rule 59(e), SCRCP, and the Court’s inherent authority, for the Court to reconsider its Order Granting Third-Party Defendant Galloway-Bell, Inc. a/k/a Galloway-Bell, Inc. II’s (“Galloway-Bell”) Motion for Summary Judgment (the “Order”) including:¹

1. Whether the last minute, self-serving, tardy stipulation by Plaintiff should have been considered by the Court and whether there were facts in the record prior to the execution of that document to create a genuine issue of material fact preventing summary judgment;
2. Whether there were facts in the record at any time such that any indemnity requirement would be triggered at any time prior to and during the litigation precluding summary judgment;
3. Whether D.R. Horton’s entire Independent Contractor Agreement is unenforceable;
4. Whether any section of D.R. Horton’s Independent Contractor Agreement is enforceable;
5. Whether the review of D.R. Horton’s Independent Contractor Agreement was made in the light most favorable to D.R. Horton ;
6. Whether clear and unequivocal is the correct standard to review D.R. Horton’s entire Independent Contractor Agreement and the basis for the Court’s finding;
7. Whether any causes of action remain and were not dismissed by the Court against this Defendant and any Third-Party Defendants;

¹ D.R. Horton fully incorporates herein its Brief in Opposition to Motion for Summary Judgment filed July 11, 2023, and Supplemental Brief in Opposition to Motion for Summary Judgment filed July 19, 2023, attached hereto as **Exhibits 1 and 2.**

8. The basis for the Court's dismissal of D.R. Horton's claims for equitable indemnity, breach of contract, breach of express warranties, and breach of implied warranties;

9. The Court found that D.R. Horton's contractual indemnity indemnification cause of action is not supported by a clear and unequivocal contract; however, that decision is not supported by the law or facts. The contract complies with South Carolina law and the parties to contract should have the benefit of bargain that they agreed to when they executed the contract;

10. While the Plaintiff volunteered that it does not have any evidence to present that the work performed by Galloway-Bell was defective, such a declaration against interest by the Plaintiff cannot serve to foreclose D.R. Horton's contractual rights to seek redress from any subcontractor for deficient work product that results in a cost to or judgment against D.R. Horton. To the extent Plaintiff alleges any defect in workmanship as to the body of work for which Galloway-Bell was wholly or partly responsible, Galloway-Bell would be liable to D.R. Horton pursuant to and consistent with the indemnity obligations and the duty to defend obligations contained in the parties' contract. D.R. Horton should have an opportunity to present its case at trial; and

11. The Court decided that there was no evidence in the to support the negligence, express warranty and implied warranty causes of action against Galloway-Bell and that all such causes of action therefore collapse into indemnity. The Court then held that the parties' agreed to contractual indemnification provision is not clear and unequivocal. D.R. Horton's contractual rights to seek redress from any subcontractor for deficient work product that results in a cost to or judgment against D.R. Horton is a contractual provision agreed to by the parties. To the extent Plaintiff alleges any defect in workmanship as to the body of work for which Galloway-Bell was wholly or partly responsible, Galloway-Bell would be liable to D.R. Horton pursuant to and

consistent with the indemnity obligations and the duty to defend obligations contained in the parties' contract. D.R. Horton should have an opportunity to present its case at trial.

The Court Ordered from the Bench that Galloway-Bell's motion for summary judgment should be granted upon the same bases as its prior orders granting other motions for summary judgment, which stated as follows:

The Court considered the filings of the parties, arguments of counsel and the applicable law. The Court considered the evidence in a light most favorable to the non-moving party and finds that no genuine issue of material fact exists. With the Plaintiff's stipulations, there are no allegations of defective work by Galloway-Bell in the record. The Court finds that the contractual indemnity cause of action is not supported by a clear and unequivocal contract and that it should be dismissed. Accordingly, the Motion for Summary Judgment by 3rd Party Defendant Galloway-Bell is GRANTED.

I. INTRODUCTION

On January 27, 2021, the Court conditionally certified this class action for 234 homes in the Rose Hill subdivision in Easley, South Carolina, and the class is currently 221 homes (collectively, the "Rose Hill Homes," or the "Homes", or, individually, "Home").

After filing the subject lawsuit, Plaintiff provided a Notice and Opportunity to Cure to D.R. Horton listing 13 categories of issues that were alleged to have been experienced by Plaintiff and similarly situated individuals. Only those subcontractors whose work was implicated by that notice have been named in the lawsuit. D.R. Horton brought claims against the entities and individuals with whom it contracted with to provide labor and/or supply materials for the construction of the Subject Properties including the Third-Party Defendants. D.R. Horton brought the following claims against the Third-Party Defendants: contractual indemnification, equitable indemnification, breach of contract, breach of express warranties, breach of implied warranties, and negligence/gross negligence/recklessness.

D.R. Horton entered into agreements with subcontractors, including the Third-Party Defendants, to perform the work (collectively hereinafter referred to as the “ICAs”).² Each of the ICAs included indemnity provisions (collectively hereinafter referred to as the “Indemnity Provisions”). Throughout the years D.R. Horton constructed homes in Rose Hill with various subcontractors, it had six slight variations of the ICA. (ICA’s attached as **Exhibits 3-8; Exhibit 9** (listing of ICA’s for each subcontractor)). Generally, these all incorporate the following applicable provisions:

Subcontractor Standards:

2. Independent Contractor Status. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, methods and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform the assigned tasks and have all necessary licenses.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers’ or suppliers’ standards or specifications for use and installation, and all laws (statutory and common), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements).

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor’s own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any work, or Contractor shall be deemed to have accepted all other contractors’ work for inclusion into Contractor’s Work.

² D.R. Horton fully incorporates its Memorandum in Opposition to Third-Party Motions for Summary Judgments (Sep. 7, 2022) and all exhibits of representative ICAs attached thereto as **Exhibit 10**.

Subcontractor Indemnity and Insurance Requirements:

10.1 GENERALLY. To the fullest extent permitted by law, contractor hereby agrees to hold harmless, indemnify, protect and defend owner, its parent corporation, subsidiaries, affiliates, successors and assigns, and each of the aforementioned entities' respective officers, directors, partners, employees, agents and insurers (individually or collectively hereinafter, "indemnatee") from and against any and all demands, claims, actions, causes of action, proceedings, lawsuits, settlements, judgments, fines, penalties, losses, attorneys fees, litigation costs, interest, and expenses of any kind (individually or collectively hereinafter, "losses") for damages from bodily or personal injury, death, the destruction or loss of property (including loss of use), or any other kind of damages or harm, arising out of, or resulting from, or related in any way to the work performed and/ or the materials supplied under this contract, regardless of whether or not caused in part by indemnatee. Such losses specifically include, but are in no way limited to losses arising out of or attributable to: (1) a breach of any warranties, representations, covenants or obligations of contractor set forth herein; (2) the work performed or to be performed or materially supplied by contractor, contractor's agents or employees, suppliers or subcontractors and their respective agents and employees, and/or all other entities over whom the contractor may exercise control (individually or collectively hereinafter, "contractor's agents"); (3) any negligent, grossly negligent, and/or intentional act and/or omission of contractor and/ or contractor's agents; or (4) any negligent, grossly negligent, and/or intentional act and/or omission of the indemnatee related in any way to the work. Notwithstanding the foregoing, nothing herein shall require indemnity for losses caused solely by fault or negligence of the indemnatee. The losses described herein shall include, but are not limited to, demands, claims, or actions asserted by (1) any present or future owner of the house incorporating the work; and (2) any owner, contractor or any third party (including, but not limited to, personnel furnished by contractor and/or contractor's agents). The indemnification obligation under this contract shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for contractor under workers' compensation acts, disability benefit acts or other employee benefit acts. The indemnity provisions contained herein are intended to be as broad and inclusive as permitted by law.

10.4 Subcontractor's and Supplier's Indemnity Obligations. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the actions of any

subcontractor engaged by Contractor whether in written agreement or otherwise or who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed to be the obligation of the subcontractors to Owner, for which Contractor shall be fully responsible to Owner.

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both ongoing operations and completed operations (equivalent to form CG20101185 or form CG2037). Coverage obtained by Contractor naming Owner as an Additional Insured shall be primary with any insurance of Owner being excess coverage. The insurance coverage will be carried continuously during the term of this Agreement and thereafter is requested by this Agreement with insurance companies acceptable to Owner in its sole and absolute discretion.

II. ARGUMENT

A. The Indemnity Provisions are not Illegal and Unenforceable

The Third-Party Defendants rely heavily on DRH, Inc. v. Builders FirstSource-Se. Grp., LLC, 422 S.C. 144, 148, 810 S.E.2d 41, 45 (Ct. App. 2018) contend that the Indemnity Provisions included in the ICAs are illegal and unenforceable because they are barred by S.C. Code § 32-2-10, *et. seq.* (the “Anti-Indemnity Statute”).

This perfunctory analysis is insufficient, as the South Carolina Court of Appeal’s decision in *Builders* made specific reference to the concealment and unreasonable award of damages, which impacted D.R. Horton’s ability to recover under the indemnification agreement.³ In *Builders*, Patricia Clark (hereinafter “Clark”) filed a suit against D.R. Horton for negligence, breach of contract, multiple breaches of warranty and a violation of the South Carolina Unfair Trade Practice Act. *Id.* at 148. The lawsuit alleged various defects in the Clark home, including

³ *Id.* at 153. “D.R. Horton cannot ask the arbitrator to conceal its reasons for an award, which may have included damages caused by its own negligence, then ask the circuit court to award it damages that would be barred by the statute.”

but not limited to, the work performed by Builders FirstSource. Clark and D.R. Horton participated in arbitration, where Clark was awarded \$150,000. *Id.* However, the arbitration award did not indicate what damages the arbitrator found compensable. *Id.* Further, the arbitrator noted that “(c)ounsel for the parties have requested an order containing a monetary award only.” *Id.*

Following the arbitration award, D.R. Horton filed a complaint seeking contractual indemnification and contribution from Builders FirstSource for recovery of the arbitration award and attorney’s fees that D.R. Horton incurred as a result of the Clark suit. *Id.* Subsequently, Builders FirstSource filed a motion for summary judgement alleging D.R. Horton’s claim for contractual indemnification failed as the agreement required D.R. Horton to be indemnified from its own negligence. *Id.* at 148-49. Upon the request via multiple motions, the trial court granted Builders FirstSource’s motion for Summary Judgment. *Id.* at 149. D.R. Horton then appealed the trial court’s decision, asserting that the trial court erred by reading additional terms into the agreement and failed to require Builders FirstSource to pay the entire arbitration award and attorney’s fees. *Id.* at 150.

The Indemnity Provisions in this matter specifically exclude losses caused by the sole negligence of D.R. Horton.

The Anti-Indemnity Statute provides, in pertinent part, as follows:

Notwithstanding any other provision of law, a promise or agreement in connection with the design, planning, construction, alteration, repair or maintenance of a building ... purporting to indemnify the promisee, its independent contractors, agents, employees, or indemnitees against liability for damages arising out of bodily injury or property damage proximately caused by or resulting ***from the sole negligence of the promisee***, its independent contractors, agents, employees, or indemnitees is against public policy and unenforceable. Nothing contained in this section shall affect a promise or agreement whereby the promisor shall

indemnify or hold harmless the promisee or the promisee's independent contractors, agents, employees or indemnitees against liability for damages resulting from the negligence, in whole or in part, of the promisor, its agents or employees.

(*Emphasis added*).

In D.R. Horton, Inc. v. Builders FirstSource-Se. Grp., LLC, the South Carolina Court of Appeals found that a prior version of D.R. Horton's ICA violated S.C. Code § 32-2-10. The former ICA required the indemnitee to indemnify D.R. Horton for claims "related in any way to the work, even when the loss is caused by the fault or negligence of the indemnitee." 422 S.C. 144, 148, 810 S.E.2d 41, 45 (Ct. App. 2018). As explained by the court,

[The Anti-Indemnity Statute] allows D.R. Horton and [the Third-Party Defendants] to agree that [the Third-Party Defendants] will indemnify D.R. Horton for damages caused by [Third-Party Defendants] or its subcontractors. To the extent the trial court found that aspect of the agreement to be against public policy, we disagree. However, we agree that the indemnification clause is void as against public policy to the extent it purports to require [Third-Party Defendants] to indemnify D.R. Horton for damage caused by [D.R. Horton's] negligence or the negligence of its subcontractors.

Id. The court held that the contract at issue "purport[ed] to require [subcontractor] to indemnify D.R. Horton for its own negligence in violation of section 32-3-10." Id.

In the present case, the Indemnity Provisions specifically exclude claims arising out of the sole negligence of D.R. Horton by providing:

- **"10.1 GENERALLY.** ...nothing herein shall require indemnity for losses caused solely by fault or negligence of the indemnitee [DRH]" (See Exhibit 3);
- **"10.1 GENERALLY.** ...nothing herein shall require contractor to indemnify indemnitee against liability for damages arising out of bodily injury or property damage proximately caused by or resulting from the sole negligence or sole intentional act or omission of indemnitee [DRH]" (See Exhibits 4, 5, 6, 7);

- **“10.1 GENERALLY.** ...It is the express intent of the parties in agreeing to this Section 10 that Contractor shall indemnify Indemnitee for the negligence of Contractor, its subcontractors, employees and anyone over whom Contractor exercises control as well as for Owner’s and/or indemnitee’s concurrent or joint negligence arising from a failure to properly supervise Contractor.” (See Exhibit 8)

Because the ICAs with the Third-Party Defendants exclude claims arising out of D.R. Horton’s sole negligence, the Indemnity Provisions do not violate Section 32-3-10 and are distinguishable from the agreement in D.R. Horton, Inc. v. Builders FirstSource-Se. Grp., LLC. (See Exhibits 3-8, the ICAs and Exhibit 9, listing of ICA’s for each subcontractor).

B. The Indemnity Provisions Comply with The Requirements Set Forth in Concord & Cumberland Horizontal Prop. Regime v. Concord & Cumberland, LLC

The Third-Party Defendants contend that the Indemnity Provisions do not comply with the requirements laid out in Concord & Cumberland Horizontal Prop. Regime v. Concord & Cumberland, LLC, 424 S.C. 639, 819 S.E.2d 166 (Ct. App. 2018) and are therefore unenforceable. The court in Concord held that when a party seeks indemnification for its own concurrent negligence, the clear and unequivocal standard applies. *Id.* at 649, 172. Additionally, “when an indemnity clause purports ‘to relieve an indemnitee from the consequences of its own negligence,’ [South Carolina] case law requires strict construction of the clause.” *Id.* at 650, 172 (quoting Laurens Emergency Med. Specialists, PA v. M.S. Bailey & Sons Bankers, 355 S.C. 104, 111 584 S.E.2d 375, 378-379 (2003)).

There were two indemnity agreements entered at issue in Concord. For the first agreement, the court found that the phrase “to the extent caused or alleged to be caused in whole or in part by any negligent act or omission of the [Muhler]” specifically limited Muhler’s obligation to indemnify to damages and losses caused by the negligence of the Muhler and its

subcontractors.⁴ *Id.* at 654, 174. Additionally, the phrase “regardless of whether it is caused in part by a party indemnified hereunder” did not alter the limiting language. *Id.* Therefore, the general contractor was not entitled to indemnification from the subcontractor, Muhler, for the general contractor’s concurrent negligence pursuant to the first agreement.

With regard to the second agreement, the court found that although the language was broader and excluded the limiting “to the extent caused” language from the first agreement, it still failed to include any reference to indemnification for the general contractor’s concurrent negligence.⁵ *Id.* at 656-657, 176. While “there is no verbatim phrase that must be used to meet the clear and unequivocal standard, there must be some language in an indemnity clause that clearly shows the parties’ intent to absolve the indemnitee of the consequences of its own concurrent negligence.” *Id.* at 657, 176 (citation omitted). Further, the court indicated that the following language may be sufficient to meet the clear and unequivocal standard:

⁴ The first indemnity agreement in *Concord* stated, in relevant part, as follows:

the Subcontractor shall indemnify and hold harmless the Owner, the Architect, the Contractor ... and other contractors and subcontractors ... from and against all claims, damages, loss and expenses, including but not limited to attorney’s fees, arising out of or resulting from the performance of the Subcontractor’s Work ...

- (a) ... to the extent cause or alleged to be caused in whole or in part by any negligent act or omission of the Subcontractor ... regardless of whether it is caused in part by a party indemnified hereunder.

Id. at 643, 168-169.

⁵ The second indemnity provision provided, in pertinent part,

In the event either Superior or Concord and Cumberland, LLC are sued hereafter ... alleging that one or more of the windows and/or doors do not comply with the original or amended contract documents, or are defectively installed, Muhler agrees to unconditionally indemnify both Superior and Concord and Cumberland, LLC ... and will pay all damages ... incurred by either or both[.]

Id. at 644, 169.

“[subcontractor] agrees to indemnify for all damages, regardless of whether the damages are caused in part by a party indemnified hereunder[.]” *Id.* at 656-657, 176.

The indemnity provision in Version 1 of the ICA provides in relevant part (See Exhibit 3):

10.1 GENERALLY. ...[Subcontractor] hereby agrees to hold harmless, indemnify, protect and defend [DRH]...from and against any and all demands, claims, actions, causes of action, proceedings, lawsuits...and expenses of any kind... for damages from bodily or personal injury, death, the destruction or loss of property (including loss of use), or any other kind of damages or harm, arising out of, or resulting from, or related in any way to the work performed and/ or the materials supplied under this contract, **regardless of whether or not caused in part by indemnitee [DRH].**” (*Emphasis added*).

The indemnity provision in Versions 2, 3, and 4 of the ICA provides in relevant part (See Exhibits 4, 5, and 6):

“10.1 Generally. ... [Subcontractor] shall protect, defend, indemnify, and hold [DRH].... harmless from and against any and all claims, demands, lawsuits or other litigation...including all costs thereof, attorneys’ fees and interest... on account of bodily or personal injury, death, or damage to or loss of tangible or intangible property... arising out of, or in connection with: (1) a breach of any warranties, representations, covenants, or other obligations of [subcontractor] set forth in this Agreement; (2) the work...performed or material supplied by [subcontractor]...(3) any negligent or intentional act or omission...of [subcontractor]...**regardless of whether caused in part by [DRH]; or (4) any negligent or intentional act or omission... of [DRH] related in any way to the work.**” (*Emphasis added*).

The indemnity provision in Version 5 of the ICA provides in relevant part (See Exhibit 7):

10.1 GENERALLY....[Subcontractor] shall protect, defend, indemnify, and hold [DRH]....harmless from and against any and all claims, demands, lawsuits or other litigation... including all costs thereof, reasonable settlement amounts, attorneys’ fees and interest... on account of bodily or personal injury, death, or damage

to or loss of tangible or intangible property...arising out of, or in connection with: (a) a breach of any warranties, representations, covenants, or other obligations of [subcontractor] set forth in this agreement; (b) the work...performed or material supplied by [subcontractor]... (c) any negligent or intentional act or omission of [subcontractor] **regardless of whether caused in part by [DRH]; or (d) any negligent or intentional act or omission... of [DRH] related in any way to the work...**” (*Emphasis added*).

The indemnity provision in Version 6 of the ICA provides in relevant part (See Exhibit 8):

“10.1 GENERALLY. ...[Subcontractor] shall hold harmless, indemnify [DRH]... against all demands, claims, actions, causes of action, proceedings, lawsuits...or expenses (including attorneys’ fees and interest), for damages from bodily or personal injury, death, the destruction or loss of property (including loss of use), or any other kind of damages or harm.... arising out of, or resulting from, or related to the work performed and/ or the materials supplied under this Agreement, **including losses founded partially upon the negligent acts or omissions of [DRH] in failing to supervise contractor, attributable in whole or in part to:** (1) a breach of any warranties, representations, covenants or other obligations of contractor set forth in this Agreement; (2) the work performed.... or materials supplied by [subcontractor]...; or (3) any negligent or intentional act and/or omission of [Subcontractor] related in any way to the work...” (*Emphasis added*).

The Indemnity Provisions between D.R. Horton and the Third-Party Defendants closely track the language suggested by the court in Concord and provide that third-party defendants will indemnify D.R. Horton for certain losses regardless of whether or not the losses caused in part by D.R. Horton. The Indemnity Provisions clearly and unequivocally show that the parties intended to absolve D.R. Horton of the consequences of its own concurrent negligence. Therefore, the Indemnity Provisions meet the standard set forth in Concord and are enforceable. See Exhibits 3-8, the ICAs.

C. The Entire Contract is not Unenforceable

The entire ICA is not unenforceable if the indemnity provision is void. D.R. Horton and third parties entered into an agreement for work in exchange for payment. The contract was between sophisticated parties done at arm's length. No argument was made or supported that the contract was somehow "forced" onto the sub-contractors such that they could not walk away, ask for explanations, negotiate, or request revisions.

Further, the contract requires the subcontractor to perform its work correctly, safely, and in compliance with certain state, building, and industry standards. No part of that requirement is unfair, onerous, or against public policy. In fact, those parts of the ICA mirror the state's requirements for construction in South Carolina and thus cannot be void as against public policy.

If the entire ICA is not void, D.R. Horton request reconsideration or clarification of the court's Order on the unenforceability of the ICA.

D. The Court Did Not Set Out A Basis For Dismissing D.R. Horton's Other Causes Of Action

The Court did not specifically set out whether it dismissed D.R. Horton's causes of action for equitable indemnity, breach of contract, breach of implied warranties, or breach of express warranties. The Order does not address D.R. Horton's arguments on these issues. D.R. Horton brought suit against the Third-Party Defendants for, among other causes, breach of contract, equitable indemnity, and breach of express warranties which were not addressed in the court's order.

D.R. Horton brought breach of contract causes of action for third parties' breach of its ICA with D.R. Horton. In that contract the subcontractor agreed to perform its work in accordance with the code, installation instructions, and other requirements. Separately, D.R. Horton brought suit for damages arising from third parties' work as alleged by Plaintiff. Plaintiff sued D.R.

Horton for the work performed by the third party as set forth in its complaint and Notice and Opportunity letters. No evidence or arguments have been made that D.R. Horton either contributed to Galloway-Bell's alleged failures or that D.R. Horton's ICA was invalid in requiring third parties to perform their work in accordance with these certain requirements.

Further, there has been no argument that requiring a sub-contractor to comply with code, installation instructions, or provide express warranties for their work is unfair, invalid, against public policy, or otherwise unenforceable.

D.R. Horton requests reconsideration or clarification of the Court's Order related to its causes of action for breach of contract, express warranties, and equitable indemnity.

E. D.R. Horton's Claims for Negligence, Breach of Warranties, And Breach Of Contract Are Independently Viable

D.R. Horton could sue and recover damages against the Third-Party Defendants under theories of negligence, gross negligence, recklessness, breach of contract, and breach of warranties, related to construction deficiencies, regardless of whether Plaintiff ever filed a lawsuit. Therefore, D.R. Horton's causes of action are not "disguised" equitable indemnity claims derivative of Plaintiff's lawsuit. D.R. Horton's rights to pursue these claims do not evaporate simply because D.R. Horton was not the first to discover the Third-Party Defendants' failures and a lawsuit was instituted by Plaintiff after the structure was sold. The Third-Party Defendants' reliance upon Stoneledge v. Clear View, LLC, 413 S.C. 615, 776 S.E.2d 426 (Ct. App. 2015) (hereinafter referred to as "Stoneledge I") and Stoneledge at Lake Keowee Owners' Ass'n v. Builders FirstSource-Southeast Grp., 413 S.C. 630, 776 S.E.2d 434 (Ct. App. 2015) (hereinafter referred to as "Stoneledge II") (collectively referred to as "Stoneledge") is misplaced. Moreover, the Third-Party Defendants' interpretation of the Stoneledge decisions is overbroad.

Instead, a more reasonable interpretation of the Stoneledge decisions is that if the general

contractor alleges and proves damages that arise separately from having to defend itself in the purchasers' lawsuit, the general contractor's claims for breach of warranty and negligence are independent from the equitable indemnity claim. Indeed, a careful reading of Stoneledge reveals that the court did not make a blanket bright line rule, but rather did an analysis, mostly of the allegations in the third-party complaint, to determine if the general contractor had plead, alleged, or proved a factual issue of the existence of damages not arising from the plaintiffs' lawsuit.

As the court explained in Stoneledge II, "[t]he issue [the general contractor] raises – whether the circuit court properly interpreted its claims for breach of contract and breach of warranty as one claim for equitable indemnity – requires us to construe its cross-complaint, and thus presents a question of law." Stoneledge II at 634. In determining that the general contractor's claims for breach of warranty and breach of contract were equitable indemnity claims, the court explained that "[the general contractor's] injuries arose exclusively from having to defend itself in [plaintiff's] lawsuit." Id. at 636.

In reviewing the general contractor's allegations, the court held that the

allegations demonstrate [the general contractor] did not sustain its own damages as a result of any breach of contract or breach of warranty by the respondents. Rather, the allegations show [plaintiff] is the party that suffered damages, and [the general contractor's] injuries ***arose exclusively from having to defend itself in [plaintiff's] lawsuit.*** Consequently, the damages [the general contractor] seeks to recover resulted only from its potential liability to [plaintiff] and from the expenses [the general contractor] incurred defending itself.

Id. at 634. (Emphasis added). The court then highlighted this point further:

[u]nder [the general contractor's] own allegations, its cross-claims arose only when it faced potential liability for [plaintiff's] damages and incurred fees and costs defending against [plaintiff's] lawsuit.

Id. at 637.

The Stoneledge court looked to two federal court cases in making this decision: South Carolina National Bank v. Stone, 749 F. Supp. 1419 (D.S.C. 1990) and United States Fidelity & Guaranty Co. v. Patriot's Point Development Authority, 788 F. Supp. 880 (D.S.C. 1992) (“USF&G”). As explained by the Stoneledge court,

In Stone, the defendants asserted cross-claims for breach of contract, negligence, and fraud against co-defendants that settled with the plaintiffs. The district court barred the non-settling defendants from asserting these cross-claims against the settling defendants because it found they were not independent causes of action. The court explained the cross-claims arose only if the non-settling defendants were liable to the plaintiffs, and these purported causes of action are nothing more than claims for ... indemnification with a slight change in wording.

Similarly, in USF&G, the defendants argued they had “independent claims” against a co-defendant in addition to their claim for indemnification. The district court barred the defendants from bringing these claims, finding **“without plaintiffs suing the ... defendants[,] the ‘independent claims’ ... would not exist,”** and thus “these claims are really nothing more than claims for indemnity.” Id. We agree with Stone and USF&G and find the reasoning in those decisions applies to this case. Under [the general contractor’s] own allegations, its cross-claims arose only when it faced potential liability for [plaintiff’s] damages and incurred fees and costs defending against [plaintiff’s] lawsuit.

Stoneledge II at 636-637 (emphasis added).

Here, Plaintiff’s lawsuit did not give rise to D.R. Horton’s legal rights against the Third-Party Defendants. D.R. Horton can bring claims of breach of contract, implied warranties negligence/gross negligence/recklessness against the Third-Party Defendants. See Kennedy v. Columbia Lumber and Mfg. Co., Inc., 384 S.E.2d 730, 299 S.C. 335 (S.C. 1988). Those rights existed before the lawsuit was initiated by Plaintiff, which only provided notice of those issues to D.R. Horton. Thus, these claims, which existed but were latent, are not disguised indemnity claims derivative of the Plaintiff’s lawsuit – they are preexisting claims which are separate and

distinct from D.R. Horton's claim for equitable indemnity. Moreover, in addition to the damages D.R. Horton is incurring related to defending this lawsuit, D.R. Horton seeks to recover for extra workload, repairs or repair costs of the defective work, costs of investigation, and damage and harm to reputation. (D.R. Horton's Amended Answer to Plaintiff's Complaint and Crossclaims, ¶¶ 87, 96, and 112).

These separate damages are explained by the court in Addy v. Bolton, 257 S.C. 28, 183 S.E.2d 708 (1971). In Addy, the defendant owner of a building was sued by its tenant when the building caught fire. The building owner then sued the contractor whose negligent work caused the fire. The owner's recovery of fees and costs from the negligent contractor was upheld by the South Carolina Supreme Court, reasoning that "the weight of authority sustains [the building owner's] right of recovery, either on the theory of an implied contract to indemnify, or because they were put to the necessity of defending themselves against the claim by the tortious conduct of the contractor, or by his breach of contract." Addy at 33. As explained by the Stoneledge court, "[u]nlike in this case, the Addy appellants did suffer their own damages independent of their obligation to defend themselves in the underlying lawsuit." Stoneledge II at 639 (*Emphasis added*).

The facts in Addy are aligned with the facts of this case. Like the building owner in Addy, D.R. Horton is forced to defend itself from the Plaintiff's claims arising from the Third-Party Defendants' tortious conduct (negligent performance of work) and breach of warranties (failure to perform work in a workmanlike manner). Moreover, D.R. Horton seeks not only damages related to defending this lawsuit, but also for costs to investigate and repair the deficient or defective work, attorneys' fees and costs, and damage to reputation. These facts distinguish this case from Stoneledge I and Stoneledge II. D.R. Horton's damages are thus recoverable under the

separate causes of action it has pled, and those claims must remain in this action.

F. D.R. Horton Does Not Have Unclean Hands and Can Recover in Equity

Various Third-Party Defendants contend that D.R. Horton cannot recover under its equitable indemnity claim because D.R. Horton is not without fault. However, they cannot meet their burden of proof to obtain judgment as a matter of law on D.R. Horton's equitable indemnity claim by arguing that the jury *might* find D.R. Horton liable to Plaintiff. Because there is a question of fact as to whether D.R. Horton is at fault for the alleged construction defects, the third-party defendants' motions for summary judgment as to D.R. Horton's claim for equitable indemnity should be denied.

South Carolina courts have consistently found that equitable indemnity claims may be brought against a negligent co-defendant during the initial action. *See, e.g., Stoneledge at Lake Keowee Owners' Ass'n v. Clear View Constr., LLC*, 413 S.C. 615, 622, 776 S.E.2d 426, 430 (Ct. App. 2015) (stating that "[w]e agree Addy controls this case to the extent it shows Marick may assert a claim for equitable indemnity against a negligent co-defendant"). Additionally, Stoneledge held that the lower court erred in granting summary judgment on the merits of the general contractor's equitable indemnity crossclaim because the general contractor presented a question of fact as to whether it was at fault for the alleged construction defect.

"[T]he doctrine of unclean hands precludes a plaintiff from recovering in equity if he acted unfairly in a matter that is the subject of the litigation to the prejudice of the defendant." Wachovia Bank, N.A. v. Coffey, 389 S.C. 68, 75, 698 S.E.2d 244, 247 (Ct. App. 2010) (citation omitted). The third-party defendants bear the burden of proof in seeking summary judgment on such an affirmative defense. However, they have failed to come forward with any evidence that DRH has unclean hands as a matter of law.

It is well settled that where a party is exposed to liability to a third party due to the conduct of another, through no fault of its own, that party may recover in equitable indemnity against the second party. See *Town of Winnsboro v. Wiedeman-Singleton, Inc.*, 303 S.C. 52, 398 S.E.2d 500 (Ct. App. 1990). Moreover, a general contractor is not automatically responsible for the negligence of a subcontractor. See *Fields v. J. Haynes Waters Builders*, 376 S.C. 545, 658 S.E.2d 80 (S.C. 2008).

It is clear that there is a factual issue whether or not D.R. Horton appropriately supervised and oversaw the project. D.R. Horton did not self-perform any of the construction on the project, and therefore, relied on the subcontractors for their knowledge, expertise, experience and installation. Because there is a question of fact as to whether D.R. Horton had fault, the Third-Party Defendants' unclean hands defense does not preclude D.R. Horton's claim for equitable indemnity at this time.

In fact, here, Plaintiff has complained of subcontractors' work for four years and sued D.R. Horton for it. Now, on the eve of trial, Plaintiff admits she cannot prove her case against D.R. Horton on certain issues and filed a stipulation admitting as much. That tardy self-serving admission also expressly and impliedly absolves D.R. Horton from any wrongdoing for those issues – thus erasing any argument about unclean hands. Therefore, in this case, Galloway-Bell has not proven that D.R. Horton has unclean hands and thus equitable indemnity should not be dismissed. Conversely, D.R. Horton can show that it faced liability and damages due to Galloway Bell's work and that cause of action should remain.

IV. CONCLUSION

For the reasons set forth above, D.R. Horton requests the Court reconsider its Order granting summary judgment.

Respectfully submitted,

KENISON, DUDLEY & CRAWFORD, LLC

s/ David L. Paavola

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September 11, 2023
Greenville, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

Natalie Zitek, individually, and on behalf)
of all others similarly situated,)

Plaintiff)

vs)

D.R. Horton, Inc., Jane Doe #1-10; and,)
John Doe #1-50,)

Defendant)

D.R. HORTON, INC.)

Third-Party Plaintiff)

vs)

AJ LANDSCAPING & GRADING,)
LLC, A/K/A AJ LANDSCAPING &)
GRADING, LLC; ALLPRO)
TEXTURES, LLC; ALPHA OMEGA)
CONSTRUCTION GROUP, INC.;)
AMERICAN CONCRETE AND)
PRECAST, INC.; A/K/A ACP)
CONCRETE, INC.; A&J FRAMING,)
INC; ALPHA E.M.C.; A-Z, INC.;)
ATLANTA FLOOR DESIGNS)
CENTER; A GRADE ABOVE)
OTHERS, LLC; BRAND-VAUGHAN)
LUMBER CO, INC.; BKF BUILDERS,)
INC.;BUILDERS DESIGNHOUSE,)
LLC; BMC EAST LLC D/B/A)
COLEMAN FLOOR, LLC; BUILDERS)
FIRSTSOURCE SOUTHEAST GROUP,)
LLC, A/K/A BUILDERS)
FIRSTSOURCE, INC; BRAVO)
CARPENTERS, INC.; CARYL)
MECHANICS II, INC., A/K/A CARYL)

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT

C.A. No. 2019-CP-04-1942

**DEFENDANT D.R. HORTON, INC.'S
MEMORANDUM IN OPPOSITION TO ALL
THIRD-PARTY DEFENDANTS'
MOTIONS FOR SUMMARY JUDGMENT**

MECHANICALS, INC.; CANNADAY)
 SIDING & GUTTER, INC.; CORTES)
 PAINTING, LLC; CBU ENTERPRISES,)
 INC.; CPI SECURITY SYSTEMS, INC.;)
 DOM GROUP, LLC; FERGUSON)
 ENTERPRISES, INC.; FIVE STAR)
 CONSTRUCTION INC.; FIVE STAR)
 FOUNDATIONS, LLC; GALLOWAY-)
 BELL, INC. A/K/A GALLOWAY-)
 BELL, INC. II; GET FLOORED, LLC;)
 GBS BUILDING SUPPLY – US LBM,)
 LLC, F/K/A GBS BUILDING SUPPLY,)
 INC.; GENERAL SHALE BRICK INC.;)
 GREENER PASTURES, INC. A/K/A)
 GREENER PASTURES OF AIKEN,)
 LLC; IBP ASSET, LLC D/B/A BLUE)
 RIDGE BUILDING PRODUCTS; JLS)
 MASONRY, INC.; KINGS)
 LANDSCAPING, LLC;)
 LANDSHAPERS, LLC; LADE-)
 DANLAR, INC.; LANSING BUILDING)
 PRODUCTS, INC.; LONG HEATING &)
 AIR CONDITIONING, INC.; L&M)
 ELECTRIC, INC; MANALE)
 LANDSCAPING, LLC; MJ COWBOYS,)
 LLC; M&L GENERAL)
 CONSTRUCTION, LLC, A/K/A M&L)
 GENERAL CONSTRUCTION, INC.;)
 M&L REYNA CONSTRUCTION, LLC;)
 M&M FOUNDATIONS, LLC;)
 NAZARETH BUILDERS, LLC; NB)
 CONTRACTORS, LLC; POINSETT)
 DEVELOPMENT, LLC; POINSETT)
 HOMES, LLC; P&T CONSTRUCTION,)
 INC., A/K/A P&T CONSTRUCTION,)
 INC.; P&L ENTERPRISES, LLC;)
 PROBUILD COMPANY, LLC A/K/A)
 PROBUILD HOLDINGS, INC.; RITE)
 RUG CO.; RODNEY HOWARD)
 GRADING, INC. A/K/A RODNEY)
 HOWARD GRADING CO.;)
 SANDLAPPER CONCRETE, LLC;)
 SODFATHER INC., LANDSCAPE)
 CONTRACTORS; STOCK BUILDING)
 SUPPLY, LLC; TOPBUILD HOME)
 SERVICES, INC., A/K/A GALE)

CONTRACTORS SERVICE; TUCKER)
MATERIALS, INC., A/K/A GYPSUM;)
UTM ENTERPRISES, INC; DUPREE)
PLUMBING COMPANY, INC. AND)
WILLOW TREE LANDSCAPING, INC;)
AND SILVER LINE BUILDING)
PRODUCTS CORPORATION)
)

Third-Party

Defendants

TO: ALL COUNSEL OF RECORD:

COMES NOW, Defendant D.R. Horton, Inc. (“DRH”) and hereby responds to Third-Party Defendants Motions for Summary Judgment, showing this honorable Court as follows:

I. PROCEDURAL HISTORY

Various Third-Party Defendants are moving (some for the second time) for summary judgment based on the assertion that DRH’s claims for breach of contract, breach of warranties, and negligence/gross negligence/recklessness are merely disguised claims for indemnity and DRH’s claims for contractual indemnity are barred and unenforceable. These are the same grounds for summary judgment that Third-Party Defendants previously moved for in the fall of 2022, and that the Court denied by Order dated November 3, 2022. The Court previously determined that “there are genuine issues of material fact in the claims between the Defendant and Third-Party Defendants,” precluding summary judgment. As a practical matter, these issues have been decided by this Court and should not be revisited.

The Third-Party Defendants’ indemnity obligations and requirement to defend DRH were triggered the moment Plaintiff made her claim and continue until this action is concluded. Where third-party defendants are seeking summary judgment on the merits of Plaintiff’s underlying claims, even if such motions are granted, it would not end DRH’s indemnity claims against these

third-party defendants because DRH's indemnity claims seek recovery of its costs of litigating these claims to this point.

Accordingly, Third-Party Defendant's motions for summary judgment on DRH's third-party claims should be denied.

Because the Third-Party Defendants have not yet filed memoranda in support of their motions, DRH specifically reserves the right to supplemental briefing on these motions.

II. STATEMENT OF FACTS

Plaintiff initiated this class action lawsuit on September 25, 2019, against DRH and Jane Doe #1-10 and John Doe #1-50 as Defendants. (See Plaintiff's Complaint). The lawsuit concerns the construction of approximately 234 homes (the "Subject Properties"). As noted in the Complaint, "Defendants Jane Doe #1-10, whose true names are unknown ("Jane Doe Defendants"), are other entities or individuals who are actual or de facto joint venturers and/or partners, control persons, and/or agents of DRH and/or each other in connection with the design, construction, and repair of the [Subject Properties]." (*Id.* at ¶8). Plaintiff further alleged "Defendants John Doe #1-50 ("John Doe Defendants") are persons or entities who participated in the design, development, marketing, construction, repair, and/or sale of the [Subject Properties] as contractors, subcontractors, manufacturers, material supplier, consultants, architects, engineers, real estate agents, managers, marketers, laborers, or otherwise." (*Id.* at ¶16). Plaintiff brought the following claims against Defendants: negligence and gross negligence, breach of implied warranties, and unfair trade practices. However, DRH did not self-perform any of the work in the construction of the Subject Properties.

After filing the subject lawsuit, Plaintiff provided a Notice and Opportunity to Cure to D.R. Horton listing thirteen (13) categories of issues that were alleged to have been experienced by

Plaintiff and similarly situated individuals. Only those subcontractors whose work was implicated by that notice have been named in the lawsuit. DRH brought claims against the entities and individuals with whom it contracted with to provide labor and/or supply materials for the construction of the Subject Properties including the Third-Party Defendants. DRH brought the following claims against the Third-Party Defendants: contractual indemnification, equitable indemnification, breach of contract, breach of express warranties, breach of implied warranties, and negligence/gross negligence/recklessness.

DRH entered into agreements with subcontractors, including the Third-Party Defendants, to perform the work (collectively hereinafter referred to as the “ICAs”).¹ Each of the ICAs included indemnity provisions (collectively hereinafter referred to as the “Indemnity Provisions”). Throughout the years DRH constructed homes in Rose Hill with various subcontractors, it had six slight variations of the ICA. (ICA’s attached as **Exhibits 1-6; Exhibit 7** (listing of ICA’s for each subcontractor)). Generally, these all incorporate the following applicable provisions:

Subcontractor Standards:

2. Independent Contractor Status. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, methods and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform the assigned tasks and have all necessary licenses.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers’ or

¹ D.R. Horton fully incorporates its Memorandum in Opposition to Third-Party Motions for Summary Judgments (Sep. 7, 2022) and all exhibits of representative ICAs attached thereto as Exhibit A.

suppliers' standards or specifications for use and installation, and all laws (statutory and common), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements).

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, an shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

Subcontractor Indemnity and Insurance Requirements:

10.1 GENERALLY. To the fullest extent permitted by law, contractor hereby agrees to hold harmless, indemnify, protect and defend owner, its parent corporation, subsidiaries, affiliates, successors and assigns, and each of the aforementioned entities' respective officers, directors, partners, employees, agents and insurers (individually or collectively hereinafter, "indemnatee") from and against any and all demands, claims, actions, causes of action, proceedings, lawsuits, settlements, judgments, fines, penalties, losses, attorneys fees, litigation costs, interest, and expenses of any kind (individually or collectively hereinafter, "losses") for damages from bodily or personal injury, death, the destruction or loss of property (including loss of use), or any other kind of damages or harm, arising out of, or resulting from, or related in any way to the work performed and/ or the materials supplied under this contract, regardless of whether or not caused in part by indemnatee. Such losses specifically include, but are in no way limited to losses arising out of or attributable to: (1) a breach of any warranties, representations, covenants or obligations of contractor set forth herein; (2) the work performed or to be performed or materially supplied by contractor, contractor's agents or employees, suppliers or subcontractors and their respective agents and employees, and/or all other entities over whom the contractor may exercise control (individually or collectively hereinafter, "contractor's agents"); (3) any negligent, grossly negligent, and/or intentional. act and/or omission of contractor and/ or contractor's agents; or (4) any negligent, grossly negligent, and/or intentional act and/or omission of the indemnatee related in any way to the work. Notwithstanding the foregoing, nothing herein shall require indemnity for losses caused solely by fault or negligence of the indemnatee. The losses described herein shall include, but are not limited to, demands, claims, or actions asserted by (1) any present or future owner of the house incorporating the work; and (2) any

owner, contractor or any third party (including, but not limited to, personnel furnished by contractor and/or contractor's agents). The indemnification obligation under this contract shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for contractor under workers' compensation acts, disability benefit acts or other employee benefit acts. The indemnity provisions contained herein are intended to be as broad and inclusive as permitted by law.

10.4 Subcontractor's and Supplier's Indemnity Obligations.

....For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the actions of any subcontractor engaged by Contractor whether in written agreement or otherwise or who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed to be the obligation of the subcontractors to Owner, for which Contractor shall be fully responsible to Owner.

11.3 General Requirements Applicable to All Required Insurance.

Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both on-going operations and completed operations (equivalent to form CG20101185 or form CG2037). Coverage obtained by Contractor naming Owner as an Additional Insured shall be primary with any insurance of Owner being excess coverage. The insurance coverage will be carried continuously during the term of this Agreement and thereafter is requested by this Agreement with insurance companies acceptable to Owner in its sole and absolute discretion.

The Third-Party Defendants contend that they are entitled to summary judgment because DRH's claims for breach of contract, breach of warranties, and negligence/gross negligence/recklessness are merely disguised claims for indemnity and DRH's claims for contractual indemnity are barred and unenforceable. Various defendants also contend that they are entitled to summary judgment against DRH's contractual indemnity claims due to lack of a written contract or because DRH has unclean hands.

For the reasons set forth below, the Third-Party Defendants' motions must be denied.

III. ARGUMENT & CITATION OF AUTHORITY

A. Applicable Standard

Summary judgment is only appropriate where the evidence shows that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law on that claim. Rule 56(c), SCRCP. In considering a motion for summary judgment, the trial court “must view the facts in the light most favorable to the non-moving party.” George v. Fabri, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). Moreover, “[a]ll ambiguities, conclusions, and inferences arising from the evidence must be construed most strongly against the moving party.” Murray v. Holnam, Inc., 344 S.C. 129, 137, 542 S.E.2d 743, 747 (Ct. App. 2001).

B. The Indemnity Provisions are not Illegal and Unenforceable

The Third-Party Defendants relying heavily on DRH, Inc. v. Builders FirstSource-Se. Grp., LLC, 422 S.C. 144, 148, 810 S.E.2d 41, 45 (Ct. App. 2018) contend that the Indemnity Provisions included in the ICAs are illegal and unenforceable because they are barred by S.C. Code § 32-2-10, *et. seq.* (the “Anti-Indemnity Statute”).

This perfunctory analysis is insufficient, as the South Carolina Court of Appeal’s decision in *Builders* made specific reference to the concealment and unreasonable award of damages, which impacted D.R. Horton’s ability to recover under the indemnification agreement.² In *Builders*, Patricia Clark (hereinafter “Clark”) filed a suit against D.R. Horton for negligence, breach of contract, multiple breaches of warranty and a violation of the South Carolina Unfair Trade Practice Act. *Id.* at 148. The lawsuit alleged various defects in the Clark home, including but not limited to, the work performed by Builders FirstSource. Clark and D.R. Horton participated in arbitration, where Clark was awarded \$150,000. *Id.* However, the arbitration award did not indicate what

² *Id.* at 153. “D.R. Horton cannot ask the arbitrator to conceal its reasons for an award, which may have included damages caused by its own negligence, then ask the circuit court to award it damages that would be barred by the statute.”

damages the arbitrator found compensable. *Id.* Further, the arbitrator noted that “(c)ounsel for the parties have requested an order containing a monetary award only.” *Id.*

Following the arbitration award, D.R. Horton filed a complaint seeking contractual indemnification and contribution from Builders FirstSource for recovery of the arbitration award and attorney’s fees that D.R. Horton incurred as a result of the Clark suit. *Id.* Subsequently, Builders FirstSource filed a motion for summary judgement alleging D.R. Horton’s claim for contractual indemnification failed as the agreement required D.R. Horton to be indemnified from its own negligence. *Id.* at 148-49. Upon the request via multiple motions, the trial court granted Builders FirstSource’s motion for Summary Judgment. *Id.* at 149. D.R. Horton then appealed the trial court’s decision, asserting that the trial court erred by reading additional terms into the agreement and failed to require Builders FirstSource to pay the entire arbitration award and attorney’s fees. *Id.* at 150.

1. General Differences Between Zitek and Builders

The development of the Zitek Class Action is distinguishable as D.R. Horton has brought claims against all relevant subcontractors in this suit. First, Zitek is a class action involving potentially hundreds of homes and dozens of subcontractors. As a result of this complex litigation, D.R. Horton has filed third party claims against all subcontractors whose scope of work has been implicated in the Zitek Class Action. Additionally, D.R. Horton has requested indemnification from all relevant subcontractors during the process of litigation with the Plaintiff. Overall, *Builders* is distinguishable based on the essential formation and development of the Zitek Class Action and therefore cannot be blindly applied to this case and requires further analysis.

Notwithstanding the clear differences between Builders and the current matter, the Third-party Defendants' position is further flawed because the Indemnity Provisions in this matter specifically exclude losses caused by the sole negligence of DRH.

The Anti-Indemnity Statute provides, in pertinent part, as follows:

Notwithstanding any other provision of law, a promise or agreement in connection with the design, planning, construction, alteration, repair or maintenance of a building ... purporting to indemnify the promisee, its independent contractors, agents, employees, or indemnitees against liability for damages arising out of bodily injury or property damage proximately caused by or resulting ***from the sole negligence of the promisee***, its independent contractors, agents, employees, or indemnitees is against public policy and unenforceable. Nothing contained in this section shall affect a promise or agreement whereby the promisor shall indemnify or hold harmless the promisee or the promisee's independent contractors, agents, employees or indemnitees against liability for damages resulting from the negligence, in whole or in part, of the promisor, its agents or employees.

(*Emphasis added*).

In D.R. Horton, Inc. v. Builders FirstSource-Se. Grp., LLC, the South Carolina Court of Appeals found that a prior version of DRH's ICA violated S.C. Code § 32-2-10. The former ICA required the indemnitee to indemnify DRH for claims "related in any way to the work, even when the loss is caused by the fault or negligence of the indemnitee." 422 S.C. 144, 148, 810 S.E.2d 41, 45 (Ct. App. 2018). As explained by the court,

[The Anti-Indemnity Statute] allows D.R. Horton and [the Third-Party Defendants] to agree that [the Third-Party Defendants] will indemnify D.R. Horton for damages caused by [Third-Party Defendants] or its subcontractors. To the extent the trial court found that aspect of the agreement to be against public policy, we disagree. However, we agree that the indemnification clause is void as against public policy to the extent it purports to require [Third-Party Defendants] to indemnify D.R. Horton for damage caused by [D.R. Horton's] negligence or the negligence of its subcontractors.

Id. The court held that the contract at issue “purport[ed] to require [subcontractor] to indemnify D.R. Horton for its own negligence in violation of section 32-3-10.” *Id.*

In the present case, the Indemnity Provisions specifically exclude claims arising out of the sole negligence of DRH by providing:

- “**10.1 GENERALLY.** ...nothing herein shall require indemnity for losses caused solely by fault or negligence of the indemnitee [DRH]” (See Exhibit 1);
- “**10.1 GENERALLY.** ...nothing herein shall require contractor to indemnify indemnitee against liability for damages arising out of bodily injury or property damage proximately caused by or resulting from the sole negligence or sole intentional act or omission of indemnitee [DRH]” (See Exhibits 2, 3, 4, 5);
- “**10.1 GENERALLY.** ...It is the express intent of the parties in agreeing to this Section 10 that Contractor shall indemnify Indemnitee for the negligence of Contractor, its subcontractors, employees and anyone over whom Contractor exercises control as well as for Owner’s and/or indemnitee’s concurrent or joint negligence arising from a failure to properly supervise Contractor.” (See Exhibit 6)

Because the ICAs with the Third-Party Defendants exclude claims arising out of DRH’s sole negligence, the Indemnity Provisions do not violate Section 32-3-10 and are distinguishable from the agreement in *D.R. Horton, Inc. v. Builders FirstSource-Se. Grp., LLC*. (See Exhibits 1-6, the ICAs and Exhibit 7, listing of ICA’s for each subcontractor).

C. **The Indemnity Provisions Comply With The Requirements Set Forth In Concord & Cumberland Horizontal Prop. Regime V. Concord & Cumberland, LLC**

The Third-Party Defendants contend that the Indemnity Provisions do not comply with the requirements laid out in *Concord & Cumberland Horizontal Prop. Regime v. Concord &*

Cumberland, LLC, 424 S.C. 639, 819 S.E.2d 166 (Ct. App. 2018) and are therefore unenforceable. The court in Concord held that when a party seeks indemnification for its own concurrent negligence, the clear and unequivocal standard applies. Id. at 649, 172. Additionally, “when an indemnity clause purports ‘to relieve an indemnitee from the consequences of its own negligence,’ [South Carolina] case law requires strict construction of the clause.” Id. at 650, 172 (quoting Laurens Emergency Med. Specialists, PA v. M.S. Bailey & Sons Bankers, 355 S.C. 104, 111 584 S.E.2d 375, 378-379 (2003)).

There were two indemnity agreements entered at issue in Concord. For the first agreement, the court found that the phrase “to the extent caused or alleged to be caused in whole or in part by any negligent act or omission of the [Muhler]” specifically limited Muhler’s obligation to indemnify to damages and losses caused by the negligence of the Muhler and its subcontractors.³ Id. at 654, 174. Additionally, the phrase “regardless of whether it is caused in part by a party indemnified hereunder” did not alter the limiting language. Id. Therefore, the general contractor was not entitled to indemnification from the subcontractor, Muhler, for the general contractor’s concurrent negligence pursuant to the first agreement.

With regard to the second agreement, the court found that although the language was broader and excluded the limiting “to the extent caused” language from the first agreement, it still

³ The first indemnity agreement in Concord stated, in relevant part, as follows:

the Subcontractor shall indemnify and hold harmless the Owner, the Architect, the Contractor ... and other contractors and subcontractors ... from and against all claims, damages, loss and expenses, including but not limited to attorney’s fees, arising out of or resulting from the performance of the Subcontractor’s Work ...

- (a) ... to the extent cause or alleged to be caused in whole or in part by any negligent act or omission of the Subcontractor ... regardless of whether it is caused in part by a party indemnified hereunder.

Id. at 643, 168-169.

failed to include any reference to indemnification for the general contractor's concurrent negligence.⁴ *Id.* at 656-657, 176. While “there is no verbatim phrase that must be used to meet the clear and unequivocal standard, there must be some language in an indemnity clause that clearly shows the parties’ intent to absolve the indemnitee of the consequences of its own concurrent negligence.” *Id.* at 657, 176 (citation omitted). Further, the court indicated that the following language may be sufficient to meet the clear and unequivocal standard: “[subcontractor] agrees to indemnify for all damages, regardless of whether the damages are caused in part by a party indemnified hereunder[.]” *Id.* at 656-657, 176.

The indemnity provision in Version 1 of the ICA provides in relevant part (See Exhibit 1):

10.1 GENERALLY. ...[Subcontractor] hereby agrees to hold harmless, indemnify, protect and defend [DRH]...from and against any and all demands, claims, actions, causes of action, proceedings, lawsuits...and expenses of any kind... for damages from bodily or personal injury, death, the destruction or loss of property (including loss of use), or any other kind of damages or harm, arising out of, or resulting from, or related in any way to the work performed and/ or the materials supplied under this contract, **regardless of whether or not caused in part by indemnitee** [DRH].” (*Emphasis added*).

The indemnity provision in Versions 2, 3, and 4 of the ICA provides in relevant part (See Exhibits 2, 3, and 4):

“10.1 Generally. ... [Subcontractor] shall protect, defend, indemnify, and hold [DRH].... harmless from and against any and all claims, demands, lawsuits or other litigation...including all costs thereof, attorneys’ fees and interest... on account of bodily or personal injury, death, or damage to or loss of tangible or intangible property... arising out of, or in connection with: (1) a breach of any

⁴ The second indemnity provision provided, in pertinent part,

In the event either Superior or Concord and Cumberland, LLC are sued hereafter ... alleging that one or more of the windows and/or doors do not comply with the original or amended contract documents, or are defectively installed, Muhler agrees to unconditionally indemnify both Superior and Concord and Cumberland, LLC ... and will pay all damages ... incurred by either or both[.]

Id. at 644, 169.

warranties, representations, covenants, or other obligations of [subcontractor] set forth in this Agreement; (2) the work...performed or material supplied by [subcontractor]...(3) any negligent or intentional act or omission...of [subcontractor]...**regardless of whether caused in part by [DRH]; or (4) any negligent or intentional act or omission... of [DRH] related in any way to the work.**" (Emphasis added).

The indemnity provision in Version 5 of the ICA provides in relevant part (See Exhibit 5):

10.1 GENERALLY...[Subcontractor] shall protect, defend, indemnify, and hold [DRH]....harmless from and against any and all claims, demands, lawsuits or other litigation... including all costs thereof, reasonable settlement amounts, attorneys' fees and interest... on account of bodily or personal injury, death, or damage to or loss of tangible or intangible property...arising out of, or in connection with: (a) a breach of any warranties, representations, covenants, or other obligations of [subcontractor] set forth in this agreement; (b) the work...performed or material supplied by [subcontractor]... (c) any negligent or intentional act or omission of [subcontractor] **regardless of whether caused in part by [DRH]; or (d) any negligent or intentional act or omission... of [DRH] related in any way to the work...**" (Emphasis added).

The indemnity provision in Version 6 of the ICA provides in relevant part (See Exhibit 6):

"10.1 GENERALLY. ...[Subcontractor] shall hold harmless, indemnify [DRH].... against all demands, claims, actions, causes of action, proceedings, lawsuits...or expenses (including attorneys' fees and interest), for damages from bodily or personal injury, death, the destruction or loss of property (including loss of use), or any other kind of damages or harm.... arising out of, or resulting from, or related to the work performed and/ or the materials supplied under this Agreement, **including losses founded partially upon the negligent acts or omissions of [DRH] in failing to supervise contractor, attributable in whole or in part to:** (1) a breach of any warranties, representations, covenants or other obligations of contractor set forth in this Agreement; (2) the work performed.... or materials supplied by [subcontractor]...; or (3) any negligent or intentional act and/or omission of [Subcontractor] related in any way to the work..." (Emphasis added).

The Indemnity Provisions between DRH and the Third-Party Defendants closely track the language suggested by the court in Concord and provide that third-party defendants will indemnify DRH for certain losses regardless of whether or not the losses caused in part by DRH. The

Indemnity Provisions clearly and unequivocally show that the parties intended to absolve DRH of the consequences of its own concurrent negligence. Therefore, the Indemnity Provisions meet the standard set forth in Concord and are enforceable. See Exhibit A, the ICAs.

D. DRH Claims for the Third-Party Defendants’ contractual duty to defend is not applicable under S.C. Ann. Code § 32-2-10.

The Third-Party Defendants contend that the Indemnity Provisions do not comply with the requirements laid out in the ICAs as they are contrary to each other and in violation of S.C. Ann. Code § 32-2-10. Specifically, Third Party Defendants reference Section 10.1, which addresses the Third-Party Defendants indemnification obligations under the ICA, and Section 10.2 in ICA versions one through five and Section 10.3 in ICA version 6 which establishes the duty of the Third-Party Defendants and their insurers to defend DRH, including but not limited to attorneys’ fees and costs. Section 10.2 provides in relevant part (See Exhibit 1 and Exhibits 2-5 which provide similar language):

“Indemnity Not Exclusive Remedy. Any payments by Contractor under Section 10 to or on behalf of the indemnitee shall be in addition to all other legal remedies available to the indemnitee and shall not be considered the indemnitees exclusive remedy... Indemnitee shall have the right, at its discretion... to defend... all claims which may be asserted...and contractor agrees to reimburse indemnitee for any and all expenditures which indemnitee may incur on account of any such claim.”

Section 10. 3 provides in relevant part (See Exhibit 6):

“Any payments by Contractor under Section 10 to or on behalf of the indemnitee shall be in addition to all other legal remedies available to the indemnitee and shall not be considered the indemnitees exclusive remedy...”

Third-Party Defendants have attempted to conflate section 10.1 and 10.2 or 10.3 of the ICAs by stating that the provisions are contrary to each other and in violation of S.C. Ann. Code § 32-2-10. As a preliminary matter, the Anti-Indemnity Statute does not address the duty to defend

obligation but rather specifically addresses obligations to indemnify a party. Accordingly, Third-Party Defendants reliance on this statute is misplaced.

Further, these interpretations are contrary to the actual language of the indemnity clause. The section of the indemnity clause that excludes indemnity for sole acts of the indemnitee's negligence also applies to the duty to defend. The ICA specifically state that nothing "shall require the contractor **to defend**, insure, indemnify or hold indemnitee harmless for liability or claims arising out of bodily injury to person, death, or damage to property caused by or resulting from the sole negligence or sole intentional act or omission of indemnitee." Additionally, the first sentence in 10.1 indicates that the indemnity obligations are being provided to as permitted by law, "To the fullest extent permitted by Law, Contractor shall protect, defend indemnify..." These cited references clearly qualify the obligations of the contractor to D.R. Horton.

Finally, 16.2 of the ICA provides that, "The provisions of this Agreement shall be independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion." (Exhibit 1).

"A severable contract is one in its nature and purpose susceptible of division and apportionment, having two or more parts, in respect to matters and things contemplated and embraced by it, not necessarily dependent upon each other, nor is it intended by the parties that they shall be. **The entirety or severability of a contract depends primarily upon the intent of the parties** rather than upon the divisibility of the subject, although the latter aids in determining the intention. We think it a significant indication of the nature of the contract and the intent of the parties that the document embodying the agreement of the parties provides for a mutual exchange of performances which is indicative of a severable contract." Columbia Architectural

Grp., Inc. v. Barker, 274 S.C. 639, 641, 266 S.E.2d 428, 429 (1980), citing *Field v. Byrd*, 73 S.C. 1, 6, 51 S.E. 678, 679 (1905) (emphasis added).

The presence of a severability clause argues in favor of the conclusion that the parties intended that the contract be severable rather than entire. “The Agreement here contains a severability clause, reflecting that if any part of the contract is found ‘unenforceable for any reason, the remainder shall remain enforceable.’ Given this intent and our belief that removing the unconscionable clause does not disrupt the core of the parties’ bargain, we disagree with the circuit court that the entire Agreement must fall.” *Doe v. TCSC, LLC*, 430 S.C. 602, 846 S.E.2d 874 (S.C. App. 2020) (voiding an arbitration clause for unconscionability but not invalidating the entire contract) (citing *Columbia Architectural Grp.*).

Therefore, to the extent 10.2 is found to be in violation of the Anti-Indemnity Statute, that section can be severed without rendering 10.1 unenforceable.

E. DRH’s Claims For Negligence, Breach Of Warranties, And Breach Of Contract Are Independently Viable

DRH could sue and recover damages against the Third-Party Defendants under theories of negligence, gross negligence, recklessness, breach of contract, and breach of warranties, related to construction deficiencies, regardless of whether Plaintiff ever filed a lawsuit. Therefore, DRH’s causes of action are not “disguised” equitable indemnity claims derivative of Plaintiff’s lawsuit. DRH’s rights to pursue these claims do not evaporate simply because DRH was not the first to discover the Third-Party Defendants’ failures and a lawsuit was instituted by Plaintiff after the structure was sold. The Third-Party Defendants’ reliance upon *Stoneledge v. Clear View, LLC*, 413 S.C. 615, 776 S.E.2d 426 (Ct. App. 2015) (hereinafter referred to as “*Stoneledge I*”) and *Stoneledge at Lake Keowee Owners’ Ass’n v. Builders FirstSource-Southeast Grp.*, 413 S.C. 630, 776 S.E.2d 434 (Ct. App. 2015) (hereinafter referred to as “*Stoneledge II*”) (collectively referred

to as “Stoneledge”) is misplaced. Moreover, the Third-Party Defendants’ interpretation of the Stoneledge decisions is overbroad.

Instead, a more reasonable interpretation of the Stoneledge decisions is that if the general contractor alleges and proves damages that do arise separately from having to defend itself in the purchasers’ lawsuit, the general contractor’s claims for breach of warranty and negligence are independent from the equitable indemnity claim. Indeed, a careful reading of Stoneledge reveals that the court did not make a blanket bright line rule, but rather did an analysis, mostly of the allegations in the third-party complaint, to determine if the general contractor had plead, alleged, or proved a factual issue of the existence of damages not arising from the plaintiffs’ lawsuit.

As the court explained in Stoneledge II, “[t]he issue [the general contractor] raises – whether the circuit court properly interpreted its claims for breach of contract and breach of warranty as one claim for equitable indemnity – requires us to construe its cross-complaint, and thus presents a question of law.” Stoneledge II at 634. In determining that the general contractor’s claims for breach of warranty and breach of contract were equitable indemnity claims, the court explained that “[the general contractor’s] injuries arose exclusively from having to defend itself in [plaintiff’s] lawsuit.” Id. at 636.

In reviewing the general contractor’s allegations, the court held that the

allegations demonstrate [the general contractor] did not sustain its own damages as a result of any breach of contract or breach of warranty by the respondents. Rather, the allegations show [plaintiff] is the party that suffered damages, and [the general contractor’s] injuries ***arose exclusively from having to defend itself in [plaintiff’s] lawsuit.*** Consequently, the damages [the general contractor] seeks to recover resulted only from its potential liability to [plaintiff] and from the expenses [the general contractor] incurred defending itself.

Id. at 634. (Emphasis added). The court then highlighted this point further:

[u]nder [the general contractor's] own allegations, its cross-claims arose only when it faced potential liability for [plaintiff's] damages and incurred fees and costs defending against [plaintiff's] lawsuit.

Id. at 637.

The *Stoneledge* court looked to two federal court cases in making this decision: *South Carolina National Bank v. Stone*, 749 F. Supp. 1419 (D.S.C. 1990) and *United States Fidelity & Guaranty Co. v. Patriot's Point Development Authority*, 788 F. Supp. 880 (D.S.C. 1992) (“USF&G”). As explained by the *Stoneledge* court,

In *Stone*, the defendants asserted cross-claims for breach of contract, negligence, and fraud against co-defendants that settled with the plaintiffs. The district court barred the non-settling defendants from asserting these cross-claims against the settling defendants because it found they were not independent causes of action. The court explained the cross-claims arose only if the non-settling defendants were liable to the plaintiffs, and these purported causes of action are nothing more than claims for ... indemnification with a slight change in wording.

Similarly, in *USF&G*, the defendants argued they had “independent claims” against a co-defendant in addition to their claim for indemnification. The district court barred the defendants from bringing these claims, finding **“without plaintiffs suing the ... defendants[,] the ‘independent claims’ ... would not exist,”** and thus “these claims are really nothing more than claims for indemnity.” *Id.* We agree with *Stone* and *USF&G* and find the reasoning in those decisions applies to this case. Under [the general contractor's] own allegations, its cross-claims arose only when it faced potential liability for [plaintiff's] damages and incurred fees and costs defending against [plaintiff's] lawsuit.

Stoneledge II at 636-637 (emphasis added).

Here, Plaintiff's lawsuit did not give rise to DRH's legal rights against the Third-Party Defendants. DRH can bring claims of implied warranties negligence/gross negligence/recklessness against the Third-Party Defendants. See *Kennedy v. Columbia Lumber and Mfg. Co., Inc.*, 384 S.E.2d 730, 299 S.C. 335 (S.C. 1988). Those rights existed before the

lawsuit was initiated by Plaintiff, which only provided notice of those issues to DRH. Thus, these claims, which existed but were latent, are not disguised indemnity claims derivative of the Plaintiff's lawsuit – they are preexisting claims which are separate and distinct from DRH's claim for equitable indemnity. Moreover, in addition to the damages DRH is incurring related to defending this lawsuit, DRH seeks to recover for extra workload, repairs or repair costs of the defective work, costs of investigation, and damage and harm to reputation. (DRH's Amended Answer to Plaintiff's Complaint and Crossclaims, ¶¶ 87, 96, and 112).

These separate damages are explained by the court in Addy v. Bolton, 257 S.C. 28, 183 S.E.2d 708 (1971). In Addy, the defendant owner of a building was sued by its tenant when the building caught fire. The building owner then sued the contractor whose negligent work caused the fire. The owner's recovery of fees and costs from the negligent contractor was upheld by the South Carolina Supreme Court, reasoning that "the weight of authority sustains [the building owner's] right of recovery, either on the theory of an implied contract to indemnify, or because they were put to the necessity of defending themselves against the claim by the tortious conduct of the contractor, or by his breach of contract." Addy at 33. As explained by the Stoneledge court, "***[u]nlike in this case, the Addy appellants did suffer their own damages independent of their obligation to defend themselves in the underlying lawsuit.***" Stoneledge II at 639 (*Emphasis added*).

The facts in Addy are aligned with the facts of this case. Like the building owner in Addy, DRH is forced to defend itself from the Plaintiff's claims arising from the Third-Party Defendants' tortious conduct (negligent performance of work) and breach of warranties (failure to perform work in a workmanlike manner). Moreover, DRH seeks not only damages related to defending this lawsuit, but also for costs to investigate and repair the deficient or defective work, attorneys'

fees and costs, and damage to reputation. These facts distinguish this case from Stoneledge I and Stoneledge II. DRH's damages are thus recoverable under the separate causes of action it has pled, and those claims must remain in this action.

F. DRH Does Not Have Unclean Hands and Can Recover In Equity

Various Third-Party Defendants contend that DRH cannot recover under its equitable indemnity claim because DRH is not without fault. However, they cannot meet their burden of proof to obtain judgment as a matter of law on DRH's equitable indemnity claim by arguing that the jury *might* find DRH liable to Plaintiff. Because there is a question of fact as to whether DRH is at fault for the alleged construction defects, the third-party defendants' motions for summary judgment as to DRH's claim for equitable indemnity should be denied.

South Carolina courts have consistently found that equitable indemnity claims may be brought against a negligent co-defendant during the initial action. *See, e.g., Stoneledge at Lake Keowee Owners' Ass'n v. Clear View Constr., LLC*, 413 S.C. 615, 622, 776 S.E.2d 426, 430 (Ct. App. 2015) (stating that "[w]e agree Addy controls this case to the extent it shows Marick may assert a claim for equitable indemnity against a negligent co-defendant"). Additionally, Stoneledge held that the lower court erred in granting summary judgment on the merits of the general contractor's equitable indemnity crossclaim because the general contractor presented a question of fact as to whether it was at fault for the alleged construction defect.

"[T]he doctrine of unclean hands precludes a plaintiff from recovering in equity if he acted unfairly in a matter that is the subject of the litigation to the prejudice of the defendant." Wachovia Bank, N.A. v. Coffey, 389 S.C. 68, 75, 698 S.E.2d 244, 247 (Ct. App. 2010) (citation omitted). The third-party defendants bear the burden of proof in seeking summary judgment on such an

affirmative defense. However, they have failed to come forward with any evidence that DRH has unclean hands as a matter of law.

It is well settled that where a party is exposed to liability to a third party due to the conduct of another, through no fault of its own, that party may recover in equitable indemnity against the second party. See *Town of Winnsboro v. Wiedeman-Singleton, Inc.*, 303 S.C. 52, 398 S.E.2d 500 (Ct. App. 1990). Moreover, a general contractor is not automatically responsible for the negligence of a subcontractor. See *Fields v. J. Haynes Waters Builders*, 376 S.C. 545, 658 S.E.2d 80 (S.C. 2008).

It is clear that there is a factual issue whether or not DRH appropriately supervised and oversaw the project. DRH did not self-perform any of the construction on the project, and therefore, relied on the subcontractors for their knowledge, expertise, experience and installation. Because there is a question of fact as to whether DRH had fault, the Third-Party Defendants' unclean hands defense does not preclude DRH's claim for equitable indemnity at this time.

CONCLUSION

Based on the foregoing, the Third-Party Defendants have not met their burden of proof, and therefore, the Third-Party Defendants' Motions for Summary Judgment on DRH's Crossclaims must be denied.

WHEREFORE, Defendant DRH shall, and hereby does, move the Court for an Order denying the Third-Party Defendants' Motions for Summary Judgment on DRH's Crossclaims.

Respectfully submitted,

KENISON, DUDLEY & CRAWFORD, LLC

s/ John Crawford

John T. Crawford, Jr. (SC Bar # 69682)

Jason M. Imhoff (SC Bar # 69355)

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Counsel for Defendant D.R. Horton, Inc.

July 11, 2023
Greenville, South Carolina



SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR AJ Landscaping and Grading LLC ("Contractor")
☒ Sole Proprietorship ☐ Partnership ☐ Corporation ☐ LLC ☐ Other (ATTACH W-9)
 Social Security No. or Tax ID No. _____
 Name of Owner(s)/Officer(s) Antonio Jimenez
 Division Name: _____ Area Name _____ Assigned Vendor No. _____
 Address for All Notices: 117 East View Circle
 City: Simpsonville State: SC Zip Code: 29681
 Telephone: 804 304 0388 Fax: 804 399 9036 E-Mail Address: Ajlandscapeandgrading@gmail.com
 Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
 This agreement (the "Agreement") is entered into on this 27 day of March, 2013, between D.R. Horton Inc. ("Owner") and Contractor.

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of the Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement (the "Work") shall include all work performed and materials supplied by Contractor to Owner including but not limited to the labor, services and/or materials, equipment, transportation, or facilities necessary to complete the construction-related activities generally described in Exhibit A. The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing will not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to or in place of Contractor. Contractor will be awarded Work on a lot by lot basis. To the extent Exhibit A contains more than one type of construction-related activity, Contractor must clarify with Owner before the Work commences as to which construction-related activity it has been awarded for the lot in question.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, method and performance of the Work. Contractor shall not be considered an agent or employee of Owner for any purpose, nor shall any employees or permitted subcontractors of Contractor. Contractor shall not represent itself as the agent of Owner unless owner has specifically permitted Contractor to do so in writing. The results achieved shall satisfy the requirements of this Agreement. Contractor shall be responsible for the performance of its employees and permitted subcontractors, and all personnel used by Contractor in the performance of Work shall be qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further agrees to provide written notification to all of its present and future employees of Contractor's provision for Worker's Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work herein covered or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall pay and shall be solely responsible for all tax withholding, Social Security, state unemployment and all other withholding as required by law. Contractor's employees, agents or permitted subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNLESS CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule, the superseded Pricing Schedule shall remain in effect for Purchase Orders issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing of the house incorporating the Work from Owner to a purchaser. Contractor hereby agrees that timely invoicing is an important and material term to this agreement, and timely invoicing is a part of Contractor's performance of all material terms of this contract. Contractor hereby waives payment for any Work where Contractor fails to invoice Owner in a timely manner in conformity to this agreement. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR

Executed this 27 day of March, 2013.

Owner: _____ Contractor: _____
 By: Ajlandscapeandgrading LLC By: EDMOND G. JEANFREAU, JR.
 Name: Antonio Jimenez Name: D.R. HORTON INC.
 Title: Owner Title: PURCHASE
 Division President

INITIALS: OWNER CAJ CONTRACTOR EJG

ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO SUBCONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN AND THAT OWNER DOES NOT AGREE TO PAY TO SUBCONTRACTOR INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF DELAYED PAYMENTS.

4.2 Payment to Subcontractors. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed from Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed by Owner to Contractor, notwithstanding the fact that the third parties may not endorse the checks. In any instance where Owner receives written notice from one of Contractor's sub-contractors, whereby the subcontractor claims a failure to be paid for the Work, Owner reserves the right to pay the subcontractor directly or to make payment payable to both the Contractor and its subcontractor.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the Contract Price shall waive and release all claims against Owner and the property under this Agreement, but shall not waive any claims of Owner arising out of Work later found to be defective and shall not release Contractor from liability for warranties and warranty service and/or defective Work. Contractor shall remedy any defects and pay for any damage resulting from any defects in or caused by the Work or as required by any other contracts between Owner and Contractor or by law or customary practice. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or assigns is an acceptance of the Work or materials not in compliance with this Agreement.

5. SCHEDULE OF WORK.

5.1 Time is of the Essence. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work.

5.2 Construction Schedule. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.3 Commencement of the Work. Owner shall issue an authorization (either pursuant to a written purchase order, payment schedule, or work invoice ("Purchase Order") or verbal instructions from an authorized Owner representative) to commence the Work and Contractor shall not commence the Work at a job location until Contractor has received instructions to begin Work at a specific job location. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.4 Changes in Construction Schedule. Contractor agrees that Owner shall have the right to make changes to the schedule of Work at Owner's discretion and agrees to comply with such changes.

6. PERFORMANCE STANDARDS.

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner, in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FHA minimum property standards, VA requirements, all laws (statutory or common) and regulations, and any applicable building code requirements.

6.2 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized Owner's employee and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications as the plans and specifications affect the Work and materials incorporated in the Work, and that the plans and specifications are clear and unambiguous, and has accepted and agreed to be bound by all such requirements.

6.3 Government Requirements. Contractor will comply with all applicable federal, state, local, and county statutes, ordinances, regulations, codes, licensing requirements and standards, and the requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 as amended, as well as the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., or similar laws or regulations, and the rules, regulations, or orders of all public authorities relating to performance of the Work, including without limitation, the procurement and posting of all required permits and notices. In addition, Contractor will not discriminate in its hiring or employment and will follow all state and federal employment laws or regulations. Contractor shall perform background checks and use only appropriate employees to perform warranty or repair work after a house is occupied.

6.4 Indemnity. To the fullest extent allowed by law, Contractor will agree to indemnify, defend, and hold Owner harmless from all actions, claims, investigations or other acts to enforce such laws or regulations, and further agrees to indemnify Owner from the payment of any fine, penalty or damages imposed, levied, assessed, or found as a result of the Contractor's failure to comply with or adhere to the applicable laws and regulations, or from Contractor's failure to cause its employees or subcontractors to comply with such laws and regulations.

6.5 Observation and Testing by Owner and Repair by Contractor. Owner shall have the right to observe or test the Work at any time during or after construction, but that observation or testing is solely for the benefit of Owner's and is not for Contractor's benefit. Owner's failure to note defects in the Work during an inspection will not waive any of Contractor's obligations, representations or warranties related to the Work. Notwithstanding anything contained in this Agreement to the contrary, all Work shall be performed and any defects shall be corrected timely and in accordance with this Agreement to the satisfaction of Owner.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work, and shall report in writing to Owner any defects prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractor's work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses and approvals necessary for or applicable to the performance of the Work.

6.8 Change Orders. The Contractor shall furnish the materials for and to make all changes requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and or days that Work may be performed,

INITIALS: OWNER CAJ, CONTRACTOR 6/1

(ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) work site safety requirements.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste materials or rubbish caused by its operations and shall remove all of Contractor's materials, and if materials are furnished by Owner, Contractor shall move all usable materials provided by Owner to a location designated by Owner. Contractor shall sweep out any waste material from inside the home under construction upon completion of its operation. All refuse shall be placed in receptacles provided or at locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up activities and collect a one hundred dollar (\$100.00) fine from Contractor for each incident. The cost of such clean-up and the aforementioned fine shall be deducted from any sums owed by Owner to Contractor, or shall be immediately payable by Contractor upon demand therefore by Owner.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Owner reserves the right to set minimum standards or rules relating to Work on its site. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OWNERS MINIMUM REQUIREMENTS. THE OWNER ASSUMES NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe condition or practice observed on the Work Site. Further, Contractor shall immediately notify Owner of any accidents or injuries on the Work Site. Contractor shall have an ongoing safety program and conduct inspections to determine that safe working conditions and equipment exist and safe practices are observed. Contractor shall prohibit and prevent the presence of children under age eighteen (18) from the Work Site.

7.1 Safety Laws and Indemnity Agreement. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards, statutes, and industry best practices concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations. Contractor shall provide Owner with written verification of its compliance with all applicable safety and health standards and regulations, including but not limited to OSHA's Hazard Communication Standard for the Construction Industry, 29 C.F.R. §1926.59 et seq., and provide written notice to Owner of the contact person responsible for Contractor's compliance with all safety and health standards and regulations. To the fullest extent allowed by law, Contractor agrees to indemnify, defend, and hold Owner harmless from all actions prosecuted to enforce and the payment of any fine or penalty imposed under such safety laws and regulations and shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work.

7.2 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, permitted subcontractors or suppliers at a job location or performance of the Work by any person under the influence of alcohol or drugs.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate corporations, and successors and assigns, that all labor performed and materials furnished by Contractor shall conform to the specifications of this Agreement, shall be free from any defects or deficiencies in workmanship or materials, and will comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, will meet or exceed the FHWA minimum property standards, and will comply with the Residential Warranty Corporation ("RWC") Program and the applicable limited warranty standards, which Contractor has read and understands and to which Contractor agrees to be bound. All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects for purposes of Contractor's obligations under this Contract. Contractor shall make good and promptly repair all Work not complying with the standards set forth in this section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Paragraph 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, the initial homeowner of the property on that is the subject of the Work: (i) for a period of ten (10) years all structural elements, including, but not limited to, roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers; (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home; and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; (d) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (i) any statutory warranty or (ii) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner (a "Homeowners Warranty"). Contractor expressly agrees to be bound by any such Homeowners Warranty and to the extension of warranty period hereunder. Furthermore, notwithstanding the foregoing, Contractor agrees that all express and implied warranties shall remain in full force and effect for so long as Owner is obligated to warrant the Work pursuant to applicable law. Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Homeowners Warranty that is longer than the Warranty Periods stated above; provided, however, failure to give that notice will not affect the extension of the Warranty Period to the applicable warranty period under the Homeowner's Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty obligations, Contractor's indemnity obligations, or the ability of Owner to request Contractor to perform warranty services in the future.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish all warranties and/or guarantees by manufacturers on appliances and equipment, and shall furnish all certificates required by any municipality and/or VA and/or FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and are not in limitation of periods of applicable statutes of limitation.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Project is located.

9.3 Lien Claim Indemnity. If any liens are filed against Owner relating to portions of the Work for which Owner has paid Contractor, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien or affidavit to be removed.

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and released of record. Contractor agrees to INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any liens relating to portions of the Work for which Owner has paid Contractor; and further agrees at Owner's request to any or all of the following: (i) procure a bond to indemnify Owner and any home purchaser from Owner, in an amount sufficient to discharge that lien, or (ii) refund to Owner all monies, including any additional amount necessary to cover all of Owner's or home purchaser's attorneys' fees and court costs paid in discharging the lien, whichever remedy Owner elects in its sole and absolute discretion, or (iii) provide sworn testimony that payment has already been made to Contractor for the work for which the alleged lien applies.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY AGREES TO HOLD HARMLESS, INDEMNIFY, PROTECT AND DEFEND OWNER, ITS PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THE AFOREMENTIONED ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "INDEMNITEE"), FROM AND AGAINST ANY AND ALL DEMANDS, CLAIMS, ACTIONS, CAUSES OF ACTION, PROCEEDINGS, LAWSUITS, SETTLEMENTS, JUDGMENTS, FINES, PENALTIES, LOSSES, ATTORNEYS FEES, LITIGATION COSTS, INTEREST, AND EXPENSES OF ANY KIND (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "LOSSES") FOR DAMAGES FROM BODILY OR PERSONAL INJURY, DEATH, THE DESTRUCTION OR LOSS OF PROPERTY (INCLUDING LOSS OF USE), OR ANY OTHER KIND OF DAMAGES OR HARM, ARISING OUT OF, OR RESULTING FROM, OR RELATED IN ANY WAY TO THE WORK PERFORMED AND/OR THE MATERIALS SUPPLIED UNDER THIS CONTRACT, REGARDLESS OF WHETHER OR NOT CAUSED IN PART BY INDEMNITEE. SUCH LOSSES SPECIFICALLY INCLUDE, BUT ARE IN NO WAY LIMITED TO LOSSES ARISING OUT OF OR ATTRIBUTABLE TO: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS OR OBLIGATIONS OF CONTRACTOR SET FORTH HEREIN; (2) THE WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR, CONTRACTOR'S AGENTS OR EMPLOYEES, SUPPLIERS OR SUBCONTRACTORS AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, AND/OR ALL OTHER ENTITIES OVER WHOM THE CONTRACTOR MAY EXERCISE CONTROL (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "CONTRACTOR'S AGENTS"); (3) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF CONTRACTOR AND/OR CONTRACTOR'S AGENTS; OR (4) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE INDEMNITEE RELATED IN ANY WAY TO THE WORK. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE INDEMNITY FOR LOSSES CAUSED SOLELY BY FAULT OR NEGLIGENCE OF THE INDEMNITEE. THE LOSSES DESCRIBED HEREIN SHALL INCLUDE, BUT ARE NOT LIMITED TO, DEMANDS, CLAIMS, OR ACTIONS ASSERTED BY (1) ANY PRESENT OR FUTURE OWNER OF THE HOUSE INCORPORATING THE WORK; AND (2) ANY OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY CONTRACTOR AND/OR CONTRACTOR'S AGENTS). THE INDEMNIFICATION OBLIGATION UNDER THIS CONTRACT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. THE INDEMNITY PROVISIONS CONTAINED HEREIN ARE INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY LAW.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ANY AND ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. IT IS THE EXPRESS INTENTION OF THE PARTIES THAT CONTRACTOR'S INDEMNITY OBLIGATIONS HEREIN WILL SURVIVE THE TERMINATION OF CONTRACTOR OR THIS AGREEMENT. INDEMNITEE SHALL HAVE THE RIGHT, AT ITS DISCRETION AND CHOOSING, TO DEFEND ANY AND ALL CLAIMS WHICH MAY BE ASSERTED AGAINST IT, AND CONTRACTOR AGREES TO REIMBURSE INDEMNITEE FOR ANY AND ALL EXPENDITURES WHICH INDEMNITEE MAY MAKE OR INCUR ON ACCOUNT OF ANY SUCH CLAIM.

10.3 CONTRACTOR AND CONTRACTOR'S AGENTS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS OR EQUIPMENT.

10.4 Subcontractor's and Supplier's Indemnity Obligations. Contractor shall require each of its subcontractor to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required in this section and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms as Section 13. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the actions of any subcontractor engaged by Contractor, whether in written agreement or otherwise, or who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed to be the obligation of the subcontractors to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with completed operations coverage which contains a per occurrence limit of no less than one million dollars (\$1,000,000.00), and an aggregate limit of no less than two million dollars (\$2,000,000.00) protecting against liability for bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products and completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL Policy shall not contain a deductible or self-insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering completed operations for any applicable statute of repose for commencing lawsuits associated with the Work.

11.2 Other Insurance. Contractor agrees to carry (i) Worker's Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Worker's Compensation obligations imposed by law; (ii) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than one million dollars (\$1,000,000.00) and an aggregate of no less than one million dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (iii) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person (Bodily Injury) and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both on-going operations and completed operations (equivalent to form CG20101185 or form CG2037). Coverage obtained by Contractor naming Owner as an Additional Insured shall be primary with any insurance of Owner being excess coverage. That insurance coverage will be carried continuously during the term of this Agreement and thereafter as required by this Agreement with insurance companies acceptable to Owner in its sole and absolute discretion. That insurance shall provide for a waiver of subrogation. All insurance shall be with

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a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies. Each Certificate of Insurance or policy shall contain an unqualified clause to the effect that the policy shall (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days' prior written notice to Owner, (ii) be carried continuously from the date of commencement of the Work until expiration of the period of the Contractor's warranty provided in this Agreement, (iii) specifically identify Owner as an Additional Insured, and (iv) indicate that coverage applies in the state where the Work is being performed. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself and the Work required to be performed under this Agreement.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER IN ITS SOLE AND ABSOLUTE DISCRETION) IN EFFECT AT THE TIME WORK IS PERFORMED TO COMPENSATE OWNER FOR ANY ADDITIONAL COSTS OF ITS WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS, CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS CONTRACT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work to the extent permitted under this Agreement, Contractor guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an Additional Insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or another contractor's work is damaged by an act for which Contractor, or its employees, agents or subcontractors, are responsible, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct such Work, replace or repair any defective material, or repair any damage. Contractor shall make all repairs and correct such within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours notice on a non-emergency basis, or (ii) retain a third party to undertake to perform those duties, and retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld resulting in a deficiency, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and reasonable attorneys' fees, incurred by Owner, and shall pay to Owner this amount within thirty (30) days of demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Paragraph 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or permitted subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's actions or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement, Exhibit A of this Agreement, or the specifications; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order that is Contractor's obligation under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary tools, material, or equipment for, or cleaned up after, the Work; (viii) Contractor fails to comply with any other provision of this Agreement.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement and rights and remedies available under this Agreement shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise unpeped or available by law. Owner shall have a right to collect from Contractor its reasonable attorneys' fees and expenses incurred in enforcing Contractor's obligations.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These Disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking equitable relief from and arbitrator or a court of appropriate jurisdiction.

13.3 Arbitration. If mediation fails, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq., regardless of any other choice of law provision in any underlying contract or this Agreement. All demands for arbitration shall be made before the expiration of the applicable statutes of limitations and repose. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in any court of competent jurisdiction.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrators mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes, is over \$200,000, but only one arbitrator shall be appointed if the Dispute is 200,000 or less. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of a mediator or arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint a mediator or arbitrator. The AAA's Code of Arbitrator Ethics (revised March 1, 2004) is applicable to all arbitrations.

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13.5 Rules. To the extent not in conflict with the Federal Arbitration Act, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner may join Contractor in any litigation, mediation, or arbitration initiated against Owner by a third person so that the rights of all parties (Owner, Contractor, Subcontractor, or any third person) shall be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner where necessary to facilitate resolution in a single forum. If multiple lawsuits or arbitrations are commenced, they shall all be consolidated into a single proceeding. Notwithstanding any other provision of this section, if a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect to unilaterally waive mediation or arbitration and litigate the Dispute with Contractor.

14. TERMINATION.

14.1 Termination by Owner for Cause or Convenience. This Agreement shall remain in full force and effect until terminated in writing by mailing notice to the other Party. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) Days' written notice before the effective date of termination, and shall perform fully under this Agreement during that notice period. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.3 Survival. All obligations, duties and warranties for Work performed under this Agreement shall survive termination.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms, (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority, (v) Contractor has, and each Contractor's employees, agents or permitted subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement, (vi) Contractor is in compliance with all governmental requirements to which it is subject, and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement, and with respect to prices and quantities only, the Price Schedule and all written Purchase Orders shall be the entire agreement between Owner and Contractor related to the Work, and there are no other agreements, oral or written, made by or relied upon by Owner and Contractor. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended or supplemented except in writing signed by both Owner and Contractor.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights and obligations are not assignable or transferable without the express written consent of Owner, who may consent can be withheld in Owner's sole and absolute discretion. Subject to the restrictions and prohibitions on assignment set forth in this section, the terms of the Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Contractor shall provide and transfer ownership to any and all samples and/or shop drawings requested by Owner.

18. NOTICES. All notices required pursuant to this Agreement or otherwise shall be in writing and shall be delivered to the respective business address of Owner and Contractor. However, Contractor's business address shall be as noted on page one (1) of this Agreement. Notices shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by overnight delivery service, and upon confirmation if sent by facsimile transmission.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or articles.

SOUTH CAROLINA REVISED 7/23/2007

INITIALS: OWNER CASO, CONTRACTOR [Signature]

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EXHIBIT A
SCOPE OF WORK

no do landscape and irrigation
work

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SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR A-2 Inc. ("Contractor")
Sole Proprietorship ☐ Partnership ☐ Corporation ☒ L.L.C. ☐ Other (ATTACH W-9)
Social Security No. or Tax ID No. 36-2163705
Name of Owner(s)/Officer(s): Michael T. Green
Division Name: _____ Area Name: _____ Assigned Vendor No.: _____
Address for All Notices: PO Box 460
City: Duncan State: SC Zip Code: 29334
Telephone: 843-303-3084 Fax: 843-576-4053 E-Mail Address: a2inc1234@gmail.com
Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
This agreement (the "Agreement") is entered into on this 3 day of April, 2018, between
DR Horton Inc. ("Owner") and Contractor.

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all work performed and materials supplied by Contractor, directly or indirectly, to Owner, including but not limited to the labor, services and/or materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing shall not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders, as defined herein, issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed, accepted Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, and Contractor provides invoices for progress payments, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO CONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN. CONTRACTOR AGREES THAT OWNER DOES AND WILL NOT OWE INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF ANY DELAYED PAYMENT.

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA, IF ANY.

Executed this 3 day of April, 2018

Owner:
By: [Signature]
Name: William McCallough
Title: Controller, AVP

Contractor:
By: Michael T. Green
Name: Michael T. Green
Title: Pres

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4.2 Contractor Payments. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, warranty service, or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work and obligations under this Agreement. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("**Purchase Order**"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Owner shall have the right to make changes to the schedule of Work at Owner's sole discretion, and Contractor shall comply with such changes. Contractor shall not be entitled to any additional compensation for such schedule changes.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Contractor shall immediately notify Owner in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractor's Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "**Requirements**"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, regardless of any alleged fault of Owner. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform warranty or repair work after a house is occupied.

6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("**Inspector**") shall have the right, but not the obligation, to observe, inspect or test the Work at any time, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("**Change Order**") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including but not limited to, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not

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limited to trash, unused building materials, garbage, refuse or rubbish ("Waste"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon Owner's demand and may be deducted from any sums owed Contractor.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe working conditions and equipment exist and safe practices are observed. Contractor shall have a competent person on the Work Site at all times in charge of Contractor's safety program. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition or practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Law"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation, regardless of any alleged fault of Owner. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, nor allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substance" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. For the longer of ten years or the period of any applicable statute of limitation or repose, Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work shall conform to the specifications of this Agreement (including but not limited to the standards referenced in Subsection 6.1), shall be free from any defects or deficiencies in workmanship or materials, shall comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, shall meet or exceed the FHA/VA minimum property standards, and shall comply with the Home Owners' Warranty, defined below and its applicable warranty standards (which Contractor has read and understands). All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects. Contractor shall be liable to make good or promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Subsection 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, any initial home purchaser of property subject to the Work: (i) for a period of ten (10) years all structural elements, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; and (iii) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (a) any statutory warranty or (b) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner, including but not limited to the Residential Warranty Corporation Program (a "Home Owners Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners Warranty that is longer than the warranty periods stated above; provided, however, failure to give that notice will not affect the extension of the warranty period to the applicable warranty period under the Home Owners Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform warranty services thereafter.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product information, and guarantees by manufacturers on components of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including, but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

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9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the lesser of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of this State.

9.3 Lien Claim Indemnity. If any liens, affidavits of claim, stop payment notices, or lis pendens arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such liens, affidavits of claim, stop payment notices, or lis pendens to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any such liens, affidavits of claim, stop payment notices, or lis pendens, and further agrees immediately upon Owners' request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge any and all liens, affidavits of claim, stop payment notices, or lis pendens, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any home purchaser in discharging the liens, affidavits of claim, stop payment notices, or lis pendens whichever remedy Owner elects in its sole and absolute discretion. This Section shall be in addition to any rights Owner has under applicable law with respect to such liens, affidavits of claim, stop payment notices, or lis pendens.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF, ATTORNEYS' FEES AND INTEREST), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR OR BY CONTRACTOR'S AGENTS OR EMPLOYEES, OR BY ITS SUPPLIERS OR SUBCONTRACTORS OF ANY TIER, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES; (3) ANY NEGLIGENCE OR INTENTIONAL ACT OR OMISSION, OR ANY STRICT LIABILITY, OF CONTRACTOR OR ANY OF CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, SUPPLIERS OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENCE OR INTENTIONAL ACT OR OMISSION, OR ANY STRICT LIABILITY, OF INDEMNITEE RELATED IN ANY WAY TO THE WORK. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY. THE DEFENSE DUTY IS TRIGGERED BY ALLEGATIONS IN A LAWSUIT OR OTHER SIMILAR ACTION, REGARDLESS OF WHETHER THEY ARE GROUNDED, FALSE OR FRAUDULENT, OR ALTERNATIVELY BY ANY FACTS (EXTRINSIC TO THE ALLEGATIONS) NOT PLED, OR NOT PLED WITH SPECIFICITY, BY THE CLAIMANT. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY CONTRACTOR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO INDEMNIFY INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR AGREES THAT ITS OBLIGATIONS SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

10.3 NO BAILMENT. CONTRACTOR AND ITS EMPLOYEES, PERSONNEL, AGENTS, SUPPLIERS, AND SUBCONTRACTORS, OF ANY TIER, AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS, MATERIALS, OR EQUIPMENT; OR (2) ANY DAMAGE TO SUCH TOOLS, MATERIALS OR EQUIPMENT.

10.4 Subcontractors and Suppliers Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor or supplier who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors or suppliers to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Requirements Applicable to All Required Insurance. Prior to commencing any Work under this Agreement, and until expiration of the periods set out below, Contractor shall maintain at its expense such insurance as will protect Contractor and Owner from claims and liabilities that may arise out of Contractor's operations under this Agreement, whether such operations are performed by Contractor or its subcontractors or suppliers, or any other person involved in performing Contractor's obligations under this Agreement. All policies of insurance provided and maintained by Contractor pursuant to the Agreement shall provide for a waiver of subrogation in favor of Owner, D.R. Horton, Inc., all affiliates and subsidiaries of

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D.R. Horton, Inc., and their respective affiliates, officers, directors, and employees (collectively "Horton") for damages to the extent covered by such policies. All policies provided and maintained pursuant to this Agreement shall indicate that coverage applies in the state where the Work is being performed; and are written by an insurer licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor determines to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement. In the event that Contractor obtains insurance coverage that is broader than the minimums required by this Agreement, this Agreement shall be deemed to require the broader coverage, including but not limited to any greater limits and any excess or umbrella coverages. Coverage obtained by Contractor with Horton as an additional insured shall be primary, with any insurance of Horton being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work. Contractor shall immediately notify Owner in writing of any incident, occurrence, injury, or situation related in any way with the Work which may give rise to any claim or loss under any of the insurance coverages required by this Section 11.

11.2 Commercial General Liability. Contractor shall maintain Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with a minimum per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and a minimum aggregate limit of no less than Two Million Dollars (\$2,000,000.00). The CGL Policy shall apply separately to Contractor's Work under this Agreement, and shall protect against bodily injury, property damage, and personal injury claims arising from the exposures of: premises-operations; products-completed operations, including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); independent subcontractors; contractual liability covering the indemnity obligations set forth in this Agreement; and where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type, nature, or volume of the Work or limit the type of structure or number of units on which the Work is to be performed. The CGL Policy shall not contain a deductible or self-insured retention of more than Twenty Five Thousand Dollars (\$25,000.00), and shall allow the satisfaction of any and all deductible or self-insured retention through payments made by any third party, including but not limited to Owner or any additional insured, co-insureds, co-insurers, or insureds other than the primary or first named insured. Contractor shall continuously maintain its CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work. To the fullest extent permitted by law, Contractor shall add Horton as Additional Insureds, specifically identifying Horton, on the CGL Policy covering both ongoing operations and completed operations using endorsement form CG 2010 1185 or, if unavailable, both forms CG 2010 1001 and CG 2037 1001, or endorsement forms providing equivalent coverage.

11.3 Workers Compensation and Employers Liability Insurance. Contractor shall maintain Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law and Employer's Liability Insurance in an amount not less than One Million Dollars (\$1,000,000.00) for each accident for bodily injury, One Million Dollars (\$1,000,000.00) for bodily injury by disease, and One Million Dollars (\$1,000,000.00) for each employee for bodily injury by disease. The Workers Compensation and Employers Liability Policy shall not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner.

11.4 Business Automobile Insurance. Contractor shall maintain Business Automobile Liability Insurance coverage with limits of not less than One Million Dollars (\$1,000,000.00) per accident, specifying "all autos" coverage or "all owned, leased, hired or non-owned autos." The Business Automobile Liability Policy shall not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner. Owner shall be included as an Additional Insured on the Business Automobile Liability Policy.

11.5 Professional Liability Insurance. If Contractor's Work includes design services, Contractor shall maintain Contractor's Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment. The policy obtained to satisfy this requirement not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner.

11.6 Proof of Insured Status. Prior to commencing the Work, Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance signed by a duly authorized representative of the insurers and showing compliance with the insurance requirements set out above, including endorsements adding Horton as Additional Insured and waivers of subrogation. Alternatively, Owner reserves the right to request portions of policies (including but not limited to declarations pages and endorsements) or certified copies of the required policies. Contractor shall not be relieved of any indemnification obligation under this Agreement, including, but not limited to, those undertaken in Section 10 of this Agreement, by securing insurance coverage in accordance with Owner's insurance requirements or by Owner's approval of certificates of insurance or policies. Any acceptance of insurance coverage by Owner shall not be construed as accepting in any way deficiencies in the insurance.

11.7 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR CONTRACTOR AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.8 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Horton as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with this Agreement.

11.9 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any Indemnitee, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or if another contractor's

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work, or other property, is damaged by an act or omission of Contractor, or its employee, agent, supplier, or subcontractor, of any tier, or their respective employee or agent, Owner shall have the right to elect, at its sole, absolute discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs to complete, repair, or replace, plus any related costs or damage including re-inspection fees, with any excess to be paid to Contractor. If such costs exceed the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's acts or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or (viii) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may set off from amounts owing to Contractor hereunder any amounts owing by Contractor to Owner's parent company, any subsidiary or affiliate, under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other right or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not mediate before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("FAA"). All demands for arbitration shall be made before the expiration of the applicable statutes of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for One Million Dollars (\$1,000,000.00) or more, but only one arbitrator shall be appointed if the Dispute is for less than One Million Dollars (\$1,000,000.00). If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by mailing notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor

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is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and each Contractor's employees, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement; (vi) Contractor is in compliance with all governmental requirements to which it is subject; and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior Independent Contractor Agreements (other than any Master National Independent Contractor Agreement) for this State or other prior understandings or written or oral agreements regarding Work in this State, specifically including but not limited to all prior pre-printed standard contractor/subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement for this State is executed, shall alter the terms set forth in this Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement is executed. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by law, the Master National Independent Contractor Agreement shall control.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, but is not limited to, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner to any assignment or delegation of duties by Contractor, including but not limited to any work by a subcontractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina, and is applicable to Work for all construction projects in this State. In the event Contractor performs any work for Owner, or its parent company, affiliate or subsidiary, for a project in another State, and Contractor has not executed a written Independent Contractor Agreement for that State, Contractor hereby agrees that such work shall be governed by the terms and conditions of the form Independent Contractor Agreement of Owner (in use at the time of execution of this Agreement) for that State, which shall be deemed effective on the day this Agreement is executed. Upon request, Owner will provide Contractor with applicable Independent Contractor Agreements.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, Contractor shall return any and all confidential material or proprietary property or documents to Owner.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or subsections.

SOUTH CAROLINA VERSION (DECEMBER 9, 2016)

INITIALS: OWNER mm, CONTRACTOR MTG

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SCOPE OF WORK

The following is a description of Basic Services performed by the Independent Contractor:

- ① Bath tub repairs
- ② Cultured marble repairs
- ③ Vinyl window repairs



SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR MJ Cowboys LLC ("Contractor")
Sole Proprietorship ☐ Partnership ☒ Corporation ☐ Llc ☐ Other (ATTACH W-9)
Social Security No. or Tax ID No.: 46-4331473
Name of Owner(s)/Officer(s): Mauricio Reyna
Division Name: Greenville Area Name: TO905 Assigned Vendor No.: 1956708
Address for All Notices: 7740 Augusta Rd Ste 1A #129
City: Piedmont State: SC Zip Code: 29673
Telephone: 803-850-8510 Fax: 803-852-7562 E-Mail Address: mjcowsboysllc@gmail.com
Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
This agreement (the "Agreement") is entered into on this 16 day of MAY, 2014, between
D-R Horton Inc ("Owner") and Contractor.

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all work performed and materials supplied by Contractor, directly or indirectly, to Owner, including but not limited to the labor, services and/or materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing shall not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders, as defined herein, issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-54 AND 29-6-55 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO CONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN. CONTRACTOR AGREES THAT OWNER DOES AND WILL NOT OWE INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF ANY DELAYED PAYMENT.

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA, IF ANY.

Executed this 16 day of MAY, 2014.

By: MARC MARTENS Name: Mauricio Reyna
Title: CFO Title: Owner

INITIALS: OWNER MM CONTRACTOR MR

4.2 Contractor Payments. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed by Owner to Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, warranty service, or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that TIME IS OF THE ESSENCE in the performance of all Work and obligations under this Agreement. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("Purchase Order"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Owner shall have the right to make changes to the schedule of Work at Owner's sole discretion, and Contractor shall comply with such changes. Contractor shall not be entitled to any additional compensation for such schedule changes.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common law), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Subcontractor shall immediately notify Contractor in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, rules, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "Requirements"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, regardless of any alleged fault of Owner. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform warranty or repair work after a house is occupied.

6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("Inspector") shall have the right, but not the obligation, to observe, inspect or test the Work at any time during or after construction, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such

INITIALS: OWNER CONTRACTOR MR.

rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not limited to trash, unused building materials, garbage, refuse or rubbish ("Waste"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon demand by Owner and may be deducted by Owner from any sums owed to Contractor.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe working conditions and equipment exist and safe practices are observed. Contractor shall have a competent person on the Work Site at all times in charge of Contractor's safety program. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition or practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Law"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation, regardless of any alleged fault of Owner. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, or allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substance" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. For the longer of ten years or the period of any applicable statute of limitation or repose, Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work shall conform to the specifications of this Agreement (including but not limited to the standards referenced in Subsection 6.1), shall be free from any defects or deficiencies in workmanship or materials, shall comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, shall meet or exceed the FHA/VA minimum property standards, and shall comply with the Home Owners' Warranty, defined below and its applicable warranty standards (which Contractor has read and understands). All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects. Contractor shall be liable to make good or promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Subsection 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, any initial home purchaser of property subject to the Work: (i) for a period of ten (10) years all structural elements, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers; (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home; and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; and (iii) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (a) any statutory warranty or (b) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner, including but not limited to the Residential Warranty Corporation Program (a "Home Owners' Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners' Warranty that is longer than the warranty periods stated above; provided, however, failure to give that notice will not affect the extension of the warranty period to the applicable warranty period under the Home Owners' Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform warranty services thereafter.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product information, and guarantees by manufacturers on components of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including, but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon

INITIALS: OWNER  ; CONTRACTOR 

receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Work is located.

9.3 Lien Claim Indemnity. If any liens, affidavits of claim, stop payment notices, or its pendants arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien, affidavit, stop payment notice, or its pendants to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS FROM ANY LOSS, EXPENSE, INCLUDING LEGAL FEES AND DISBURSEMENTS, DAMAGE OR INJURY CAUSED OR OCCASIONED, DIRECTLY OR INDIRECTLY, BY ANY SUCH LIENS, AFFIDAVIT, STOP PAYMENT NOTICE, OR ITS PENDANT, AND FURTHER agrees immediately upon Owners' request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge that lien, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any home purchaser in discharging the lien, affidavit, stop payment notice, or its pendants whichever remedy Owner elects to its sole and absolute discretion. The provisions of this paragraph shall be in addition to any rights Owner may have under applicable law with respect to such liens, affidavits, stop payment notices, or its pendants.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF AND ATTORNEYS' FEES), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR OR BY CONTRACTOR'S AGENTS OR EMPLOYEES, OR BY SUPPLIERS OR SUBCONTRACTORS OF ANY TIER, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES; (3) ANY NEGLIGENCE OR INTENTIONAL ACT OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENCE OR INTENTIONAL ACT OR OMISSION OF INDEMNITEE, RELATED IN ANY WAY TO THE WORK, EXCEPTING ONLY LIABILITY OR CLAIMS ARISING OUT OF BODILY INJURY TO PERSONS, DEATH, OR DAMAGE TO PROPERTY PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY CONTRACTOR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO INDEMNIFY INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

10.3 NO BAILMENT. CONTRACTOR AND CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, ALL SUBCONTRACTORS, AND SUPPLIERS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS, MATERIALS, OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS, MATERIALS OR EQUIPMENT.

10.4 Subcontractors and Suppliers Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor or supplier who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors or suppliers to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with products-completed operations coverage, which contains a per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and an aggregate limit of no less than Two Million Dollars (\$2,000,000.00) protecting against bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products-completed operations including materials designed, furnished, and/or

INITIALS: OWNER *h* CONTRACTOR *ma*

modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL policy shall not contain a deductible or self-insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work.

11.2 Other Insurance. Contractor agrees to carry (a) Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law; (b) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (c) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person for bodily injury and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as a named, Additional Insured, specifically identifying Owner, on the CGL Policy and policies required above covering both ongoing operations and completed operations (equivalent in scope to form CG 2010 1185 or, if unavailable, both forms CG 2010 1001 and CG 2037 1001). Coverage obtained by Contractor with Owner as an additional insured shall be primary, with any insurance of Owner being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work; (iii) provide for a waiver of subrogation; (iv) indicate that coverage applies in the state where the Work is being performed; and (v) be with a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies, as requested by Owner.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

11.7 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any Indemnitee, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or if another contractor's work, or other property, is damaged by an act or omission of Contractor, its employees, agents, suppliers, or subcontractors, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's acts or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (v) Contractor fails to promptly provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or (viii) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may set off from amounts owing to Contractor hereunder any amounts owing by Contractor to Owner's parent company, any subsidiary or affiliate, under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations,

INITIALS: OWNER  CONTRACTOR 

rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other rights or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Dispute. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Dispute") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("FAA"). All demands for arbitration shall be made before the expiration of the applicable statute of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for \$1,000,000 or more, but only one arbitrator shall be appointed if the Dispute is for less than \$1,000,000. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by mailing notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligations of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and each Contractor's employees, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement; (vi) Contractor is in compliance with all governmental requirements to which it is subject; and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior independent Contractor Agreements (other than any Master National Independent Contractor Agreement) or other prior understandings or written or oral agreements, specifically including but not limited to all prior pre-printed standard contractor/subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement, shall alter the terms set forth in this Independent Contractor Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by

INITIALS: OWNER  CONTRACTOR 

law, the Master National Independent Contractor Agreement shall control.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, without limitation, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner to any assignment or delegation of duties by Contractor, including but not limited to any work by a subcontractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, Contractor shall return any and all confidential material or proprietary property or documents to Owner.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or subsections.

48026 Foundation Concrete
 43048 Masonry
 43060 Stone
 45530 Flatwork Labor

SOUTH CAROLINA VERSION (REV. 12 APRIL 2013)

INITIALS: OWNER W CONTRACTOR MR

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SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR Kings Landscaping LLC ("Contractor")
 Sole Proprietorship ☐ Partnership ☐ Corporation ☐ LLC ☒ Other (ATTACH W-9)
 Social Security No. or Tax ID No.: 910 74 0231 016 30 3205
 Name of Owner(s)/Officer(s): Antonio Jimenez & Maria Jimenez
 Division Name: _____ Area Name: _____ Assigned Vendor No.: _____
 Address for All Notices: 903 S. Main St.
 City: Fountain Inn State: SC Zip Code: 29644
 Telephone: 814 304 0388 Fax: () _____ E-Mail Address: Kingslandscaping15@gmail.com
 Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
 This agreement (the "Agreement") is entered into on this 5 day of October, 2016, between
DR Horton Inc. ("Owner") and Contractor.

1. SCOPE OF WORK This Agreement is entered on a blank basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all work performed and materials supplied by Contractor, directly or indirectly, in flower, including but not limited to the labor, services and/or materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, shall not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders, as defined herein, issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-30 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO CONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN. CONTRACTOR

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA, IF ANY.

Executed this 5th day of October, 2016

By: [Signature]
 Name: Antonio Jimenez
 Title: Division President

Contractor:
 By: [Signature]
 Name: Antonio Jimenez & Maria Jimenez
 Title: Owner

INITIALS: OWNER (A) CONTRACTOR AV & MU

AGREES THAT OWNER DOES, AND WILL, NOT OWE INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF ANY DELAYED PAYMENT.

4.1 Contractor Payments. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties, and these joint payments shall satisfy amounts owed by Owner to Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, warranty service, or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work and obligations under this Agreement. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("Purchase Order"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Owner shall have the right to make changes to the schedule of Work at Owner's sole discretion, and Contractor shall comply with such changes. Contractor shall not be entitled to any additional compensation for such schedule changes.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common law), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Contractor shall immediately notify Owner in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractor's Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, rules, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "Requirements"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, regardless of any alleged fault of Owner. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform warranty or repair work after a house is occupied.

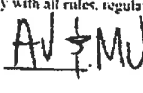
6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("Inspector") shall have the right, but not the obligation, to observe, inspect or test the Work at any time during or after construction, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which

INITIALS: OWNER  CONTRACTOR 

the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location, (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not limited to trash, unused building materials, garbage, refuse or rubbish ("Waste"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon demand by Owner and may be deducted by Owner from any sums owed to Contractor.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe working conditions and equipment exist and safe practices are observed. Contractor shall have a competent person on the Work Site at all times in charge of Contractor's safety program. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition or practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Law"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, law suits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation, regardless of any alleged fault of Owner. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, nor allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substance" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. For the longer of ten years or the period of any applicable statute of limitation or repose, Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work shall conform to the specifications of this Agreement (including but not limited to the standards referenced in Subsection 6.1), shall be free from any defects or deficiencies in workmanship or materials, shall comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, shall meet or exceed the FHAA's minimum property standards, and shall comply with the Home Owners' Warranty, defined below and its applicable warranty standards (which Contractor has read and understands). All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects. Contractor shall be liable to make good or promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Subsection 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, any initial home purchaser of property subject to the Work: (i) for a period of ten (10) years all structural elements, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; and (iii) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (a) any statutory warranty or (b) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner, including but not limited to the Residential Warranty Corporation Program (a "Home Owners' Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners Warranty that is longer than the warranty periods stated above; provided, however, failure to give that notice will not affect the extension of the warranty period to the applicable warranty period under the Home Owners Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform warranty services thereafter.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product information, and guarantees by manufacturers on components of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

INITIALS: OWNER  CONTRACTOR 

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including, but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Work is located.

9.3 Lien Claims Indemnity. If any liens, affidavits of claim, stop payment notices, or its penders arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such liens, affidavits of claim, stop payment notices, or its penders to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any such liens, affidavits of claim, stop payment notices, or its penders, and further agrees immediately upon Owners' request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge any and all liens, affidavits of claim, stop payment notices, or its penders, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any home purchaser in discharging the liens, affidavits of claim, stop payment notices, or its penders whichever remedy Owner elects in its sole and absolute discretion. The provisions of this paragraph shall be in addition to any rights Owner may have under applicable law with respect to such liens, affidavits of claim, stop payment notices, or its penders.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF, ATTORNEYS' FEES AND INTEREST), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO WORK PERFORMED OR TO BE PERFORMED OR SUBCONTRACTORS OF ANY TIER, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES, OR BY ITS SUPPLIERS OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, SUPPLIERS OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF INDEMNITEE RELATED IN ANY WAY TO THE WORK. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR AGREES THAT ITS OBLIGATIONS SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE, AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

10.3 NO BAILMENT. CONTRACTOR AND CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, ALL SUBCONTRACTORS, AND SUPPLIERS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS, MATERIALS, OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS, MATERIALS OR EQUIPMENT.

10.4 Subcontractors and Suppliers Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee in the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor or supplier who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors or suppliers to Owner, for which Contractor shall be fully responsible to Owner.

INITIALS: OWNER

CONTRACTOR

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with products-completed operations coverage, which contains a per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and an aggregate limit of no less than Two Million Dollars (\$2,000,000.00) protecting against bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products-completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk, covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type, nature, or volume of the Work or limit the type of structure or number of units on which the Work is to be performed. The CGL policy shall not contain a deductible or self-insured retention of more than \$25,000.00, and shall allow the satisfaction of any and all deductible or self-insured retention through payments made by any third party, including but not limited to Owner or any additional insured, co-insureds, co-insurers, or insureds other than the primary or first named insured. Contractor shall continuously maintain a CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work.

11.2 Other Insurance. Contractor agrees to carry (a) Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law; (b) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (c) Commercial Automobile Liability Insurance coverage with limits of not less than \$200,000 per person for bodily injury and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner, D.R. Horton, Inc., and all affiliates and subsidiaries of D.R. Horton, Inc. (collectively "Horton") as named, Additional Insureds, specifically identifying Horton, on the CGL Policy and policies required above covering both ongoing operations and completed operations equivalent in scope to form CG 2010 1 185 or, if unavailable, both forms CG 2010 1001 and CG 2037 10011. Coverage obtained by Contractor with Horton as an additional insured shall be primary, with any insurance of Horton being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work; (iii) provide for a waiver of subrogation; (iv) indicate that coverage applies in the state where the Work is being performed; and (v) be with a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement. In the event that Contractor obtains insurance coverage that is broader than the minimums required by this Agreement, this Agreement shall be deemed to require the broader coverage, including but not limited to any greater limits.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, portions of policies (including but not limited to declarations pages and endorsements), or certified copies of the required policies, as requested by Owner.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Horton as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

11.7 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any indemnitee, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or if another contractor's work, or other property, is damaged by an act or omission of Contractor, its employees, agents, suppliers, or subcontractors, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs to complete, repair, or replace, plus any related costs or damage including re-inspection fees, with any excess to be paid to Contractor. If such costs exceed the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens

INITIALS: OWNER EW CONTRACTOR AJ+MJ

are filed against the job location as a result of Contractor's acts or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement; and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or (viii) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may set off set from amounts owing to Contractor hereunder any amounts owing by Contractor to Owner's parent company, any subsidiary or affiliate, under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other rights or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("FAA"). All demands for arbitration shall be made before the expiration of the applicable statutes of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator: Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for \$1,000,000 or more, but only one arbitrator shall be appointed if the Dispute is for less than \$1,000,000. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by mailing notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and in compliance with this Agreement, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work and the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement; and (vi) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

INITIALS: OWNER

CONTRACTOR

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior Independent Contractor Agreements (other than any Master National Independent Contractor Agreement) or other prior understandings or written or oral agreements, specifically including but not limited to all prior pre-printed standard contractor-subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement, shall alter the terms set forth in this Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by law, the Master National Independent Contractor Agreement shall control.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, without limitation, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner to any assignment or delegation of duties by Contractor, including but not limited to any work by a subcontractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, Contractor shall return any and all confidential material or proprietary property or documents to Owner.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or subsections.

Landscaping

SOUTH CAROLINA VERSION (REV. 22 JUNE 2015)

INITIALS: OWNER AW CONTRACTOR AW + MJ



SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR Five Star Foundation LLC ("Contractor")
Sole Proprietorship ☐ Partnership ☐ Corporation ☒ L.L.C ☐ Other (ATTACH W-9)
Social Security No. or Tax ID No.: 58-2445381
Name of Owner(s)/Officer(s): Brian Fossier
Division Name: GVL Area Name: 109 Assigned Vendor No.: 1518749
Address for All Notices: PO Box 2739
City: Greer State: SC Zip Code: 29652
Telephone: 804 877-3265 Fax: 804 877-4932 E-Mail Address: fivestarfoundation@hotmail.com
Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
This agreement (the "Agreement") is entered into on this 2 day of October, 2019, between
DR Horton Inc. ("Owner") and Contractor.

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all work performed and materials supplied by Contractor, directly or indirectly, to Owner, including but not limited to the labor, services and/or materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing shall not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders, as defined herein, issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed, accepted Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, and Contractor provides invoices for progress payments, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO CONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN. CONTRACTOR AGREES THAT OWNER DOES, AND WILL, NOT OWE INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF ANY DELAYED PAYMENT.

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA, IF ANY.

Executed this 2 day of October, 2019.

Owner:

By: [Signature]

Name:

Title: Division President

Contractor:

By: [Signature]

Name:

Title: Owner

INITIALS: OWNER BF, CONTRACTOR BF

4.2 Contractor Payments. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, warranty service, or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work and obligations under this Agreement. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("**Purchase Order**"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Owner shall have the right to make changes to the schedule of Work at Owner's sole discretion, and Contractor shall comply with such changes. Contractor shall not be entitled to any additional compensation for such schedule changes.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Contractor shall immediately notify Owner in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractor's Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "**Requirements**"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, regardless of any alleged fault of Owner. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform warranty or repair work after a house is occupied.

6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("**Inspector**") shall have the right, but not the obligation, to observe, inspect or test the Work at any time, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("**Change Order**") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including but not limited to, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not

INITIALS: OWNER AD CONTRACTOR BF

limited to trash, unused building materials, garbage, refuse or rubbish ("Waste"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon Owner's demand and may be deducted from any sums owed Contractor.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe working conditions and equipment exist and safe practices are observed. Contractor shall have a competent person on the Work Site at all times in charge of Contractor's safety program. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition or practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Law"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation, regardless of any alleged fault of Owner. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, nor allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substance" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. For the longer of ten years or the period of any applicable statute of limitation or repose, Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work shall conform to the specifications of this Agreement (including but not limited to the standards referenced in Subsection 6.1), shall be free from any defects or deficiencies in workmanship or materials, shall comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, shall meet or exceed the FHA/VA minimum property standards, and shall comply with the Home Owners' Warranty, defined below and its applicable warranty standards (which Contractor has read and understands). All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects. Contractor shall be liable to make good or promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Subsection 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, any initial home purchaser of property subject to the Work: (i) for a period of ten (10) years all structural elements, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; and (iii) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (a) any statutory warranty or (b) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner, including but not limited to the Residential Warranty Corporation Program (a "Home Owners Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners Warranty that is longer than the warranty periods stated above; provided, however, failure to give that notice will not affect the extension of the warranty period to the applicable warranty period under the Home Owners Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform warranty services thereafter.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product information, and guarantees by manufacturers on components of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including, but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

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9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the lesser of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of this State.

9.3 Lien Claim Indemnity. If any liens, affidavits of claim, stop payment notices, or lis pendens arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such liens, affidavits of claim, stop payment notices, or lis pendens to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any such liens, affidavits of claim, stop payment notices, or lis pendens, and further agrees immediately upon Owners' request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge any and all liens, affidavits of claim, stop payment notices, or lis pendens, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any home purchaser in discharging the liens, affidavits of claim, stop payment notices, or lis pendens whichever remedy Owner elects in its sole and absolute discretion. This Section shall be in addition to any rights Owner has under applicable law with respect to such liens, affidavits of claim, stop payment notices, or lis pendens.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF, ATTORNEYS' FEES AND INTEREST), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR OR BY CONTRACTOR'S AGENTS OR EMPLOYEES, OR BY ITS SUPPLIERS OR SUBCONTRACTORS OF ANY TIER, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES; (3) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION, OR ANY STRICT LIABILITY, OF CONTRACTOR OR ANY OF CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, SUPPLIERS OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION, OR ANY STRICT LIABILITY, OF INDEMNITEE RELATED IN ANY WAY TO THE WORK. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY. THE DEFENSE DUTY IS TRIGGERED BY ALLEGATIONS IN A LAWSUIT OR OTHER SIMILAR ACTION, REGARDLESS OF WHETHER THEY ARE GROUNDLESS, FALSE OR FRAUDULENT, OR ALTERNATIVELY BY ANY FACTS (EXTRINSIC TO THE ALLEGATIONS) NOT PLED, OR NOT PLED WITH SPECIFICITY, BY THE CLAIMANT. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY CONTRACTOR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO INDEMNIFY INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR AGREES THAT ITS OBLIGATIONS SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

10.3 NO BAILMENT. CONTRACTOR AND ITS EMPLOYEES, PERSONNEL, AGENTS, SUPPLIERS, AND SUBCONTRACTORS, OF ANY TIER, AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS, MATERIALS, OR EQUIPMENT; OR (2) ANY DAMAGE TO SUCH TOOLS, MATERIALS OR EQUIPMENT.

10.4 Subcontractors and Suppliers Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor or supplier who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors or suppliers to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Requirements Applicable to All Required Insurance. Prior to commencing any Work under this Agreement, and until expiration of the periods set out below, Contractor shall maintain at its expense such insurance as will protect Contractor and Owner from claims and liabilities that may arise out of Contractor's operations under this Agreement, whether such operations are performed by Contractor or its subcontractors or suppliers, or any other person involved in performing Contractor's obligations under this Agreement. All policies of insurance provided and maintained by Contractor pursuant to the Agreement shall provide for a waiver of subrogation in favor of Owner, D.R. Horton, Inc., all affiliates and subsidiaries of

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D.R. Horton, Inc., and their respective affiliates, officers, directors, and employees (collectively "Horton") for damages to the extent covered by such policies. All policies provided and maintained pursuant to this Agreement shall indicate that coverage applies in the state where the Work is being performed; and are written by an insurer licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor determines to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement. In the event that Contractor obtains insurance coverage that is broader than the minimums required by this Agreement, this Agreement shall be deemed to require the broader coverage, including but not limited to any greater limits and any excess or umbrella coverages. Coverage obtained by Contractor with Horton as an additional insured shall be primary, with any insurance of Horton being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work. Contractor shall immediately notify Owner in writing of any incident, occurrence, injury, or situation related in any way with the Work which may give rise to any claim or loss under any of the insurance coverages required by this Section 11.

11.2 Commercial General Liability. Contractor shall maintain Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with a minimum per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and a minimum aggregate limit of no less than Two Million Dollars (\$2,000,000.00). The CGL Policy shall apply separately to Contractor's Work under this Agreement, and shall protect against bodily injury, property damage, and personal injury claims arising from the exposures of: premises-operations; products-completed operations, including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); independent subcontractors; contractual liability covering the indemnity obligations set forth in this Agreement; and where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type, nature, or volume of the Work or limit the type of structure or number of units on which the Work is to be performed. The CGL Policy shall not contain a deductible or self-insured retention of more than Twenty Five Thousand Dollars (\$25,000.00), and shall allow the satisfaction of any and all deductible or self-insured retention through payments made by any third party, including but not limited to Owner or any additional insured, co-insureds, co-insurers, or insureds other than the primary or first named insured. Contractor shall continuously maintain its CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work. To the fullest extent permitted by law, Contractor shall add Horton as Additional Insureds, specifically identifying Horton, on the CGL Policy covering both ongoing operations and completed operations using endorsement form CG 2010 1185 or, if unavailable, both forms CG 2010 1001 and CG 2037 1001, or endorsement forms providing equivalent coverage.

11.3 Workers Compensation and Employers Liability Insurance. Contractor shall maintain Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law and Employer's Liability Insurance in an amount not less than One Million Dollars (\$1,000,000.00) for each accident for bodily injury, One Million Dollars (\$1,000,000.00) for bodily injury by disease, and One Million Dollars (\$1,000,000.00) for each employee for bodily injury by disease. The Workers Compensation and Employers Liability Policy shall not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner.

11.4 Business Automobile Insurance. Contractor shall maintain Business Automobile Liability Insurance coverage with limits of not less than One Million Dollars (\$1,000,000.00) per accident, specifying "all autos" coverage or "all owned, leased, hired or non-owned autos." The Business Automobile Liability Policy shall not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner. Owner shall be included as an Additional insured on the Business Automobile Liability Policy.

11.5 Professional Liability Insurance. If Contractor's Work includes design services, Contractor shall maintain Contractor's Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment. The policy obtained to satisfy this requirement not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner.

11.6 Proof of Insured Status. Prior to commencing the Work, Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance signed by a duly authorized representative of the insurers and showing compliance with the insurance requirements set out above, including endorsements adding Horton as Additional Insured and waivers of subrogation. Alternatively, Owner reserves the right to request portions of policies (including but not limited to declarations pages and endorsements) or certified copies of the required policies. Contractor shall not be relieved of any indemnification obligation under this Agreement, including, but not limited to, those undertaken in Section 10 of this Agreement, by securing insurance coverage in accordance with Owner's insurance requirements or by Owner's approval of certificates of insurance or policies. Any acceptance of insurance coverage by Owner shall not be construed as accepting in any way deficiencies in the insurance.

11.7 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR CONTRACTOR AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.8 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Horton as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with this Agreement.

11.9 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any Indemnitee, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or if another contractor's

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work, or other property, is damaged by an act or omission of Contractor, or its employee, agent, supplier, or subcontractor, of any tier, or their respective employee or agent, Owner shall have the right to elect, at its sole, absolute discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs to complete, repair, or replace, plus any related costs or damage including re-inspection fees, with any excess to be paid to Contractor. If such costs exceed the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's acts or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or (viii) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may set off from amounts owing to Contractor hereunder any amounts owing by Contractor to Owner's parent company, any subsidiary or affiliate, under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other rights or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not mediate before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("FAA"). All demands for arbitration shall be made before the expiration of the applicable statutes of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for One Million Dollars (\$1,000,000.00) or more, but only one arbitrator shall be appointed if the Dispute is for less than One Million Dollars (\$1,000,000.00). If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by mailing notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor

INITIALS: OWNER , CONTRACTOR .

is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligations of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and each Contractor's employees, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement; (vi) Contractor is in compliance with all governmental requirements to which it is subject; and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior Independent Contractor Agreements (other than any Master National Independent Contractor Agreement) for this State or other prior understandings or written or oral agreements regarding Work in this State, specifically including but not limited to all prior pre-printed standard contractor/subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement for this State is executed, shall alter the terms set forth in this Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement is executed. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by law, the Master National Independent Contractor Agreement shall control.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, but is not limited to, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner to any assignment or delegation of duties by Contractor, including but not limited to any work by a subcontractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina, and is applicable to Work for all construction projects in this State. In the event Contractor performs any work for Owner, or its parent company, affiliate or subsidiary, for a project in another State, and Contractor has not executed a written Independent Contractor Agreement for that State, Contractor hereby agrees that such work shall be governed by the terms and conditions of the form Independent Contractor Agreement of Owner (in use at the time of execution of this Agreement) for that State, which shall be deemed effective on the day this Agreement is executed. Upon request, Owner will provide Contractor with applicable Independent Contractor Agreements.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, Contractor shall return any and all confidential material or proprietary property or documents to Owner.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or subsections.

SOUTH CAROLINA VERSION (DECEMBER 9, 2016)

INITIALS: OWNER AB, CONTRACTOR BF



MASTER NATIONAL ACCOUNTS INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR: ProBuild Holdings, Inc. and its wholly-owned subsidiaries ("Contractor")

☐ Sole Proprietorship ☐ Partnership ☒ Corporation ☐ L.L.C ☐ Other (ATTACH W-9)

Social Security No. or Tax ID No.: 56-2549797 for ProBuild Holdings, Inc. Please see ProBuild subsidiaries' attached W-9 forms.

Name of Owner(s)/Officer(s): Paul Hylibert -- CEO, ProBuild Holdings, Inc.

Division Name: All ProBuild Locations Area Name: All ProBuild Locations Assigned Vendor No.: 1173743

Address for All Notices: 7595 Technology Way, Suite 500 City: Denver State: CO Zip Code: 80237

Telephone: (303) 262-8500 Fax: (303) 262-8381

E-Mail Address: kamlin.nedved@probuild.com

Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.

This agreement (the "Agreement") is entered into on this 8th day of May, 2008, between D.R. Horton, Inc., ("Owner") and Contractor.

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of the Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement (the "Work") shall include all work performed and materials supplied by Contractor to Owner, including, but not limited to, the labor, services and/or materials, equipment, transportation, or facilities necessary to complete the construction-related activities of Owner authorized by written purchase order or similar document by Owner's authorized field personnel and accepted by Contractor. The applicable pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing will not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any Work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of Work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to or in place of Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, method and performance of the Work. The results achieved shall satisfy the requirements of this Agreement. Contractor shall be responsible for the performance of its employees and permitted subcontractors, and all personnel used by Contractor in the performance of Work shall be qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further agrees to provide written notification to all of its present and future employees of Contractor's provision for Worker's Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work herein covered or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total price per item or service due to Contractor.

3.2 Taxes. Contractor shall pay and shall be solely responsible for all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or permitted subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate; provided however, Contractor may collect and remit such sales taxes from Owner by including such sales or use taxes on the invoice for the labor or materials in question. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER BEFORE CONTRACTOR GIVES OWNER WRITTEN NOTICE OF SUCH PRICE INCREASE IN ACCORDANCE WITH THE TERMS OF THE THEN CURRENT PRICING SCHEDULE.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than ninety (90) days after completion of the Work. Owner shall pay Contractor within the locally agreed credit terms after receipt of an invoice for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order.

4.2 Payment to Subcontractors. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed from Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Owner may, at any time, in its

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA

Executed this 8 day of May, 2008.

Owner:
By: [Signature]
Name: VP Head Nat'l Accts
Title: Paul Contino

Contractor:
By: [Signature]
Name: Kamlin R. H. Nedved
Title: Director of National Accounts

INITIALS: OWNER [Initials] CONTRACTOR [Initials]

discretion, make checks payable jointly to Contractor and one or more third parties providing work for or supplying materials to Contractor; and those joint payments shall satisfy amounts owed by Owner to Contractor, notwithstanding the fact that the third parties may not endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the Contract Price after Contractor has been paid in full for all materials and labor shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of Work later found to be defective and shall not release Contractor from liability for warranties and warranty service and/or defective Work. Contractor shall remedy any defects and pay for any damage resulting from any defects in or caused by the Work or as required by any other contracts between Owner and Contractor or by law or customary practice. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or assigns is an acceptance of the Work or materials not in compliance with this Agreement.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work. Subject to the other provisions of this Agreement, Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors. Prior to Contractor being obligated to perform any Work, Owner and Contractor must agree on the completion date for such Work.

5.2 Commencement of the Work. Owner shall issue a written authorization (either pursuant to a written purchase order, payment schedule, or work invoice ("Purchase Order")) to commence the Work and Contractor shall not commence the Work at a job location until Contractor has received instructions to begin Work at a specific job location. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such work is interrupted at the direction of Owner, Contractor shall resume such work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Contractor agrees that Owner shall have the right to make changes to the schedule of Work at Owner's discretion and agrees to use commercial reasonable efforts to comply with such changes; provided however, if such changes result in a delay in the performance of the Work in excess of two (2) months, Contractor shall have the right to reprice the Work or rescind its agreement to perform/provide the Work.

6. PERFORMANCE STANDARDS.

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner, in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FHA minimum property standards, requirements, all laws (statutory or common) and regulations, and any applicable building code requirements.

6.2 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date agreed to by Owner and Contractor pursuant to Section 5.1 and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, as the plans and specifications effect the Work and materials incorporated in the Work, and that the plans and specifications are clear and unambiguous, and has accepted and agreed to be bound by all such requirements.

6.3 Government Requirements. Contractor will comply with all applicable federal, state, local, and county statutes, ordinances, regulations, codes, licensing requirements and standards, and the requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 as amended as well as the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., or similar laws or regulations, and the rules, regulations, or orders of all public authorities relating to performance of the Work, including without limitation, the procurement and posting of all required permits and notices. In addition, Contractor will not discriminate in its hiring or employment and will follow all state and federal employment laws or regulations. Contractor shall perform background checks and use only appropriate employees to perform warranty or repair work after a house is occupied.

6.4 Indemnity. To the fullest extent allowed by law, Contractor will indemnify, defend, and hold Owner harmless from the payment of any fine or penalty imposed under applicable laws and regulations relating to the Work for failure of Contractor to comply or cause its employees or subcontractors to comply with those laws and regulations.

6.5 Observation and Testing by Owner and Repair by Contractor. Owner shall have the right to observe or test the Work at any time during or after construction, but that observation or testing is solely for the benefit of the Owner and is not for Contractor's benefit. Owner's failure to note defects in the Work during an inspection will not waive any of Contractor's obligations, representations or warranties related to the Work. Notwithstanding anything contained in this Agreement to the contrary, all Work shall be performed and any defects shall be corrected in accordance with this Agreement to the satisfaction of Owner.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work, and shall report in writing to Owner any defects prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractor's work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses and approvals necessary for or applicable to the performance of the Work.

6.8 Change Orders. The Contractor shall furnish the materials for and to make all changes requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes.

6.9 Subdivision Rules. Contractor shall comply fully with all known rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. This agreement includes those rules which provide for fines payable to Owner by Contractor for failure to comply with such rules. Contractor shall have no duty to insure that plans and specifications of Owner conform with the rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste materials or rubbish caused by its operations and shall remove all of Contractor's materials, and if materials are furnished by Owner, Contractor shall move all usable materials provided by Owner to a location designated by Owner. Contractor shall sweep out any waste material from inside the home under construction upon completion of their operation. All refuse shall be placed in receptacles provided or at locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up activities and collect a One Hundred Dollar (\$100.00) fine from Contractor for each incident.

INITIALS: OWNER RE CONTRACTOR KW

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The cost of such clean-up and the aforementioned fine shall be deducted from any sums owed by Owner to Contractor, or shall be immediately payable by Contractor upon demand therefore by Owner.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Work or conditions at the construction site on which the work is being performed (the "Work Site") created by Contractor, and ensuring full compliance with all government safety and OSHA rules and regulations. Owner reserves the right to set minimum standards or rules relating to work on its site. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OWNERS MINIMUM REQUIREMENTS. Contractor shall immediately notify Owner's construction supervisors of any unsafe condition or practice observed on the Work Site. Further, Contractor shall immediately notify Owner of any accidents or injuries on the Work Site. Contractor shall have an ongoing safety program and conduct inspections to determine that safe working conditions and equipment exist and safe practices are observed. Contractor shall prohibit and prevent the presence of children under age 18 from the Work Site.

7.2 Safety Laws and Indemnity Agreement. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations. Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq. and provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, permitted subcontractors or suppliers at a job location or performance of the Work by any person under the influence of alcohol or drugs.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate corporations, or successors and assigns, that all labor performed and materials furnished by Contractor shall conform to the specifications of this Agreement, shall be free from any defects or deficiencies in workmanship or materials, and will comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, will meet or exceed the FHA/VA minimum property standards, and will comply with the Residential Warranty Corporation program being issued by Owner to homeowners in conjunction with the sale of the home which incorporates the Work, which is attached hereto as Exhibit A or such other similar warranty as Owner and Contractor may agree upon (the "Home Owners Warranty"). Contractor acknowledges that it has read and understands the aforementioned warranty. All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects. Contractor shall make good and promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Homeowners Warranty. In addition to the warranty in Paragraph 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the date of the completion of the Work: (i) for a period of ten (10) years all structural elements, including but not limited to, roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; (d) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under any statutory warranty. If there is any discrepancy between this provision and any warranty set forth in the Home Owners Warranty, this provision shall control.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty obligations, Contractor's indemnity obligations, or the ability of Owner to request Contractor to perform warranty services in the future.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish all warranties and/or guarantees by manufacturers on appliances and equipment, and shall furnish all certificates required by any municipality and/or VA and/or FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and are not in limitation of periods of applicable statutes of limitation.

9. LIENS AND RETAINAGE.

9.1 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all installation Work in progress, the greater of ten percent (10%) or any allowable retainer amount set forth in state lien statutes where the Project is located. For purposes of clarification, this section shall not apply to any Work other than installation Work.

9.3 Lien Claim Indemnity. If any liens are filed against Owner relating to portions of the Work for which Owner has paid Contractor, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien or affidavit to be removed and released of record. Contractor agrees to **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any liens relating to portions of the Work for which Owner has paid Contractor, and further agrees at Owners' request to: (i) procure a bond to indemnify Owner and any home purchaser from Owner, in an amount sufficient to discharge that lien, or (ii) refund to Owner all monies, including any additional amount necessary to cover all of Owner's or home purchaser's attorneys' fees and court costs paid in discharging the lien, whichever remedy Owner elects in its sole and absolute discretion.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL HOLD HARMLESS, AND INDEMNIFY OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), AGAINST ALL DEMANDS, CLAIMS, ACTIONS, CAUSES OF ACTION, PROCEEDINGS, LAWSUITS, SETTLEMENTS, JUDGMENTS, FINES, PENALTIES, LOSSES OR EXPENSES (INCLUDING ATTORNEYS' FEES AND INTEREST), FOR DAMAGES FROM BODILY OR PERSONAL INJURY, DEATH, THE DESTRUCTION OR LOSS OF PROPERTY (INCLUDING LOSS OF USE), OR ANY OTHER KIND OF DAMAGES OR HARM (COLLECTIVELY, "LOSSES"), ARISING OUT OF, OR RESULTING FROM, OR RELATED TO THE WORK PERFORMED AND/OR THE MATERIALS SUPPLIED UNDER THIS AGREEMENT, INCLUDING LOSSES FOUNDED PARTIALLY UPON THE NEGLIGENT ACTS OR OMISSIONS OF

INITIALS: OWNER RE, CONTRACTOR KW

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INDEMNITEE IN FAILING TO SUPERVISE CONTRACTOR, ATTRIBUTABLE IN WHOLE OR IN PART TO: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS COVENANTS OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR OR BY CONTRACTOR'S AGENTS OR EMPLOYEES, SUPPLIERS OR SUBCONTRACTORS AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, AND/OR ALL OTHER ENTITIES OVER WHOM THE CONTRACTOR MAY EXERCISE CONTROL; OR (3) ANY NEGLIGENT OR INTENTIONAL ACT AND/OR OMISSION OF CONTRACTOR RELATED IN ANY WAY TO THE WORK (COLLECTIVELY, "INDEMNIFIED LOSSES"). IT IS THE EXPRESS INTENT OF THE PARTIES IN AGREEING TO THIS SECTION THAT CONTRACTOR SHALL INDEMNIFY INDEMNITEE, FOR THE NEGLIGENCE OF CONTRACTOR, ITS SUBCONTRACTORS, EMPLOYEES AND ANYONE OVER WHOM CONTRACTOR EXERCISES CONTROL AS WELL AS FOR OWNER'S AND/OR INDEMNITEE'S CONCURRENT OR JOINT NEGLIGENCE ARISING FROM A FAILURE TO PROPERLY SUPERVISE CONTRACTOR. THIS SHALL INCLUDE, BUT IS NOT LIMITED TO, DEMANDS, CLAIMS, OR ACTIONS ASSERTED BY ANY PRESENT OR FUTURE OWNER OF THE HOUSE INCORPORATING THE WORK, OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER). THE INDEMNIFICATION OBLIGATION UNDER THIS AGREEMENT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.

10.2 NO INDEMNITY FOR CERTAIN LOSSES. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR OR OTHERWISE REQUIRED TO HOLD HARMLESS OR INDEMNIFY INDEMNITEE FOR LOSSES ARISING OUT OF, OR RESULTING FROM, OR RELATED TO THE FOLLOWING (COLLECTIVELY, "NON-INDEMNIFIED LOSSES") (A) THE WORK PERFORMED AND/OR MATERIALS SUPPLIED BY, OR THE NEGLIGENT ACTS OR OMISSIONS OF, OTHER SUBCONTRACTORS OF INDEMNITEE OR (B) THE NEGLIGENCE OF INDEMNITEE EXCEPT TO THE EXTENT THAT SUCH NEGLIGENCE RELATES TO THE FAILURE TO PROPERLY SUPERVISE CONTRACTOR FOR WHICH CONTRACTOR SHALL BE REQUIRED TO SO INDEMNIFY INDEMNITEE PURSUANT TO SECTION 10.1 ABOVE.

10.3 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. CONTRACTOR AND CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, AND PERMITTED SUBCONTRACTORS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS AND EQUIPMENT, AND WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS OR EQUIPMENT, OR (2) ANY DAMAGE TO THEIR TOOLS OR EQUIPMENT. CONTRACTOR'S INDEMNITY OBLIGATIONS WILL SURVIVE THE TERMINATION OF CONTRACTOR OR THIS AGREEMENT.

10.4 DUTY TO DEFEND. CONTRACTOR SHALL HAVE A DUTY TO DEFEND INDEMNITEE AS TO ANY INDEMNIFIED LOSS EVEN IF THE ALLEGATIONS INCLUDE NON-INDEMNIFIED LOSSES AS WELL. NOTWITHSTANDING THE FOREGOING, IF A COURT OF COMPETANT JURISDICTION DETERMINES A PORTION OF THE LOSSES CONSTITUTE NON-INDEMNIFIED LOSSES, INDEMNITEE SHALL BE RESPONSIBLE TO AND SHALL PROMPTLY REIMBURSE CONTRACTOR FOR A PERCENTAGE OF THE AGGREGATE COSTS OF DEFENSE THAT IS EQUAL TO A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT OF NON-INDEMNIFIED LOSSES AND THE DENOMINATOR OF WHICH IS THE TOTAL OF THE INDEMNIFIED AND NON-INDEMNIFIED LOSSES AS DETERMINED BY SUCH COURT OR ARBITRATOR. SUBJECT TO THE FOREGOING, CONTRACTOR SHALL BE RESPONSIBLE FOR THE COSTS AND EXPENSE OF SUCH DEFENSE AND SHALL HAVE THE SOLE RIGHT TO SELECT LEGAL COUNSEL TO BE USED IN SUCH DEFENSE.

10.5 Subcontractors and Suppliers Indemnity Obligations. For all purposes of this Agreement, Contractor shall be fully responsible for the actions of any subcontractor engaged by Contractor, whether in written agreement or otherwise, or who performs any part of the Work.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with completed operations coverage which contains a per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and an aggregate limit of no less than Two Million Dollars (\$2,000,000.00) protecting against bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products and completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL policy shall not contain a deductible or self insured retention of more than \$250,000.00. Contractor shall continuously maintain a CGL Policy covering completed operations for any applicable statute of repose for commencing lawsuits associated with the Work.

11.2 Other Insurance. Contractor agrees to carry (a) Worker's Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Worker's Compensation obligations imposed by law; (b) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (c) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person (Bodily Injury) and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both on-going operations and completed operations (equivalent to form CG20101185 or form CG2037). Coverage obtained by Contractor naming Owner as an additional insured shall be primary with any insurance of Owner being excess coverage. That insurance coverage will be carried continuously during the term of this Agreement and thereafter as required by this Agreement with insurance companies acceptable to Owner (acting reasonably). That insurance shall provide for a waiver of subrogation. All insurance shall be with a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A- and a financial size rating of VII as determined by A.M. Best.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies. Each Certificate of Insurance or policy shall contain an unqualified clause to the effect that (i) the insurer will endeavor to provide thirty (30) days prior written notice to Owner prior to cancellation, non-renewal, adverse change, or reduction of amounts of coverage, (ii) the policy shall be carried continuously from the date of commencement of the Work until expiration of the period of the Contractor's warranty provided in this Agreement, (iii) the policy shall specifically identify Owner as an Additional Insured, and (iv) the policy shall indicate that coverage applies in the state where the Work is being performed. The amounts and types of insurance required by this Agreement are

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the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself and the Work required to be performed under this Agreement.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER IN ITS REASONABLE DISCRETION) IN EFFECT AT THE TIME WORK IS PERFORMED TO COMPENSATE OWNER FOR ANY ADDITIONAL COSTS OF ITS WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS, CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS CONTRACT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work to the extent permitted under Agreement, Contractor guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

11.7 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including, without limitation, claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against the Indemnitees for Indemnified Losses. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or another contractor's work is damaged by an act for which Contractor, or its employees, agents or subcontractors, are responsible, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct such Work, replace or repair any defective material, or repair any damage. Contractor shall make all repairs and correct such within twenty-four (24) hours of notice in an emergency (as determined by Owner in its reasonable discretion) and within forty-eight (48) hours notice on a non-emergency basis; or (ii) retain a third party or undertake to perform those duties, and retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld resulting in a deficiency, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and reasonable attorneys' fees, incurred by Owner, and shall pay to Owner this amount within thirty (30) days of demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Paragraph 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or permitted subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's actions or omissions; (iii) in Owner's reasonable discretion, Owner believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement or the specifications; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order that is Contractor's obligation under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary tools, material, or equipment for, or cleaned up after, the Work; (viii) Contractor fails to comply with any other provision of this Agreement. Prior to any exercise of its rights under this section, Owner shall provide written notice to Contractor of the alleged breach by Contractor and Contractor shall have thirty (30) days to cure such breach. Any amounts withheld by Owner pursuant to this section shall not be greater than the amount reasonably necessary to cure Contractor's alleged breach of this Agreement.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement and rights and remedies available under this Agreement shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. Owner shall have a right to collect from Contractor its reasonable attorney's fees and expenses incurred in enforcing Contractor's obligations.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to the Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution pursuant to this Section 13. Disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking equitable relief from an arbitrator or a court of appropriate jurisdiction.

13.3 Arbitration. If mediation fails, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq., regardless of any other choice of law provision in any underlying contract or this Agreement. All demands for arbitration shall be made before the expiration of the applicable statutes of limitations and repose. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in any court of competent jurisdiction.

13.4 Number of Arbitrators. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes, is over more than \$200,000, but only one arbitrator shall be appointed if the Dispute is \$200,000 or less. The AAA's Code of Arbitrator Ethics (revised March 1, 2004) is applicable to all arbitrations.

13.5 Rules. To the extent not in conflict with the Federal Arbitration Act, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

INITIALS: OWNER R CONTRACTOR JD

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13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, a party may join the other party in any litigation, mediation, or arbitration initiated against such party by a third person so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) shall be subject to resolution in a single forum in the same proceeding. If multiple lawsuits or arbitrations are commenced, they shall all be consolidated into a single proceeding to the extent possible. Notwithstanding any other provision of this Section 13, if a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Contractor or Owner may elect to unilaterally waive mediation or arbitration and litigate the Dispute.

13.7 Costs and Expenses. Each party shall initially be responsible for its own costs and attorney's fees and similar costs, and shall share the expenses of the arbitration equally; provided that the arbitrator(s) shall award all expenses of the arbitration, costs and reasonable attorney's fees and similar costs to the prevailing party.

13.8 Lien Rights. Notwithstanding any provision in this Section 13 to the contrary, Contractor reserves the right to take any and all steps legally necessary to file and maintain any applicable statutory mechanic's, materialman's or similar lien to secure payment for the Work provided pursuant to this Agreement.

14. TERMINATION.

14.1 Termination by Owner for Cause of Convenience. This Agreement shall remain in full force and effect until terminated in writing by mailing notice to the other Party. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If Owner terminates this Agreement in the absence of a breach or default of Contractor, Owner shall be required to pay Contractor for any Work that has been completed and any costs incurred by Contractor in obtaining materials and labor to perform Work for which a purchase order or similar written authorization has been issued by Owner and accepted by Contractor; provided however, Contractor shall take commercially reasonable efforts to mitigate any such costs.

14.2 Termination by Contractor. Contractor may terminate this Agreement at any time, whether or not Owner is in breach or default of this Agreement. If Contractor terminates this Agreement in the absence of a breach or default by Owner, Contractor shall be required to complete all Work for which a purchase order or similar written authorization has been issued by Owner and accepted by Contractor.

14.3 Survival. All obligations, duties and warranties for Work performed under this Agreement shall survive termination.

15. REPRESENTATIONS.

15.1 Contractors Representations. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms, (iv) this Agreement and Contractor's performance does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority, (v) Contractor has, and each Contractor's employees, agents or permitted subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement, (vi) Contractor is in compliance with all governmental requirements to that relate to the Work, and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

15.2 Owner's Representations. Owner represents to Contractor that: (i) the person executing this Agreement on behalf of Owner is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) a binding obligation of Owner, enforceable in accordance with its terms, (iv) this Agreement and Owner's performance, does not and will not violate any provisions of Owner's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Owner is subject, and the same do not require the consent or approval of any governmental authority, and (v) Owner has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Owner under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement is entered into on a national basis between the Owner and Contractor and shall be deemed to amend, supersede, and have retroactive effect on all prior Independent Contractor Agreements or other prior understandings or written or oral agreements, specifically including, but not limited to, all prior pre-printed standard contractor/subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods and/or services by Contractor relating to the subject matter herein; provided however, the Agreement shall not affect the pricing, quantities or time of performance under any such existing agreement between the parties. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work of the respective operating divisions of Owner and Contractor. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices, quantities and time of performance only of sale only. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended or supplemented except in writing, signed by the both Owner and Contractor.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights and obligations are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole discretion. Subject to the restrictions and prohibitions on assignment set forth in this section, the terms of the Agreement shall be binding on, and be for the benefit of, Owner, Contractor, each of Contractor's subsidiaries, and their respective successors, representatives, heirs and assigns.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No delay or failure by Owner or Contractor to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of Texas.

16.7 Force Majeure. Notwithstanding anything in this agreement to the contrary, Contractor shall not be liable for any failure or delay in delivery, installation, furnishing of materials or services by reason of an act of God, war, civil disturbance, strike, labor disturbance, storm, fire, flood,

INITIALS: OWNER RE CONTRACTOR AM

transportation contingencies, material or labor shortage, law, regulation, act or order of any government or any agency or official thereof, or any other causes not within its control.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Contractor shall provide and transfer ownership to any and all samples and/or shop drawings requested by Owner.

18. NOTICES. All notices required pursuant to this Agreement or otherwise shall be in writing and shall be delivered to the respective business addresses of Owner and Contractor. However, Contractor's business address shall be as noted on page one (1) of this Agreement. Notices shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by overnight delivery service, and upon confirmation if sent by facsimile transmission.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or articles.

ACCEPTED:
PROBUILD HOLDINGS, INC.

By: Kenneth H. Nedved
Its: Director of National Accts.
Dated: 5/8/08

ACCEPTED:
D. R. HORTON, INC.

By: [Signature]
Its: VP, Dir of Nat'l Accts.
Dated: 5/10/08

INITIALS: OWNER [Signature] CONTRACTOR [Signature]

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ELECTRONICALLY FILED 2023 JUL 11 2:58 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0401942
ELECTRONICALLY FILED 2023 SEP 11 3:14 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0401942

Version 1 of the ICA

1. AJ Landscaping & Grading
2. Allpro Textures, LLC,
3. Alpha & Omega Construction Group, Inc.
4. A Grade Above Others, LLC
5. BMC East, LLC D/B/A Coleman Floors, LLC
6. Builders Firstsource Southeast Group, LLC a/k/a Builders Firstsource, Inc
7. Bravo Carpenters, Inc.
8. Caryl Mechanics, II, Inc. and Caryl Mechanicals, Inc.
9. Five Star Construction Inc.
10. Galloway Bell, Inc. a/k/a Galloway-Bell, Inc. II Bget Floored, LLC
11. IBP Asset, LLC d/b/a Blue Ridge Building Products
12. JLS Masonry, Inc.
13. Long Heating & Air Conditioning, Inc.
14. Manale Landscaping, LLC
15. P&T Construction, LLC
16. Rodney Howard Grading Co.
17. Sodfather, Inc.
18. Stock Building Supply, LLC
19. Dupree Plumbing Company, Inc.
20. Willow Tree Landscaping, Inc.
21. CBU Enterprises, Inc.
22. M&M Foundations, LLC

Version 2 of the ICA

1. American Concrete and Precast, Inc.
2. A-Z, Inc.
3. Cannaday Siding and Gutter, Inc.
4. Rite Rug Co

Version 3 of the ICA

1. A&J Framing, Inc.
2. MJ Cowboys, LLC
3. Nazareth Builders, LLC
4. BKF Builders, Inc.
5. Cortes Painting, LLC

Version 4 of the ICA

1. Kings Landscaping, LLC
2. Landshapers, LLC
3. M&L Reyna Construction, LLC
4. NB Contractors, LLC
5. Atlanta Floor Designs Center

Version 5 of the ICA

1. Five Star Foundation, LLC

Version 6 of the ICA

1. Probuild Company a/k/a Probuilding Holdings, Inc.

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

Natalie Zitek, individually, and on behalf)
of all others similarly situated,)

Plaintiff)

vs)

D.R. Horton, Inc., Jane Doe #1-10; and,)
John Doe #1-50,)

Defendant)

D.R. HORTON, INC.)

Third-Party Plaintiff)

vs)

AJ LANDSCAPING & GRADING,)
LLC, A/K/A AJ LANDSCAPING &)
GRADING, LLC; ALLPRO)
TEXTURES, LLC; ALPHA OMEGA)
CONSTRUCTION GROUP, INC.;)
AMERICAN CONCRETE AND)
PRECAST, INC.; A/K/A ACP)
CONCRETE, INC.; A&J FRAMING,)
INC; ALPHA E.M.C.; A-Z, INC.;)
ATLANTA FLOOR DESIGNS)
CENTER; A GRADE ABOVE)
OTHERS, LLC; BRAND-VAUGHAN)
LUMBER CO, INC.; BKF BUILDERS,)
INC.;BUILDERS DESIGNHOUSE,)
LLC; BMC EAST LLC D/B/A)
COLEMAN FLOOR, LLC; BUILDERS)
FIRSTSOURCE SOUTHEAST GROUP,)
LLC, A/K/A BUILDERS)
FIRSTSOURCE, INC; BRAVO)
CARPENTERS, INC.; CARYL)
MECHANICS II, INC., A/K/A CARYL)

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT

C.A. No. 2019-CP-04-1942

**DEFENDANT D.R. HORTON, INC.'S
SUPPLEMENTAL MEMORANDUM IN
OPPOSITION TO THIRD-PARTY
DEFENDANTS' MOTIONS FOR
SUMMARY JUDGMENT**

MECHANICALS, INC.; CANNADAY)
 SIDING & GUTTER, INC.; CORTES)
 PAINTING, LLC; CBU ENTERPRISES,)
 INC.; CPI SECURITY SYSTEMS, INC.;)
 DOM GROUP, LLC; FERGUSON)
 ENTERPRISES, INC.; FIVE STAR)
 CONSTRUCTION INC.; FIVE STAR)
 FOUNDATIONS, LLC; GALLOWAY-)
 BELL, INC. A/K/A GALLOWAY-)
 BELL, INC. II; GET FLOORED, LLC;)
 GBS BUILDING SUPPLY – US LBM,)
 LLC, F/K/A GBS BUILDING SUPPLY,)
 INC.; GENERAL SHALE BRICK INC.;)
 GREENER PASTURES, INC. A/K/A)
 GREENER PASTURES OF AIKEN,)
 LLC; IBP ASSET, LLC D/B/A BLUE)
 RIDGE BUILDING PRODUCTS; JLS)
 MASONRY, INC.; KINGS)
 LANDSCAPING, LLC;)
 LANDSHAPERS, LLC; LADE-)
 DANLAR, INC.; LANSING BUILDING)
 PRODUCTS, INC.; LONG HEATING &)
 AIR CONDITIONING, INC.; L&M)
 ELECTRIC, INC; MANALE)
 LANDSCAPING, LLC; MJ COWBOYS,)
 LLC; M&L GENERAL)
 CONSTRUCTION, LLC, A/K/A M&L)
 GENERAL CONSTRUCTION, INC.;)
 M&L REYNA CONSTRUCTION, LLC;)
 M&M FOUNDATIONS, LLC;)
 NAZARETH BUILDERS, LLC; NB)
 CONTRACTORS, LLC; POINSETT)
 DEVELOPMENT, LLC; POINSETT)
 HOMES, LLC; P&T CONSTRUCTION,)
 INC., A/K/A P&T CONSTRUCTION,)
 INC.; P&L ENTERPRISES, LLC;)
 PROBUILD COMPANY, LLC A/K/A)
 PROBUILD HOLDINGS, INC.; RITE)
 RUG CO.; RODNEY HOWARD)
 GRADING, INC. A/K/A RODNEY)
 HOWARD GRADING CO.;)
 SANDLAPPER CONCRETE, LLC;)
 SODFATHER INC., LANDSCAPE)
 CONTRACTORS; STOCK BUILDING)
 SUPPLY, LLC; TOPBUILD HOME)
 SERVICES, INC., A/K/A GALE)

CONTRACTORS SERVICE; TUCKER)
MATERIALS, INC., A/K/A GYPSUM;)
UTM ENTERPRISES, INC; DUPREE)
PLUMBING COMPANY, INC. AND)
WILLOW TREE LANDSCAPING, INC;)
AND SILVER LINE BUILDING)
PRODUCTS CORPORATION)
)

Third-Party

Defendants

TO: THIRD-PARTY DEFENDANTS M&M FOUNDATIONS, LLC, P&L ENTERPRISES, LLC, GALLOWAY-BELL, INC., II, PROBUILD COMPANY, LLC, BUILDERS FIRSTSOURCE-SOUTHEAST GROUP, LLC, BMC EAST, LLC, STOCK BUILDING SUPPLY, LLC, COLEMAN FLOOR, LLC, CANNADAY SIDING & GUTTER, INC., P&T CONSTRUCTION, INC., BKF BUILDERS, INC., IBP ASSET, LLC D/B/A BLUE RIDGE BUILDING PRODUCTS AND BUILDERS SERVICES GROUP, INC. D/B/A GALE CONTRACTOR SERVICES AND THEIR COUNSEL OF RECORD:

COMES NOW, Defendant D.R. Horton, Inc. (“D.R. Horton”) and hereby provides this Supplemental Memorandum in Opposition to Third-Party Defendants M&M Foundations, LLC, P&L Enterprise, LLC, Galloway-Bell, Inc. II, ProBuild Company, LLC, Builders FirstSource-Southeast Group, LLC, BMC East, LLC, Stock Building Supply, LLC, Coleman Floor, LLC, Cannady Siding & Gutter, Inc., P&T Construction, Inc., BKF Builders, Inc., IBP Asset, LLC d/b/a Blue Ridge Building Products, and Builders Services Group, Inc. d/b/a Gale Contractor Services Motions for Summary Judgment addressing arguments not specifically addressed in D.R. Horton’s initial opposition brief.

I. ARGUMENT

A. Statute of Limitations Does Not Bar D.R. Horton’s Claims Against Third-Party Defendants

M&M Foundations, LLC (“M&M”) and P&L Enterprise, LLC (“P&L”) contend that the statute of limitations bars claims against them because D.R. Horton brought its claims more than three years after these contractors last completed their work at Rose Hill or received their final

payment. This argument is misplaced. The statute of limitations does not begin to run until the injury is discovered by the Plaintiff.¹

On September 25, 2019, Plaintiff filed her claim against D.R. Horton, individually, and on behalf of all other similarly situated regarding alleged defects. D.R. Horton was first put on notice of this potential claim on December 11, 2019, when the Notice of a Right to Cure was provided to D.R. Horton by Plaintiff's counsel. On February 11, 2021, D.R. Horton filed its Answer. On March 11, 2021, D.R. Horton filed its Amended Answer and Third-Party Complaint against its subcontractors, including P&L Enterprises, LLC and M&M Foundations, LLC. P&L was served May 17, 2021, and M&M Foundations was served May 24, 2021. By applying South Carolina law and the "discovery rule", the Statute of Limitations regarding D.R. Horton's claims would not run until December 11, 2022, three years after D.R. Horton received notice regarding the potential claims. D.R. Horton's claims against these parties were brought well within the statute of limitations.

Under South Carolina law, a defendant may be estopped from claiming the statute of limitations as a defense if the delay that otherwise would give operation to the statute was induced by the defendant's conduct.² Such inducement may consist either of an express representation that

¹ A number of Third-Party Defendants raised the statute of limitations in their motions as basis for granting summary judgment but provided no additional briefing on this grounds, including Galloway-Bell, Inc. II, Probuild Company, LLC, BMC East, LLC, Stock Building Supply, LLC and Coleman Floor, LLC. To the extent these parties are joining DRH's motion for summary judgment against Plaintiff on statute of limitations grounds, their motions should be similarly treated. Because none of these parties raised any specific grounds for the statute of limitations, DRH requests the ability to submit supplemental briefing should any of these parties be allowed to argue grounds for statute of limitations that were not raised in their briefing. *Skinner v. Skinner*, 257 S.C. 544, 549, 186 S.E.2d 523, 526 (1972) ("One of the basic purposes of a notice of motion is to apprise the opposing party of the relief sought and the grounds therefor...Ordinarily, a court may not grant relief beyond the limits or scope of notice."). Additionally, BMC East, LLC, and Cannady Siding & Gutter, Inc. raised the issue of not having a contract with DRH in their motion but did not brief this issue. Because these parties did not specifically brief this issue, DRH requests the ability to submit supplemental briefing should BMC and Cannady be permitted to argue grounds for no contract that were not raised in its briefing.

² *Black v. Lexington Sch. Dist. No. 2*, 327 S.C. 55 (1997).

the claim will be settled without litigation or conduct that suggests a lawsuit is not necessary.³ Although the issue of whether a defendant is estopped from claiming the statute of limitations is ordinarily a question of fact, summary judgment is appropriate where there is no evidence of conduct on the defendant's part warranting estoppel.⁴ “Generally, a cause of action accrues under South Carolina law ‘the moment the defendant breaches a duty owed to the Plaintiff.’”⁵ There are multiple reasons why a cause of action may not begin to accrue on the day of the initial breach. In this instance, South Carolina has adopted the “discovery rule,” which tolls the three-year statute of limitations from running until discovery of the potential claim by the injured party. The South Carolina Supreme Court elaborated that:

Under the discovery rule, the limitations period commences when the facts and circumstances of an injury would put a person of common knowledge and experience on notice that some claim against *another party* might exist. This standard as to when the limitations period begins to run is objective rather than subjective. Therefore, the statutory period of limitations begins to run when a person could or should have known, through the exercise of reasonable diligence, that a cause of action might exist in his or her favor, rather than when a person obtains actual knowledge of either the potential claim or of the facts giving rise thereto.⁶

Essentially, the “exercise of reasonable diligence” means that “the injured party must act with some promptness” once on notice of a potential claim.⁷ The law is clear that a plaintiff, or in this case a Third-Party Plaintiff, must be on notice that a claim might exist and that a party exists against whom the claim can be made in order to trigger the discovery rule.

³ Id.

⁴ Id.

⁵ Barr v. City of Rock Hill, 330 S.C. 640, 644, 500 S.E.2d 157, 159-60 (Ct. App. 1998).

⁶ Stokes-Craven Holding Corp. v. Robinson, 416 S.C. 517, 787 S.E.2d 485 (2016) (emphasis added). “In other words...whether the circumstances of the case would put a person of common knowledge and experience on notice that some right of his has been invaded, or that some claim against *another party* might exist.” Young v. South Carolina Dept. of Soc. Servs., 333 S.C. 714, 511 S.E.2d 413 (Ct. App. 1999) (emphasis added).

⁷ Dean v. Ruscon Corp., 321 S.C. 360, 363-64, 468 S.E.2d 645, 647 (1996).

In this instance, the earliest D.R. Horton was potentially put on notice of claims against these third-party defendants was after it received the notice of the right to cure in December 2019.

P&L Enterprise, LLC claims that under South Carolina law, the statute of limitations bars any claim from being brought after three years from the completion of its work on Rose Hill. P&L states that its last day of work for D.R. Horton regarding the Rose Hill Subdivision was September 30, 2015, and it was last paid for this work on July 26, 2018. In arguing that either of these dates starts the statute of limitations period, P&L ignores the discovery rule.

M&M Foundations, LLC takes the identical position as P&L Enterprises, LLC, stating that M&M Foundations, LLC last day of work on the Rose Hill Subdivision was on June 24, 2016, and therefore the statute of limitations had passed before D.R. Horton filed its Third-Party Complaint. M&M Foundation, LLC alternatively suggests that the Court use the Certificate of Occupancy date to establish the starting date for the statute of limitations. Both arguments ignore the discovery rule.

The statute of limitations for D.R. Horton's claims against M&M and P&L did not begin to run from their last date of work, the date of last payment, or the date the certificate of occupancy was issued. At the earliest, it began once D.R. Horton was put on notice of potential claims of latent defects after Plaintiff filed suit in September 2019. For these reasons, M&M and P&L's motions for summary judgment on statute of limitations ground should be denied.

B. The Statute of Repose is Not a Basis for Dismissal of D.R. Horton's Claims Against ProBuild and Builders FirstSource

ProBuild and Builders (collectively “ProBuild”) specifically raises the statute of repose as a basis for summary judgment. The statute of repose is not a basis for dismissal of D.R. Horton’s claims against ProBuild.⁸

D.R. Horton built the homes at issue in this matter between 2011 and 2017. ProBuild installed windows and exterior doors on nearly every home involved in this class action lawsuit. Plaintiff’s Complaint was filed on September 25, 2019. D.R. Horton filed its Amended Answer and Third-Party Complaint on March 11, 2021 (the “Third-Party Complaint”). ProBuild was among the Third-Party Defendants included in the Third-Party Complaint. D.R. Horton brought the following claims in the Third-Party Complaint: contractual and equitable indemnity, breach of contract, breach of express and implied warranties, and negligence/gross negligence/recklessness. *See generally*, D.R. Horton’s Amended Answer & Third-Party Complaint. ProBuild was served with the Third-Party Complaint on June 1, 2021. ProBuild contends that claims arising out of work performed by ProBuild prior to May 31, 2013 – eight years and one day before ProBuild was served with the Third-Party Complaint – are barred by the Statute of Repose. D.R. Horton has similarly moved for summary judgment on Statute of Repose grounds as to homes with certificates of occupancy more than eight years before Plaintiff’s Complaint.

Pursuant to the Section 15-3-640 (the “Statute of Repose”), “[n]o actions to recover damages based upon or arising out of the defective or unsafe condition of an improvement to real

⁸ Numerous Third-Party Defendants have raised arguments in their Motions for Summary Judgment based on the Statute of Repose. However, several Third-Party Defendants did not include any argument or evidence in support of this argument in the briefs in support of their motions. Other Third-Party Defendants included a catch-all argument in their motions incorporating any potential applicable argument made by another Third-Party Defendant. To the extent any other Third-Party Defendants submit supplemental briefs and evidence in support of their arguments that D.R. Horton’s claims are barred by the Statute of Repose, D.R. Horton reserves the right to supplement and respond.

property may be brought more than eight years after substantial completion of the improvement.” The Statute of Repose applies to breach of contract, negligent construction or repair, actions in contract or in tort, contribution or indemnification for damages sustained on account of an action described in this section, among other causes of action. S.C. Code Ann. § 15-3-640(1), (2), (5) and (6). However, the Statute of Repose is not available as a defense to a person guilty of fraud, gross negligence, or recklessness. See S.C. Code Ann. § 15-3-670(A). While “the violation of a building code ... does not constitute *per se* fraud, gross negligence, or recklessness, ... this type of violation may be admissible as evidence of fraud, negligence, gross negligence, or recklessness.” S.C. Code Ann. § 15-3-670(B).

The latest date that the Statute of Repose begins to run is on the date that the Certificate of Occupancy is issued. See Lawrence v. Gen. Panel Corp., 425 S.C. 398, 822 S.E.2d 800 (2019). “For any improvement to real property, a certificate of occupancy ... in the case of new construction ... shall constitute proof of substantial completion of the improvement[.]”). S.C. Code Ann. § 15-3-640. “Substantial Completion” is defined as that degree of a completion of a project, improvement, or a specified area or portion thereof ... upon attainment of which the owner can use the same for the purpose for which it was intended[.]” S.C. Code Ann. S.C. Code Ann. § 15-3-630.

D.R. Horton contends that the applicable date for measuring the end of the Statute of Repose should be the date Plaintiff’s filed its complaint and not the date of D.R. Horton’s Third-Party Complaint.⁹ Further, if the Court grants D.R. Horton’s motion for summary judgment on Statute of Repose grounds, then it follows that summary judgment as to claims against ProBuild apart from gross negligence/recklessness would be appropriate for these specific homes. However,

⁹ If the statute of repose begins at issuance of the certificate of occupancy, then approximately 40 homes would be excluded from the class on this basis.

D.R. Horton's indemnity claims would remain viable because ProBuild's obligations to defend was triggered by Plaintiff's claim.

Moreover, as noted above, the Statute of Repose is not available as a defense to a person guilty of fraud, gross negligence, or recklessness. *See* S.C. Code Ann. § 15-3-670(A). Therefore, any homes that the Court finds are barred, DRH's claims for gross negligence/recklessness would survive summary judgment. ProBuild argues that the record is devoid of any evidence that ProBuild acted with gross negligence or recklessness and, therefore, ProBuild is entitled to summary judgment on that claim as well.

Gross negligence has been defined as:

[T]he intentional conscious failure to do something which it is incumbent upon one to do or the doing of a thing intentionally that one ought not to do. It is the failure to exercise slight care. Gross negligence is ordinarily a mixed question of law and fact.

Jinks v. Richland Cty., 355 S.C. 341, 345, 585 S.E.2d 281, 283 (2003) (citations omitted). "Gross negligence is a relative term and means the absence of case that is necessary under the circumstances." Berberich v. Jack, 392 S.C. 278, 287 n.1, 709 S.E.2d 607, 612 (2011) (quoting Doe v. Greenville County Sch. Dist., 375 S.C. 63, 71, 651 S.E.2d 305, 309 (2007)). Recklessness is a "conscious failure to exercise due care" and "implies the doing of a negligent act knowingly[.]" Berberich v. Jack, 392 S.C. 278, 287, 709 S.E.2d 607, 612 (2011) (quoting Yaun v. Baldrige, 243 S.C. 414, 419, 134 S.E.2d 248, 251 (1964)).

Testimony from the Jeff Hawk, the 30(b)(6) deponent for Therma-Tru, LTD., the door manufacturer, and testimony from Curtis Harrelson, who testified he was hired by ProBuild to install doors, is some evidence that ProBuild may have been grossly negligent and/or reckless in its obligations to install and/or oversee the installation of the doors in Rose Hill. Jeff Hawk was deposed as the 30(b)(6) deponent for Therma-Tru, LTD., the manufacturer for the doors installed

in Rose Hill. Hawk testified that in some of the door photographs he noted missing corner sill pads and, according to Hawk, this can contribute to water damage to a door because the pads are an integral part of keeping water out. (Jeff Hawk Dep. 32:20-33:9, excerpts attached as **Exhibit A**). Curtis Harrelson, with Harrelson Painting, deposed in a similar matter in Rose Hill, testified that the corner sill pads were not always installed but given back to ProBuild. (Curtis Harrelson Dep. 133-136 (Apr. 12, 2022), excerpt attached as **Exhibit A**). Based on this testimony about the failure to install the corner sill pads, there is, at the very least, a question of material fact as to whether ProBuild acted grossly negligent and/or reckless. Therefore, D.R. Horton's claims for gross negligence/recklessness as to the work outside of the permitted time period under the Statute of Repose must survive summary judgment.

C. There Are Factual Disputes Concerning the Work Performed by Subcontractors

1. Galloway-Bell, Inc. a/k/a Galloway-Bell, Inc. II's

Galloway-Bell, Inc. contends that it should be granted summary judgment as against D.R. Horton because the Plaintiff concedes through answers to requests for admission and prior stipulations made before this Court, that batt and blown insulation are not at issue in this litigation. If such a stipulation is submitted on these issues, then it follows that summary judgment as to certain of D.R. Horton's claims against Galloway-Bell for batt and blown insulation would be appropriate. D.R. Horton's indemnity claims would remain viable because Galloway-Bell's obligation to defend was triggered by Plaintiff's claim.

If such a stipulation is not entered, because Plaintiff has changed its allegations throughout the course of this litigation, it would be premature and prejudicial to grant Galloway-Bell's motion if Plaintiff is later permitted to raise allegations about these construction items as these would be fact questions that must be resolved by a fact finder.

2. P&L Enterprises, LLC

P&L Enterprises, LLC (“P&L”) contends that it should be granted summary judgment on allegations of siding defects at the Homes it worked on in Rose Hill. D.R. Horton disputes Plaintiff’s allegations that siding is defective, and it believes that the evidence at trial will show as much. If the Court is willing to grant summary judgment on any of Plaintiff’s claims relating to siding on the specific Homes that P&L worked on, then it follows that summary judgment as to some of D.R. Horton’s claims against P&L would be appropriate. D.R. Horton’s indemnity claims would remain viable because P&L’s obligation to defend was triggered by Plaintiff’s claim.

It is the nature of class actions that only a representative sample of defects (not every individual defect) is analyzed to reach class-wide conclusions. Whitlock looked at one Home on which P&L worked, but not the other. (Whitlock Dep. 1562:9-12, excerpts attached as **Exhibit B**). Plaintiff identified siding defects in its Notice & Opportunity to Cure Letter. Unless Plaintiff has now dismissed all such claims, there remains factual issues for a jury to determine on this issue. Accordingly, there remain factual questions as to whether siding is defective in any Rose Hill Home and specifically as to the P&L Homes. As such, summary judgment should be denied.

3. Cannady Siding & Gutter, Inc.

Cannady Siding & Gutter, Inc. (“Cannady”) contends that it should be granted summary judgment on allegations of siding defects at the 35 Rose Hill Homes it worked on. D.R. Horton disputes Plaintiff’s allegations that siding is defective, and it believes that the evidence at trial will show as much. If the Court is willing to grant summary judgment on any of Plaintiff’s claims relating to siding on the specific Homes that Cannady worked on, then it follows that summary judgment as to some of D.R. Horton’s claims against Cannady would be appropriate. D.R.

Horton's indemnity claims would remain viable because Cannady's obligation to defend was triggered by Plaintiff's claim.

Whitlock testified regarding potential issues with cement siding. (Whitlock Dep. 1559:19-1560:9, **Exhibit B**). Plaintiff also identified siding defects in its Notice & Opportunity to Cure Letter and the Court did not specifically identify which alleged construction defects were included or excluded from class certification. Unless Plaintiff has now dismissed all such siding claims, there remain factual issues for a jury to determine on this issue. Accordingly, there remain factual questions as to whether siding is defective in any Rose Hill Home and specifically as to the Cannady Homes. As such, summary judgment should be denied.

4. P&T Construction, Inc.

P&T Construction, Inc. ("P&T") contends that it should be granted summary judgment on allegations of siding defects at the approximately 160 Rose Hill Homes it worked on. D.R. Horton disputes Plaintiff's allegations that siding is defective, and it believes that the evidence at trial will show as much. If the Court is willing to grant summary judgment on any of Plaintiff's claims relating to siding on the specific Homes that P&T worked on, then it follows that summary judgment as to some of D.R. Horton's claims against P&T would be appropriate. D.R. Horton's indemnity claims would remain viable because P&T's obligation to defend was triggered by Plaintiff's claim.

Whitlock testified regarding potential issues with siding even though it was not currently in his scope of repair estimate. (Whitlock Dep. 79:14-80:16, **Exhibit B**). Plaintiff identified siding defects in its Notice & Opportunity to Cure Letter and the Court did not specifically identify which alleged construction defects were included or excluded from class certification. Unless Plaintiff has now dismissed all such siding claims, there remain factual issues for a jury to determine on

this issue. Accordingly, until Plaintiff stipulates to a dismissal of siding claims, there remain factual questions as to whether siding is defective in any Rose Hill Home and specifically as to the P&T Homes. As such, summary judgment should be denied.

5. M&M Foundations, LLC

M&M Foundations, LLC (“M&M”) contends that it should be granted summary judgment on allegations of foundation defects at the approximately twelve Rose Hill Homes it worked on. D.R. Horton disputes Plaintiff’s allegations that foundations are defective, and it believes that the evidence at trial will show as much. If the Court is willing to grant summary judgment on any of Plaintiff’s claims relating to foundations on the specific Homes that M&M worked on, then it follows that summary judgment as to some of D.R. Horton’s claims against M&M would be appropriate. D.R. Horton’s indemnity claims would remain viable because M&M’s obligation to defend was triggered by Plaintiff’s claim.

Whitlock testified to potential issues with foundation and included foundation in his scope of repair estimate. (Whitlock Dep. 88:18-89:4, **Exhibit B**). Plaintiff identified foundation defects in its Notice & Opportunity to Cure Letter and the Court did not specifically identify which alleged construction defects were included or excluded from class certification. Unless Plaintiff has now dismissed all such foundation related claims, there remain factual issues for a jury to determine on this issue. Accordingly, until Plaintiff stipulates to a dismissal of foundation claims, there remain factual questions as to whether foundations are defective in any Rose Hill Home and specifically as to the M&M Homes. As such, summary judgment should be denied.

6. BKF Builders, Inc.

BKF Builders, Inc. (“BKF”) contends that it should be granted summary judgment on its drywall and painting work on approximately twelve Rose Hill Homes. There are genuine issues of

material fact as to whether the scope of work for drywall and painting contractors included installation or re-installation of the corner sill pads on the doors. Jeff Hawk was deposed as the 30(b)(6) deponent for Therma-Tru, LTD., the manufacturer for the doors installed in Rose Hill. Hawk testified that in some of the door photographs he noted missing corner sill pads and, according to Hawk, this can contribute to water damage to a door because the pads are an integral part of keeping water out. (Jeff Hawk Dep. 32:20-33:9, excerpts attached as **Exhibit A**). Hawk was unable to identify which contractor is responsible for installation of the pads, but he was not able to rule out that they should be installed after the jams are painted. (Hawk Dep. 184:18-185:6, **Exhibit A**). Curtis Harrelson, with Harrelson Painting, deposed in a similar matter in Rose Hill, testified that the corner sill pads were not always installed but given back to ProBuild. (Curtis Harrelson Dep. 133-136 (Apr. 12, 2022), excerpt attached as **Exhibit C**). Whether BKF or another contractor was responsible for this issue is a genuine issue of material fact.

Because BKF's scope of work could have contributed to door deterioration, it would be inappropriate to grant BKF summary judgment. There remain factual questions as to whether BKF's work contributed to door deterioration in any Rose Hill Home. As such, summary judgment should be denied.

7. IBP Asset, LLC d/b/a Blue Ridge Building Products

IBP Asset, LLC d/b/a Blue Ridge Building Products ("Blue Ridge") contends that it should be granted summary judgment as against D.R. Horton because the Plaintiff conceded at a previous hearing that installation of gutters and attic insulation were not part of the class claims. However, Plaintiff has never stipulated to this fact and instead raised the concern of potential water leak through doorknobs. (Blue Ridge Mem. Supp. 2). If Plaintiff is willing to stipulate that Blue Ridge's work is not at issue, then it follows that summary judgment as to certain of D.R. Horton's claims

against Blue Ridge would be appropriate. D.R. Horton's indemnity claims would remain viable because Blue Ridge's obligation to defend was triggered by Plaintiff's claim.

If such a stipulation is not entered, because Plaintiff has changed its allegations throughout the course of this litigation, it would be premature and prejudicial to grant Blue Ridge's motion if Plaintiff is later permitted to raise allegations about these construction items as these would be fact questions that must be resolved by a fact finder.

8. Builders Services Group, Inc. d/b/a Gale Contractor Services

Builders Service Group, Inc. d/b/a Gale Contractor Services ("Gale") installed garage doors, gutters, downspouts, and batt and blown insulation. Gale contends that it should be granted summary judgment as against D.R. Horton because the Plaintiff confirmed at a previous status conference that gutters, downspouts, and insulation were not part of the class claims. If such a stipulation is submitted on these issues, then it follows that summary judgment as to certain of D.R. Horton's claims against Gale may be appropriate. D.R. Horton's indemnity claims would remain viable because Gale's obligation to defend was triggered by Plaintiff's claim.

If such a stipulation is not entered, because Plaintiff has changed its allegations throughout the course of this litigation, it would be premature and prejudicial to grant Gale's motion if Plaintiff is later permitted to raise allegations about these construction items as these would be fact questions that must be resolved by a fact finder. In fact, Gale itself points to a factual dispute with Plaintiff over potential damages connected with these construction conditions. (Gale Mem. 14). Accordingly, summary judgment should be denied.

D. Alleged Defective Plans Not Grounds for Summary Judgment

Third-Party Defendants Galloway, P&L, and M&M, each argue that summary judgment should be granted because they are not responsible for consequences of defects in plans and

specifications. These parties have not presented evidence that their scope of work in the plans were improper. D.R. Horton's expert, Moore, testified that there is no information that the plans and specifications for Rose Hill were not adequate. (Moore Dep. 288:9-18, excerpt attached as **Exhibit D**). Additionally, Moore concluded that even if the plans were not adequate, the subcontractor has a duty to follow up with the builder for any specific questions. (Moore Dep. 288:24-289:1, **Exhibit D**).

D.R. Horton's expert, Moore, testified that DRH, as a general contractor, has some duty to inspect the work of its subcontractors during construction which can be met by a walk through. (Moore Dep. 498:24-499:11, **Exhibit D**). Moore further stated that the subcontractors must perform their scope of work in accordance with building codes and their Independent Contractor Agreements. Subcontractors cannot blame DRH for failing to look at the work and catch it. (Moore Dep. 660:1-13, **Exhibit D**). The ICA's provide that these subcontractors were responsible for reviewing the plans and specifications and complying with applicable building codes. To the extent any plans or specifications deviated from building codes, these contractors were responsible for bringing any such discrepancy to D.R. Horton's attention.

6. PERFORMANCE STANDARDS.

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FHA minimum property standards, VA requirements, all laws (statutory or common) and regulations, and any applicable building code requirements.

(Version 1 of ICA, attached as Ex. 1 to Mem. Opp'n Third-Party Defendants' Mot. Summary Judgment).

Because there are questions of fact as to whether any such plans or specifications were defective, whether these contractors failed to follow applicable building codes, and whether any

such alleged defects or deviations from building codes caused damages, summary judgment should be denied.

E. The Economic Loss Rule Does Not Apply

1. M&M Foundations, LLC

M&M argues that the economic loss rule applies to “some or all of D.R. Horton’s damages and as such the negligence cause of action should be dismissed.” M&M’s Memo in Support of its Motion for Summary Judgment as to D.R. Horton states that “[t]he economic loss rule prohibits any liability for damages when the damage is to the product itself and no economic loss result (sic) from it.” This argument is a misstatement of how the economic loss rule works under South Carolina law. M&M cites Beachwalk Villas Condominium Ass’n v. Martin, 305 S.C. 144, 406 S.E.2d 372 (1991) as the authority for its argument. The economic loss rule has evolved since 1991 and is not stated as M&M suggests in the later cases.

The Court made it clear in Sapp v. Ford Motor Company, 386 S.C. 143, 687 S.E.2d 47 (2009), that purely "economic loss" may be recoverable under a variety of tort theories. The question is not whether the damages are physical or economic; rather, the question of whether the plaintiff may maintain an action in tort for purely economic loss turns on the determination of the source of the duty plaintiff claims the defendant owed. A breach of a duty which arises under the provisions of a contract between the parties must be redressed under contract, and a tort action will not lie. A breach of a duty arising independently of any contractual duties between the parties, however, may support a tort action. State Ports Auth. v. Booz-Allen, 289 S.C. 373, 346 S.E.2d 324 (1986). Those duties include complying with applicable building codes and industry standards in residential building. Kennedy v. Columbia Lumber & Mfg. Co., 299 S.C. 335. Ultimately, the

Sapp Court reaffirmed the holding in *Kennedy*, recognizing an exception to the economic loss rule in the residential real estate construction context. *Sapp*, 386 S.C. 150, 687 S.E.2d at 51.

In the present case, M&M provided basement wall foundation work to the project. In the Plaintiff's Notice to Cure, attached hereto as **Exhibit E**, the Plaintiff alleged defects in that work. Accordingly, D.R. Horton alleged claims for contractual indemnity, equitable indemnity, breach of contract, breach of express warranties, and negligence/gross negligence/recklessness against M&M. M&M has a duty to perform its work in a good and workmanlike manner, and in compliance with applicable codes and industry standards. *Terlinde v Neely*, 275 S.C. 395, 397, 271 S.E.2d 768, 769 (1980) Therefore, the economic loss doctrine does not bar D.R. Horton's claims.

2. **P&L Enterprises, LLC**

P&L argues that the economic loss rule applies to "some or all of D.R. Horton's damages and as such the negligence cause of action should be dismissed." P&L's Memo in Support of its Motion for Summary Judgment as to D.R. Horton states that "[t]he economic loss rule prohibits any liability for damages when the damage is to the product itself and no economic loss result (sic) from it." This argument is a misstatement of how the economic loss rule works under South Carolina law. Plaintiff cites *Beachwalk Villas Condominium Ass'n v. Martin*, 305 S.C. 144, 406 S.E.2d 372 (1991) as the authority for its argument. The economic loss rule has evolved since 1991 and is not stated as P&L suggests in the later cases.

The Court made it clear in *Sapp v. Ford Motor Company*, 386 S.C. 143, 687 S.E.2d 47 (2009), the purely "economic loss" may be recoverable under a variety of tort theories. The question is not whether the damages are physical or economic. Rather, the question of whether the plaintiff may maintain an action in tort for purely economic loss turns on the determination of the

source of the duty plaintiff claims the defendant owed. A breach of a duty which arises under the provisions of a contract between the parties must be redressed under contract, and a tort action will not lie. A breach of a duty arising independently of any contractual duties between the parties, however, may support a tort action. State Ports Auth. v. Booz-Allen, 289 S.C. 373, 346 S.E.2d 324 (1986). Those duties include complying with applicable building codes and industry standards in residential building. Kennedy v. Columbia Lumber & Mfg. Co., 299 S.C. 335. Ultimately, the *Sapp* Court reaffirmed the holding in *Kennedy*, recognizing an exception to the economic loss rule in the residential real estate construction context. *Sapp*, 386 S.C. 150, 687 S.E.2d at 51.

In the present case, P&L provided siding to the project. In the Plaintiff's Notice to Cure, attached hereto as **Exhibit E**, the Plaintiff alleged defects in siding. Accordingly, D.R. Horton alleged claims for contractual indemnity, equitable indemnity, breach of contract, breach of express warranties, and negligence/gross negligence/recklessness against P&L. P&L has a duty to perform its work in a good and workmanlike manner, and in compliance with applicable codes and industry standards. Terlinde v. Neely, 275 S.C. 395, 397, 271 S.E.2d 768, 769 (1980). Therefore, the economic loss doctrine does not bar D.R. Horton's claims.¹⁰

F. BKF Has a Contract With DRH

BKF Builders, Inc. argues that it should be granted summary judgment on DRH's claims because there is no written contract between DRH and BKF. This is incorrect. Brian Fowler, owner of BKF signed an independent contractor agreement on or about March 2014, and added DRH as an additional insured on its insurance policies. BKF ICA, attached as **Exhibit F**).

¹⁰ Galloway-Bell, Inc. II raise the economic loss rule in its motion but did not brief this issue. Because Galloway-Bell did not specifically brief this issue as it relates to its work at Rose Hill, DRH requests the ability to submit supplemental briefing should Galloway be permitted to argue grounds for economic loss rule that were not raised in its briefing.

Accordingly, BKF has the same contractual obligations to DRH as the other third-party defendants and BKF's motion for summary judgment on these grounds should be denied.

CONCLUSION

Based on the foregoing, the Third-Party Defendants have not met their burden of proof, and therefore, their motions for summary judgment as to D.R. Horton's Crossclaims must be denied.

WHEREFORE, Defendant D.R. Horton shall, and hereby does, move the Court for an Order denying these Third-Party Defendants' Motions for Summary Judgment on D.R. Horton's Crossclaims.

Respectfully submitted,

KENISON, DUDLEY & CRAWFORD, LLC

s/ Jason M. Imhoff

John T. Crawford, Jr. (SC Bar # 69682)

Jason M. Imhoff (SC Bar # 69355)

704 East McBee Avenue

Greenville, South Carolina 29601

Telephone: (864) 242-4899

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crawford@conlaw.com

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Counsel for Defendant D.R. Horton, Inc.

July 19, 2023
Greenville, South Carolina

1 IN THE COURT OF COMMON PLEAS
2 FOR THE STATE OF SOUTH CAROLINA
ANDERSON COUNTY

3 DEPOSITION OF A. RHETT WHITLOCK, PhD, PE
4 VOLUME 1, NOVEMBER 17, 2022

5 NATALIE ZITEK, Individually and on behalf of all
others similarly situated,

6 Plaintiff,

7 vs. CASE NO. 2019-CP-04-01942

8 D.R. HORTON, INC.,

9 Defendant.

10

D.R. HORTON, INC.,

11 Third-Party Plaintiff,

12 vs.

13 AJ LANDSCAPING & GRADING, LLC a/k/a A J
14 LANDSCAPING & GRADING, LLC, et al.,

15 Third-Party Defendants,

16

PROBUILD COMPANY, LLC, et al.,

17 Fourth-Party Plaintiffs,

18 vs.

19 HARRELSON PAINTING, LLC, et al.,

20 Fourth-Party Defendants,

21

NICHOLAS SOTA a/k/a NICOLAS SOTO, Individually
and d/b/a SOTA HVAC,

22 Fifth-Party Plaintiff,

23 vs.

24 TORIBIO ISLAS AND ALEJANDRO SOTO,

25 Fifth-Party Defendants.

1 surfaces, glass windows.

2 Q. In your opinion, is it a defective
3 product or is it just something that happens
4 sometimes?

5 A. Well, it does happen sometimes. I don't
6 know if there's a vinyl that can withstand it or
7 not. There may be a vinyl formulation that
8 doesn't have that problem. I don't know.

9 Q. Well, let me ask you this. For this
10 case have you developed an opinion that there is
11 either a design or manufacturing defect with the
12 vinyl exterior cladding in Rose Hill?

13 A. Not with the material, no.

14 Q. Do you have any criticisms of the vinyl,
15 either installation or product, that you're
16 prepared to testify about in this case?

17 A. Well, as I said, the air barrier and
18 associated flashings and tape that's missing, I
19 have criticisms of that. If it were installed by
20 the vinyl siding person, then that would be an
21 installation issue related to the vinyl
22 installation.

23 Q. Are you calling for a declad of the
24 vinyl houses?

25 A. No.

1 Q. Why not?

2 A. I don't think that the cost of putting
3 on new vinyl is justified by the defect in the
4 air barrier behind it.

5 Q. Again, I don't mean to beat a dead
6 horse, but let me go back. I understand some of
7 it is warping, the vinyl. But is that -- is that
8 something you intend to testify about in this
9 case and/or ask the jury to award damages to
10 remove and replace it?

11 A. I have no anticipation that I will be
12 doing that. If you ask me questions during
13 trial, I'll answer them.

14 Q. Yeah. But it's not in your report or
15 your scope of repair or your pricing, is it?

16 A. No.

17 Q. No. All right. So this next photograph
18 is 1102. This shows the berm behind 158
19 Haverhill; is that right?

20 A. Yes.

21 Q. Dr. Whitlock, this berm and the issue
22 around it, I believe, is Andy Sherard's area of
23 expertise and testimony, I think. Do you have
24 testimony about the exterior grading and exterior
25 water issues in this case?

1 people's feet? What's the issue here? Cracks in
2 the concrete?

3 A. Cracked concrete.

4 Q. Do you have an opinion about why the
5 concrete cracked at 3 Chatham in the garage?

6 A. I believe that's a combination of normal
7 concrete shrinkage, drying shrinkage and slab
8 movement, settlement.

9 Q. Is it -- well, let me ask you this. Are
10 you going to testify about a construction defect
11 that created that crack in the slab and the
12 garage at 3 Chatham?

13 A. At this point, I don't think I am. I do
14 know that some recent information came in -- or
15 relatively recent -- about the construction of
16 the fill areas of this project that cast some
17 doubt on it being installed properly.

18 Q. Yeah. We'll probably talk about that
19 later. As you sit here today, have you developed
20 an opinion -- can you say to a reasonable degree
21 of engineering certainty that there is
22 differential or unaccepted settling at any of the
23 homes causing foundation or slab cracking?

24 A. I have seen that on some homes. There
25 are homes that have some fairly large cracks, and

1 they correlate to areas of significant fill.

2 Q. In the slab or in the driveway or where
3 did you see those cracks?

4 A. Slabs and driveways and foundations.

5 Q. Do you have a list of those homes for
6 us?

7 A. I've got photographs, but I didn't do a
8 list of homes that have large cracks.

9 Q. Are you prepared to testify about which
10 homes have settling, compaction, concrete
11 foundation slab issues?

12 A. I can do that, but I haven't done that.

13 Q. Well, let me ask you this. Are you
14 finished with your inspections and developing
15 your opinions?

16 A. As far as I know, I am.

17 Q. And when you say as far as you know you
18 are, is that because you haven't been asked to do
19 more or there's nothing else you can do?

20 A. I have not been asked to do more in this
21 regard.

22 Q. Can you testify to a reasonable degree
23 of engineering certainty that there are
24 foundation, slab, fill issues at Rose Hill?

25 A. Yes.

1 IN THE COURT OF COMMON PLEAS
2 FOR THE STATE OF SOUTH CAROLINA
 ANDERSON COUNTY

3 DEPOSITION OF RHETT WHITLOCK, PhD, PE
4 VOLUME 6, APRIL 11, 2023

5 NATALIE ZITEK, Individually and on behalf of all
 others similarly situated,

6 Plaintiff,

7 vs. CASE NO. 2019-CP-04-01942

8 D.R. HORTON, INC.,

9 Defendant.

10 D.R. HORTON, INC.,

11 Third-Party Plaintiff,

12 vs.

13 AJ LANDSCAPING & GRADING, LLC a/k/a A J
14 LANDSCAPING & GRADING, LLC, et al.,

15 Third-Party Defendants,

16 PROBUILD COMPANY, LLC, et al.,

17 Fourth-Party Plaintiffs,

18 vs.

19 HARRELSON PAINTING, LLC, et al.,

20 Fourth-Party Defendants,

21 NICHOLAS SOTA a/k/a NICOLAS SOTO, Individually
 and d/b/a SOTA HVAC,

22 Fifth-Party Plaintiff,

23 vs.

24 TORIBIO ISLAS AND ALEJANDRO SOTO,

25 Fifth-Party Defendants.

1 MR. LUCEY: Anybody else? Last
2 chance on insulation before we move to siding.
3 Once, twice. Insulation is completed 9:14.
4 Emily, who's taking the lead on siding.

5 MS. SHEETS: You have me all day,
6 Justin.

7 EXAMINATION

8 BY MS. SHEETS:

9 Q. Dr. Whitlock, we are going to move on to
10 siding. The good news is my client, P&L, only
11 did a couple of houses, and you only looked at
12 one. But this is a big neighborhood, so I
13 imagine that I will be pretty brief here, but
14 there will be others after that.

15 So on the siding, have you discussed any
16 siding issues with Natalie Zitek?

17 A. I don't remember discussing siding with
18 her.

19 Q. Have you discussed any siding issues
20 with plaintiffs' counsel?

21 A. I have.

22 Q. What are those discussions?

23 A. When I first visited the site, I noticed
24 that there were areas where the siding appeared
25 to be loose. There was siding that looked like

1 it was fried by the sun, vinyl siding. There was
2 cement -- fiber cement siding that wasn't
3 flashed.

4 Q. Okay.

5 A. There was poor or no caulking at the
6 terminations of the siding at trim. Issues like
7 that I saw here and there. I didn't see those
8 issues everywhere, but I saw them in quite a few
9 homes.

10 Q. Looking at Exhibit Number 34, and
11 particularly the properties that you performed
12 testing on, which are circled with a blue circle,
13 did you look at siding on each of those homes if
14 it existed?

15 A. I looked at the siding, and I
16 photographed the siding, but I didn't test the
17 siding.

18 Q. You didn't remove it to see what was
19 underneath?

20 A. I didn't remove the siding to see how
21 the siding was installed.

22 Q. Did you observe anyone else do that?

23 A. ABS did some of that in their most
24 recent destructive testing.

25 Q. Did any of ABS's testing change any of

1 anything in my repair scope for siding, except to
2 remove siding to get to windows, for example.

3 Q. Do you recall in your observations
4 either with your own team or following ABS's team
5 around, whether you had any criticisms of any
6 trimwork installed around garage door frames?

7 A. I don't recall having any criticisms of
8 that.

9 Q. Can you tell me if you have visually
10 observed 119 Sturbridge as it relates to siding.

11 A. I don't recall specifically looking at
12 the siding there. I might have.

13 Q. I'll represent to you that after
14 scouring all 24 of these boxes that are sitting
15 here behind me in this room today, that I have
16 not found any photographic evidence that you
17 looked at siding on 119 Sturbridge Court. As you
18 sit here today, do you have any information that
19 tells me that I'm wrong about that?

20 A. Not from my memory, and the only way I
21 could confirm that is to go through my
22 photographs.

23 Q. Dr. Whitlock, I'm going to hand you a
24 large binder. For the record, these are your
25 photographs, which were originally Bates labeled

1 IN THE COURT OF COMMON PLEAS
2 FOR THE STATE OF SOUTH CAROLINA
3 CHARLESTON COUNTY

4 30(b)(6)DEPOSITION OF HARRELSON PAINTING
5 CURTIS HARRELSON (BY VIDEOCONFERENCE)
6 APRIL 18, 2022

7 MADELINE JEAN SMITH, DR HORTON, INC.; A GRADE
8 ABOVE OTHERS, LLC; ANDRADE'S CLEAN UP, INC.; AJ
9 LANDSCAPING & GRADING, LLC a/k/a A J LANDSCAPING
10 & GRADING, LLC; BRAVO CARPENTERS, INC.; BMC EAST,
11 LLC f/k/a STOCK BUILDING SUPPLY, LLC; BUILDER
12 SERVICES GROUP, INC. f/k/a MASCO CONTRACTOR
13 SERVICES CENTRAL INC. f/k/a GALE INDUSTRIES, INC.
14 d/b/a GALE CONTRACTOR SERVICES; BUILDERS
15 FIRSTSOURCE SOUTHEAST GROUP, LLC; CARYL
16 MECHANICALS II, INC.; GENERAL SHALE BRICK, INC.
17 a/k/a GENERAL SHALE BRICK or GENERAL SHALE; JLS
18 MASONRY, INC.; LONG HEATING & AIR CONDITIONING,
19 INC.; MANALE LANDSCAPING, LLC; MJ COWBOYS, LLC
20 AND ITS SUCCESSORS MAURICIO REYNA AND/OR JOSE
21 SANCHEZ; OLD CFC, LLC f/k/a COLEMAN FLOOR
22 COMPANY; P & T CONSTRUCTION, INC. a/k/a P&T
23 CONSTRUCTION, INC; PROBUILD COMPANY, LLC a/k/a
24 PROBUILD HOLDINGS, INC.; SANDLAPPER CONCRETE,
25 LLC; TOPBUILD HOME SERVICES, INC. f/k/a MASCO
 HOME SERVICES, INC; and JOHN DOE #19-25,
 Plaintiffs,

vs.

CASE NO. 2019-CP-04-01486

DR HORTON, INC.; A GRADE ABOVE OTHERS, LLC;
ANDRADE'S CLEAN UP, INC.; AJ LANDSCAPING &
GRADING, LLC a/k/a A J LANDSCAPING & GRADING,
LLC; BRAVO CARPENTERS, INC.; BMC EAST, LLC f/k/a
STOCK BUILDING SUPPLY, LLC; BUILDER SERVICES
GROUP, INC. f/k/a MASCO CONTRACTOR SERVICES
CENTRAL INC. f/k/a GALE INDUSTRIES, INC. d/b/a
GALE CONTRACTOR SERVICES; BUILDERS FIRSTSOURCE
SOUTHEAST GROUP, LLC; CARYL MECHANICALS II, INC.;
GENERAL SHALE BRICK, INC. a/k/a GENERAL SHALE
BRICK or GENERAL SHALE; JLS MASONRY, INC.; LONG
HEATING & AIR CONDITIONING, INC.; MANALE
LANDSCAPING, LLC; MJ COWBOYS, LLC and its
successors MAURICIO REYNA and/or JOSE SANCHEZ;

(Caption continued on following page)

1 about half an inch, correct?

2 A. Correct.

3 Q. And you cut it at each end, correct?

4 A. Cut it at the corner, yeah.

5 Q. Because when the tape gets to the jamb,
6 it can't -- it can no longer wrap into the
7 opening, it goes up the jamb, correct?

8 A. That's correct.

9 Q. Is any effort made to splice or bridge
10 the gap between the two pieces of tape at the end
11 where it's cut?

12 A. No.

13 Q. Were any of these Therma-Tru doors, if
14 they were Therma-Tru, supplied with some sort of
15 water-resistant pads of some kind to be installed
16 at the lower portions of the jambs, where the
17 jambs meet the thresholds, to assist with water
18 resistance?

19 A. There -- sometimes they did come with
20 bumper pads. Typically that was done -- the
21 installer did not do it because we typically did
22 it -- we typically installed the doors where it
23 didn't need it. But during the course of that
24 build, things may shift, whatever, they would use
25 those bumper pads to put in behind there in order

1 to make that seal even tighter.

2 Q. And who would put those in behind you?

3 A. Again, this is -- this is all off of
4 memory. And what I remember is they would have a
5 service guy go out. He would install screens, at
6 that point right when the house was closing. He
7 would make sure -- and you would have to find out
8 from them what their process was because I don't
9 know -- remember what exactly the process,
10 because I didn't do that process.

11 I just know that they had -- service
12 guys went out and screened the house out, checked
13 the doors and did a couple other things. And one
14 of them might have been, you know, adjust
15 thresholds that needed it or put the bumper pads
16 on there, because I would have -- sometimes I
17 would have to give them some bumper pads that I
18 would get off the door.

19 Q. And do you happen to recall the name of
20 any of these DR Horton service guys that would
21 close out the --

22 A. They were ProBuild service guys.

23 Q. Okay.

24 A. ProBuild did the -- I'm sorry.

25 Q. Do you recall any of their names?

1 A. No. They were two Russian or Ukrainian
2 guys.

3 Q. And I take it if they're sending service
4 guys out to close out the house, that they're
5 providing turnkey services to DR Horton?

6 A. I don't know. I mean I don't know their
7 process. You know, what do you mean by turnkey?
8 I don't get that.

9 Q. You don't know if your portion of the
10 install was part of a larger scope of work that
11 ProBuild was providing to DR Horton?

12 A. Right. I have no idea. Like I said, I
13 think I said earlier, I don't know what their
14 contract with ProBuild and DR Horton was. I just
15 know what my job was.

16 Q. Assuming that you didn't think you
17 needed the pads when you did your first install,
18 what was your practice? Was it -- was it to
19 leave the pads taped to the inside of the door,
20 leave the pads on the kitchen counter, to hand
21 the pads back to ProBuild when you got done with
22 the job? What did you do?

23 A. No. They typically came stapled to the
24 area in which you have to install -- where you
25 would have to install doors. So you had to

1 remove them.

2 So I would take them off. And normally
3 they would come with like two security screws
4 which went in the hinge to secure the door which
5 were two long, 3-inch screws, and the bumper
6 pads. And we would typically put the bumper pads
7 on the truck. And at one point we had a bucket
8 full of them, and we gave them back to ProBuild
9 so that they could do what they needed to do with
10 it. Or we would use a couple here and there if
11 we came across a door that needed it. So
12 that's -- yeah, that's --

13 Q. And tell us in simple terms if you
14 would, please, what final adjustments that you
15 believe you were making to the doors that would
16 make it so that the pads, the bumper pads were no
17 longer needed.

18 A. Well, during -- during our installation
19 we tried to make our doors -- well, first of
20 all -- tight up against the wall, secured, and
21 then make sure the reveals are good all the way
22 around.

23 Q. Okay. Sir, I'm going -- I've got two
24 more small areas to ask you about and then we're
25 going to check in and see if Silver Line's

1 IN THE COURT OF COMMON PLEAS
2 FOR THE STATE OF SOUTH CAROLINA
ANDERSON COUNTY

3 DEPOSITION OF L. STEVEN MOORE, PE
4 VOLUME 1 MAY 9, 2023

5 NATALIE ZITEK, Individually and on behalf of all
others similarly situated,

6 Plaintiff,

7 vs. CASE NO. 2019-CP-04-01942

8 D.R. HORTON, INC.,

9 Defendant.

10

D.R. HORTON, INC.,

11 Third-Party Plaintiff,

12 vs.

13 AJ LANDSCAPING & GRADING, LLC a/k/a A J
14 LANDSCAPING & GRADING, LLC, et al.,

15 Third-Party Defendants,

16

PROBUILD COMPANY, LLC, et al.,

17 Fourth-Party Plaintiffs,

18 vs.

19 HARRELSON PAINTING, LLC, et al.,

20 Fourth-Party Defendants,

21

NICHOLAS SOTA a/k/a NICOLAS SOTO, Individually
and d/b/a SOTA HVAC,

22 Fifth-Party Plaintiff,

23 vs.

24 TORIBIO ISLAS AND ALEJANDRO SOTO,

25 Fifth-Party Defendants.

1 If there's questions about it, then they should
2 ask for it.

3 Q. The owner provides the drawings,
4 correct?

5 A. Correct.

6 Q. And in this case the owner and the
7 general contractor are the same entity, correct?

8 A. Correct.

9 Q. So in this case in the first instance it
10 was the owner/general contractor's responsibility
11 to make sure that the plans and specifications
12 for the buildout of Rose Hill had adequate
13 information and details for the buildout to occur
14 properly, correct?

15 MR. IMHOFF: Object to the form.

16 A. Correct. And we have no information
17 that they weren't adequate. We just don't have
18 copies of them.

19 Q. We just don't have copies of the
20 allegedly adequate specifications and details.
21 Is that what you're telling me, sir?

22 MR. IMHOFF: Object to the form.

23 Q. Is that what I heard?

24 A. Yes. If there was not adequate, then
25 the subcontractor should have followed up with

1 the builder for any questions.

2 MR. LUCEY: Mark the record for
3 production of the Fillmore drawings that the
4 witness has that has engineering in it and marked
5 for South Carolina.

6 (This page contains Requested
7 Information.)

8 Q. Sir, when we started talking about
9 engineered -- two-story brick veneer, we were
10 actually about halfway or more through Laura's
11 list, 127.23. And her list seems to be missing
12 the code provision requiring the separation of
13 foundation -- the code requirement requiring the
14 separation of foundation-supported brick veneer
15 and wood-supported brick veneer in her list. Do
16 you see that?

17 A. Yes.

18 Q. So let's add that for her. What section
19 of the code would we go to to get that separation
20 requirement?

21 A. We're going to do what to this list now?

22 Q. Add the code requirement that
23 brick-supported -- excuse me --
24 foundation-supported brick facade be separated
25 from wood-supported brick facade.

1 IN THE COURT OF COMMON PLEAS
2 FOR THE STATE OF SOUTH CAROLINA
3 ANDERSON COUNTY

4 DEPOSITION OF L. STEVEN MOORE, PE
5 VOLUME 2, MAY 10, 2023

6 NATALIE ZITEK, Individually and on behalf of all
7 others similarly situated,

8 Plaintiff,

9 vs. CASE NO. 2019-CP-04-01942

10 D.R. HORTON, INC.,

11 Defendant.

12

D.R. HORTON, INC.,

13 Third-Party Plaintiff,

14 vs.

15 AJ LANDSCAPING & GRADING, LLC a/k/a A J
16 LANDSCAPING & GRADING, LLC, et al.,

17 Third-Party Defendants,

18

PROBUILD COMPANY, LLC, et al.,

19 Fourth-Party Plaintiffs,

20 vs.

21 HARRELSON PAINTING, LLC, et al.,

22 Fourth-Party Defendants,

23

NICHOLAS SOTA a/k/a NICOLAS SOTO, Individually
24 and d/b/a SOTA HVAC,

25 Fifth-Party Plaintiff,

26 vs.

27 TORIBIO ISLAS AND ALEJANDRO SOTO,

28 Fifth-Party Defendants.

1 work goes on. You agree with that?

2 MR. IMHOFF: Object to the form.

3 A. Absolutely not. They never supervise
4 the work of the subcontractors. That was your --
5 that never happens.

6 Q. Would you agree that they have a duty to
7 inspect the work of their subcontractors to a
8 certain level during construction?

9 MR. IMHOFF: Object to the form.

10 A. Have a duty and an opportunity but not a
11 total requirement.

12 Q. But DR Horton does have a duty to
13 inspect the work of its subcontractors at certain
14 increments during construction to make sure it
15 complies with the building code at some level.
16 You'd agree with that?

17 A. They have the right to inspect it as
18 they wish at some levels.

19 Q. They don't have any duty to inspect.

20 A. I think the requirements state some
21 duty. It's defined a specific point, and I don't
22 know that we have any specific points that DR
23 Horton has to absolutely go look at that house.

24 Q. But you'd agree with me that DR Horton
25 has a duty at some level to inspect the work of

1 its subcontractors during construction to ensure
2 it complies with the building code?

3 MR. IMHOFF: Object to the form.

4 A. They have a -- they have some duty they
5 can walk through. The level of inspection
6 varies.

7 Q. But they have some duty to do it. You'd
8 agree with that.

9 A. At certain times, sure. They have the
10 opportunity to walk through. It doesn't relieve
11 the subcontractors from performing their work.

12 Q. Do you have any opinions pertaining to
13 the Rhett Whitlock repairs estimate?

14 MR. LUCEY: Objection.

15 A. No. I mean I've looked at it. It's--
16 the last one I saw was some \$37.9 million. You
17 know, it seems like that they're going to
18 basically rebuild every house out there.

19 Q. Do you the Dr. Whitlock repairs estimate
20 is reasonable?

21 A. No.

22 MR. LUCEY: Objection.

23 A. No.

24 Q. Do you think it's excessively inflated?

25 MR. LUCEY: Objection.

1 IN THE COURT OF COMMON PLEAS
2 FOR THE STATE OF SOUTH CAROLINA
3 ANDERSON COUNTY

4 DEPOSITION OF L. STEVEN MOORE, PE
5 VOLUME 3, MAY 11, 2023

6 NATALIE ZITEK, Individually and on behalf of all
7 others similarly situated,

8 Plaintiff,

9 vs. CASE NO. 2019-CP-04-01942

10 D.R. HORTON, INC.,

11 Defendant.

12 _____
13 D.R. HORTON, INC.,

14 Third-Party Plaintiff,

15 vs.

16 AJ LANDSCAPING & GRADING, LLC a/k/a A J
17 LANDSCAPING & GRADING, LLC, et al.,

18 Third-Party Defendants,

19 _____
20 PROBUILD COMPANY, LLC, et al.,

21 Fourth-Party Plaintiffs,

22 vs.

23 HARRELSON PAINTING, LLC, et al.,

24 Fourth-Party Defendants,

25 _____
26 NICHOLAS SOTA a/k/a NICOLAS SOTO, Individually
27 and d/b/a SOTA HVAC,

28 Fifth-Party Plaintiff,

29 vs.

30 TORIBIO ISLAS AND ALEJANDRO SOTO,

31 Fifth-Party Defendants.

1 Q. Okay. Regardless of whether D.R. Horton
2 was able to inspect the work of all
3 subcontractors at D.R. Horton, do you agree that
4 they share responsibility for the work performed
5 by those subcontractors?

6 A. They are the general contractor. They
7 are ultimately responsible for the entire job,
8 but that does not relieve the subcontractors from
9 performing their scope of work in accordance with
10 the building code and their ICAs. You can't lay
11 it off on Horton if you did your job wrong. You
12 can't blame Horton for failing to go look at it
13 and catch it.

14 Q. Okay. And you've testified a couple
15 times about different subcontractors' scopes of
16 work. Are you going to offer any opinions about
17 what each subcontractor's specific scope of work
18 included?

19 A. No.

20 Q. Okay.

21 A. I'm talking in general terms.

22 Q. Yesterday you also testified about
23 subcontractors having a duty at Rose Hill. Do
24 you recall that line of testimony?

25 A. I would suspect it's the same time I was

JUSTIN O'TOOLE LUCEY, PA

Attorneys at Law

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Anna S. McCann
Lauren M. Milton
Sohayla R. Townes
Collin H. Fuller

December 11, 2019

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

D.R. Horton, Inc.
c/o C T Corporation System
2 Office Park Court Suite 103
Columbia, South Carolina 29223

RE: *Rose Hill Subdivision in Anderson County, South Carolina*
Notice and Opportunity to Cure Improper Construction Conditions and Resulting Damages

To Whom It May Concern:

This letter is to notify D.R. Horton, Inc. that Natalie and Paul Zitek as well as other owners of D.R. Horton homes within the Rose Hill subdivision in Anderson County, South Carolina ("Rose Hill") intend to proceed with litigation should D.R. Horton, Inc. fail to cure the following improper construction conditions and resulting damages existing at their homes within thirty (30) days from the date of this letter:

1. Brick: Insufficient/improperly installed brick veneer and resulting cracking, separation, water damage, efflorescence, and cost to repair;
2. Stone: Insufficient/improperly installed stone veneer and resulting loose embedment, cracking, separation, water damage and cost to repair;
3. Doors: Insufficient/improperly installed front and patio doors, deteriorating trim, resulting water damage/leakage, and cost to repair;
4. Floors: Insufficient/improperly installed flooring and resulting buckling, cracking, separation, bumpiness, water damage, and cost to repair;
5. General Wall: Insufficient/improperly installed framing, missing/inadequate insulation at exterior walls, drywall cracking, increased utility bills, and cost to repair;
6. Roof: Insufficient/improperly installed roofs, deteriorating sheathing and roof decking, resulting water damage/leakage, blow-offs, and cost to repair;
7. Windows: Insufficient/improperly installed windows, resulting water damage/leakage, cracking, separation, and cost to repair;

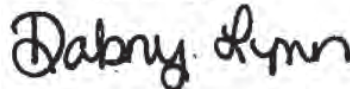
ELECTRONICALLY FILED - 2023 Jul 19 5:59 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0401942
ELECTRONICALLY FILED - 2023 Sep 11 3:14 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0401942

Notice and Opportunity to Cure
December 11, 2019
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8. Vinyl Siding: Insufficient/improperly installed vinyl siding, resulting waviness, water damage, and cost to repair;
9. Hardi Siding: Insufficient/improperly installed Hardi siding, resulting cracking, water damage, efflorescence, and cost to repair;
10. Concrete/Soil: Insufficiently supported concrete/inadequate soil, resulting cracking, water damage, and cost to repair;
11. Grading/Drainage: Insufficient/improperly installed grading and/or drainage, resulting water damage, ponding, unevenness, landscaping difficulties, and cost to repair;
12. MEP: Inadequate free air space, improper duct work, insufficient insulation in attics, plumbing/HVAC leaks, insufficient PEX piping, non-galvanized piping, holes in roof sheathing at plumbing penetrations, inadequate outlets, insufficient amperage, power surges, and resulting cracking, water damage/leakage, cost to repair, and increased utility bills; and
13. Poor Work: Sloppy workmanship throughout Rose Hill homes and resulting cost to repair.

Time is of the essence and extensions will not be granted. Thereafter, the Rose Hill homeowners will proceed with serving litigation. Please contact us directly if you have any questions or concerns regarding this Notice and Opportunity to Cure.

Sincerely,



Dabny Lynn
Sohayla Townes

DL/dl



SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR BKF Builders ("Contractor")
☒ Sole Proprietorship ☐ Partnership ☐ Corporation ☐ L.L.C. ☐ Other (ATTACH W-9)
Social Security No. or Tax ID No.: 57-1103379
Name of Owner(s)/Officer(s): Brian Fowler
Division Name: _____ Area Name: _____ Assigned Vendor No.: _____
Address for All Notices: 9800 Boulevard Road Suite 3
City: Greer State: SC Zip Code: 29615
Telephone: (Cell) 297-7220 Fax: (BA) 281-6665 E-Mail Address: brian@bkfbuilder.com
Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
This agreement (the "Agreement") is entered into on this 28th day of February, 2014, between
DR Horton INC. ("Owner") and Contractor.

1. **SCOPE OF WORK.** This Agreement is entered on a blanket basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all work performed and materials supplied by Contractor, directly or indirectly, to Owner, including but not limited to the labor, services and/or materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing shall not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. **INDEPENDENT CONTRACTOR STATUS.** Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. **CONTRACT PRICE.**

3.1 **Pricing Schedule.** The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 **Taxes.** Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 **Price Increases.** NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders, as defined herein, issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. **PAYMENT.**

4.1 **Invoices.** Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO CONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN. CONTRACTOR AGREES THAT OWNER DOES AND WILL NOT OWE INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF ANY DELAYED PAYMENT.

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA, IF ANY.

Executed this 6th day of MARCH, 2014.

Owner:	Contractor:
By: <u>[Signature]</u>	By: <u>BKF Builders</u>
Name: <u>MAURICE MARTIN</u>	Name: <u>Brian Fowler</u>
Title: <u>CEO</u>	Title: <u>Owner</u>

INITIALS: OWNER MM, CONTRACTOR BKF

4.2 Contractor Payments. No payment shall be due under this Agreement until Contractor's invoice (or Purchase Order, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed by Owner to Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, warranty service, or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work and obligations under this Agreement. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("Purchase Order"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Owner shall have the right to make changes to the schedule of Work at Owner's sole discretion, and Contractor shall comply with such changes. Contractor shall not be entitled to any additional compensation for such schedule changes.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common law), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Subcontractor shall immediately notify Contractor in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, rules, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "Requirements"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, claims, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, regardless of any alleged fault of Owner. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform warranty or repair work after a house is occupied.

6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("Inspector") shall have the right, but not the obligation, to observe, inspect or test the Work at any time during or after construction, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such

INITIALS: OWNER CONTRACTOR

rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not limited to trash, unused building materials, garbage, refuse or rubbish ("Waste"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon demand by Owner and may be deducted by Owner from any sums owed to Contractor.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe working conditions and equipment exist and safe practices are observed. Contractor shall have a competent person on the Work Site at all times in charge of Contractor's safety program. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition or practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Laws"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation, regardless of any alleged fault of Owner. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, nor allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substances" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. For the longer of ten years or the period of any applicable statute of limitation or repose, Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work shall conform to the specifications of this Agreement (including but not limited to the standards referenced in Subsection 6.11), shall be free from any defects or deficiencies in workmanship or materials, shall comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, shall meet or exceed the FHA/VA minimum property standards, and shall comply with the Home Owners' Warranty, defined below and its applicable warranty standards (which Contractor has read and understands). All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects. Contractor shall be liable to make good or promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Subsection 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, any initial home purchaser of property subject to the Work: (i) for a period of ten (10) years all structural elements, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers; (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home; and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; and (iii) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (a) any statutory warranty or (b) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner, including but not limited to the Residential Warranty Corporation Program (a "Home Owners' Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners Warranty that is longer than the warranty periods stated above; provided, however, failure to give that notice will not affect the extension of the warranty period to the applicable warranty period under the Home Owners Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform warranty services thereafter.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product information, and guarantees by manufacturers on components of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including, but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon

INITIALS: OWNER M, CONTRACTOR JK

receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Work is located.

9.3 Lien Claim Indemnity. If any liens, affidavits of claim, stop payment notices, or its pendants arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien, affidavit, stop payment notice, or its pendants to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any such liens, affidavit, stop payment notice, or its pendants, and further agrees immediately upon Owners' request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge that lien, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any home purchaser in discharging the lien, affidavit, stop payment notice, or its pendants whichever remedy Owner elects in its sole and absolute discretion. The provisions of this paragraph shall be in addition to any rights Owner may have under applicable law with respect to such liens, affidavits, stop payment notices, or its pendants.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, and HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF AND ATTORNEYS' FEES), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR OR BY CONTRACTOR'S AGENTS OR EMPLOYEES, OR BY SUPPLIERS OR SUBCONTRACTORS OF ANY TIER, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES; (3) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF INDEMNITEE, RELATED IN ANY WAY TO THE WORK, EXCEPTING ONLY LIABILITY OR CLAIMS ARISING OUT OF BODILY INJURY TO PERSONS, DEATH, OR DAMAGE TO PROPERTY PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY CONTRACTOR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO INDEMNIFY INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

10.3 NO BAILMENT. CONTRACTOR AND CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, ALL SUBCONTRACTORS, AND SUPPLIERS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS, MATERIALS, OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS, MATERIALS OR EQUIPMENT.

10.4 Subcontractors and Suppliers Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnities to the same extent that Contractor is required to indemnify Indemnities in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnities to the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnities from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor or supplier who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors or suppliers to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with products-completed operations coverage, which contains a per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and an aggregate limit of no less than Two Million Dollars (\$2,000,000.00) protecting against bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products-completed operations including materials designed, furnished, and/or

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modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (s, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL policy shall not contain a deductible or self-insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work.

11.2 Other Insurance. Contractor agrees to carry (a) Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law; (b) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (c) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person for bodily injury and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as a named, Additional Insured, specifically identifying Owner, on the CGL Policy and policies required above covering both ongoing operations and completed operations (equivalent in scope to form CG 2010 1185 or, if unavailable, both forms CG 2010 1004 and CG 2037 1001). Coverage obtained by Contractor with Owner as an additional insured shall be primary, with any insurance of Owner being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work; (iii) provide for a waiver of subrogation; (iv) indicate that coverage applies in the state where the Work is being performed; and (v) be with a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies, as requested by Owner.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

11.7 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any Indemnities, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise; (b) did not pay the insurance premium directly or indirectly; and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or if another contractor's work, or other property, is damaged by an act or omission of Contractor, its employees, agents, suppliers, or subcontractors, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location or as a result of Contractor's acts or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or (viii) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may set off from amounts owing to Contractor hereunder any amounts owing by Contractor to Owner's parent company, any subsidiary or affiliate, under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations,

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rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other rights or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("FAA"). All demands for arbitration shall be made before the expiration of the applicable statutes of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for \$1,000,000 or more, but only one arbitrator shall be appointed if the Dispute is for less than \$1,000,000. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days after the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by mailing notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the persons executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligations of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and each Contractor's employees, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement; (vi) Contractor is in compliance with all governmental requirements to which it is subject; and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior Independent Contractor Agreements (other than any Master National Independent Contractor Agreement) or other prior understandings or written or oral agreements, specifically including but not limited to all prior pre-printed standard contractor/subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement, shall alter the terms set forth in this Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by

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law, the Master National Independent Contractor Agreement shall control.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, without limitation, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner to any assignment or delegation of duties by Contractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, Contractor shall return any and all confidential material or proprietary property or documents to Owner.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or subsections.

SOUTH CAROLINA VERSION (REV. 12 APRIL 2013)

Sheetrock
paint

INITIALS: OWNER m , CONTRACTOR ZC

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SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR AJ Landscaping and Grading LLC ("Contractor")
☒ Sole Proprietorship ☐ Partnership ☐ Corporation ☐ LLC ☐ Other (ATTACH W-9)
 Social Security No. or Tax ID No. _____
 Name of Owner(s)/Officer(s): Antonio Jimenez
 Division Name: _____ Area Name: _____ Assigned Vendor No. _____
 Address for All Notices: 117 East View Circle
 City: Simpsonville State: SC Zip Code: 29681
 Telephone: 804 304 0388 Fax: 804 399 9036 E-Mail Address: Ajlandscapeandgrading@gmail.com
 Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
 This agreement (the "Agreement") is entered into on this 27 day of March, 2013, between D.R. Horton Inc. ("Owner") and Contractor.

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of the Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement (the "Work") shall include all work performed and materials supplied by Contractor to Owner including but not limited to the labor, services and/or materials, equipment, transportation, or facilities necessary to complete the construction-related activities generally described in Exhibit A. The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing will not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to or in place of Contractor. Contractor will be awarded Work on a lot by lot basis. To the extent Exhibit A contains more than one type of construction-related activity, Contractor must clarify with Owner before the Work commences as to which construction-related activity it has been awarded for the lot in question.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, method and performance of the Work. Contractor shall not be considered an agent or employee of Owner for any purpose, nor shall any employees or permitted subcontractors of Contractor. Contractor shall not represent itself as the agent of Owner unless owner has specifically permitted Contractor to do so in writing. The results achieved shall satisfy the requirements of this Agreement. Contractor shall be responsible for the performance of its employees and permitted subcontractors, and all personnel used by Contractor in the performance of Work shall be qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further agrees to provide written notification to all of its present and future employees of Contractor's provision for Worker's Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work herein covered or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall pay and shall be solely responsible for all tax withholding, Social Security, state unemployment and all other withholding as required by law. Contractor's employees, agents or permitted subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNLESS CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule, the superseded Pricing Schedule shall remain in effect for Purchase Orders issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing of the house incorporating the Work from Owner to a purchaser. Contractor hereby agrees that timely invoicing is an important and material term to this agreement, and timely invoicing is a part of Contractor's performance of all material terms of this contract. Contractor hereby waives payment for any Work where Contractor fails to invoice Owner in a timely manner in conformity to this agreement. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR

Executed this 27 day of March, 2013.

Owner: _____ Contractor: _____
 By: Ajlandscapeandgrading LLC By: EDMOND G. JEANFREAU, JR.
 Name: Antonio Jimenez Name: D.R. HORTON INC.
 Title: Owner Title: PURCHASE
 Division President

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ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO SUBCONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN AND THAT OWNER DOES NOT AGREE TO PAY TO SUBCONTRACTOR INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF DELAYED PAYMENTS.

4.2 Payment to Subcontractors. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed from Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed by Owner to Contractor, notwithstanding the fact that the third parties may not endorse the checks. In any instance where Owner receives written notice from one of Contractor's sub-contractors, whereby the subcontractor claims a failure to be paid for the Work, Owner reserves the right to pay the subcontractor directly or to make payment payable to both the Contractor and its subcontractor.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the Contract Price shall waive and release all claims against Owner and the property under this Agreement, but shall not waive any claims of Owner arising out of Work later found to be defective and shall not release Contractor from liability for warranties and warranty service and/or defective Work. Contractor shall remedy any defects and pay for any damage resulting from any defects in or caused by the Work or as required by any other contracts between Owner and Contractor or by law or customary practice. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or assigns is an acceptance of the Work or materials not in compliance with this Agreement.

5. SCHEDULE OF WORK.

5.1 Time is of the Essence. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work.

5.2 Construction Schedule. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.3 Commencement of the Work. Owner shall issue an authorization (either pursuant to a written purchase order, payment schedule, or work invoice ("Purchase Order") or verbal instructions from an authorized Owner representative) to commence the Work and Contractor shall not commence the Work at a job location until Contractor has received instructions to begin Work at a specific job location. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.4 Changes in Construction Schedule. Contractor agrees that Owner shall have the right to make changes to the schedule of Work at Owner's discretion and agrees to comply with such changes.

6. PERFORMANCE STANDARDS.

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner, in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FHA minimum property standards, VA requirements, all laws (statutory or common) and regulations, and any applicable building code requirements.

6.2 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized Owner's employee and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications as the plans and specifications affect the Work and materials incorporated in the Work, and that the plans and specifications are clear and unambiguous, and has accepted and agreed to be bound by all such requirements.

6.3 Government Requirements. Contractor will comply with all applicable federal, state, local, and county statutes, ordinances, regulations, codes, licensing requirements and standards, and the requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 as amended, as well as the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., or similar laws or regulations, and the rules, regulations, or orders of all public authorities relating to performance of the Work, including without limitation, the procurement and posting of all required permits and notices. In addition, Contractor will not discriminate in its hiring or employment and will follow all state and federal employment laws or regulations. Contractor shall perform background checks and use only appropriate employees to perform warranty or repair work after a house is occupied.

6.4 Indemnity. To the fullest extent allowed by law, Contractor will agree to indemnify, defend, and hold Owner harmless from all actions, claims, investigations or other acts to enforce such laws or regulations, and further agrees to indemnify Owner from the payment of any fine, penalty or damages imposed, levied, assessed, or found as a result of the Contractor's failure to comply with or adhere to the applicable laws and regulations, or from Contractor's failure to cause its employees or subcontractors to comply with such laws and regulations.

6.5 Observation and Testing by Owner and Repair by Contractor. Owner shall have the right to observe or test the Work at any time during or after construction, but that observation or testing is solely for the benefit of Owner's and is not for Contractor's benefit. Owner's failure to note defects in the Work during an inspection will not waive any of Contractor's obligations, representations or warranties related to the Work. Notwithstanding anything contained in this Agreement to the contrary, all Work shall be performed and any defects shall be corrected timely and in accordance with this Agreement to the satisfaction of Owner.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work, and shall report in writing to Owner any defects prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractor's work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses and approvals necessary for or applicable to the performance of the Work.

6.8 Change Orders. The Contractor shall furnish the materials for and to make all changes requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and or days that Work may be performed,

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(ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) work site safety requirements.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste materials or rubbish caused by its operations and shall remove all of Contractor's materials, and if materials are furnished by Owner, Contractor shall move all usable materials provided by Owner to a location designated by Owner. Contractor shall sweep out any waste material from inside the home under construction upon completion of its operation. All refuse shall be placed in receptacles provided or at locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up activities and collect a one hundred dollar (\$100.00) fine from Contractor for each incident. The cost of such clean-up and the aforementioned fine shall be deducted from any sums owed by Owner to Contractor, or shall be immediately payable by Contractor upon demand therefore by Owner.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Owner reserves the right to set minimum standards or rules relating to Work on its site. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OWNERS MINIMUM REQUIREMENTS. THE OWNER ASSUMES NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe condition or practice observed on the Work Site. Further, Contractor shall immediately notify Owner of any accidents or injuries on the Work Site. Contractor shall have an ongoing safety program and conduct inspections to determine that safe working conditions and equipment exist and safe practices are observed. Contractor shall prohibit and prevent the presence of children under age eighteen (18) from the Work Site.

7.1 Safety Laws and Indemnity Agreement. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards, statutes, and industry best practices concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations. Contractor shall provide Owner with written verification of its compliance with all applicable safety and health standards and regulations, including but not limited to OSHA's Hazard Communication Standard for the Construction Industry, 29 C.F.R. §1926.59 et seq., and provide written notice to Owner of the contact person responsible for Contractor's compliance with all safety and health standards and regulations. To the fullest extent allowed by law, Contractor agrees to indemnify, defend, and hold Owner harmless from all actions prosecuted to enforce and the payment of any fine or penalty imposed under such safety laws and regulations and shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work.

7.2 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, permitted subcontractors or suppliers at a job location or performance of the Work by any person under the influence of alcohol or drugs.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate corporations, and successors and assigns, that all labor performed and materials furnished by Contractor shall conform to the specifications of this Agreement, shall be free from any defects or deficiencies in workmanship or materials, and will comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, will meet or exceed the FHWA minimum property standards, and will comply with the Residential Warranty Corporation ("RWC") Program and the applicable limited warranty standards, which Contractor has read and understands and to which Contractor agrees to be bound. All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects for purposes of Contractor's obligations under this Contract. Contractor shall make good and promptly repair all Work not complying with the standards set forth in this section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Paragraph 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, the initial homeowner of the property on that is the subject of the Work: (i) for a period of ten (10) years all structural elements, including, but not limited to, roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers; (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home; and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; (d) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (i) any statutory warranty or (ii) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner (a "Homeowners Warranty"). Contractor expressly agrees to be bound by any such Homeowners Warranty and to the extension of warranty period hereunder. Furthermore, notwithstanding the foregoing, Contractor agrees that all express and implied warranties shall remain in full force and effect for so long as Owner is obligated to warrant the Work pursuant to applicable law. Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Homeowners Warranty that is longer than the Warranty Periods stated above; provided, however, failure to give that notice will not affect the extension of the Warranty Period to the applicable warranty period under the Homeowner's Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty obligations, Contractor's indemnity obligations, or the ability of Owner to request Contractor to perform warranty services in the future.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish all warranties and/or guarantees by manufacturers on appliances and equipment, and shall furnish all certificates required by any municipality and/or VA and/or FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and are not in limitation of periods of applicable statutes of limitation.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Project is located.

9.3 Lien Claim Indemnity. If any liens are filed against Owner relating to portions of the Work for which Owner has paid Contractor, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien or affidavit to be removed.

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and released of record. Contractor agrees to INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any liens relating to portions of the Work for which Owner has paid Contractor, and further agrees at Owner's request to any or all of the following: (i) procure a bond to indemnify Owner and any home purchaser from Owner, in an amount sufficient to discharge that lien, or (ii) refund to Owner all monies, including any additional amount necessary to cover all of Owner's or home purchaser's attorneys' fees and court costs paid in discharging the lien, whichever remedy Owner elects in its sole and absolute discretion, or (iii) provide sworn testimony that payment has already been made to Contractor for the work for which the alleged lien applies.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY AGREES TO HOLD HARMLESS, INDEMNIFY, PROTECT AND DEFEND OWNER, ITS PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THE AFOREMENTIONED ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "INDEMNITEE"), FROM AND AGAINST ANY AND ALL DEMANDS, CLAIMS, ACTIONS, CAUSES OF ACTION, PROCEEDINGS, LAWSUITS, SETTLEMENTS, JUDGMENTS, FINES, PENALTIES, LOSSES, ATTORNEYS FEES, LITIGATION COSTS, INTEREST, AND EXPENSES OF ANY KIND (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "LOSSES") FOR DAMAGES FROM BODILY OR PERSONAL INJURY, DEATH, THE DESTRUCTION OR LOSS OF PROPERTY (INCLUDING LOSS OF USE), OR ANY OTHER KIND OF DAMAGES OR HARM, ARISING OUT OF, OR RESULTING FROM, OR RELATED IN ANY WAY TO THE WORK PERFORMED AND/OR THE MATERIALS SUPPLIED UNDER THIS CONTRACT, REGARDLESS OF WHETHER OR NOT CAUSED IN PART BY INDEMNITEE. SUCH LOSSES SPECIFICALLY INCLUDE, BUT ARE IN NO WAY LIMITED TO LOSSES ARISING OUT OF OR ATTRIBUTABLE TO: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS OR OBLIGATIONS OF CONTRACTOR SET FORTH HEREIN; (2) THE WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR, CONTRACTOR'S AGENTS OR EMPLOYEES, SUPPLIERS OR SUBCONTRACTORS AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, AND/OR ALL OTHER ENTITIES OVER WHOM THE CONTRACTOR MAY EXERCISE CONTROL (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "CONTRACTOR'S AGENTS"); (3) ANY NEGLIGENCE, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF CONTRACTOR AND/OR CONTRACTOR'S AGENTS; OR (4) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE INDEMNITEE RELATED IN ANY WAY TO THE WORK. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE INDEMNITY FOR LOSSES CAUSED SOLELY BY FAULT OR NEGLIGENCE OF THE INDEMNITEE. THE LOSSES DESCRIBED HEREIN SHALL INCLUDE, BUT ARE NOT LIMITED TO, DEMANDS, CLAIMS, OR ACTIONS ASSERTED BY (1) ANY PRESENT OR FUTURE OWNER OF THE HOUSE INCORPORATING THE WORK; AND (2) ANY OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY CONTRACTOR AND/OR CONTRACTOR'S AGENTS). THE INDEMNIFICATION OBLIGATION UNDER THIS CONTRACT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. THE INDEMNITY PROVISIONS CONTAINED HEREIN ARE INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY LAW.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ANY AND ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. IT IS THE EXPRESS INTENTION OF THE PARTIES THAT CONTRACTOR'S INDEMNITY OBLIGATIONS HEREIN WILL SURVIVE THE TERMINATION OF CONTRACTOR OR THIS AGREEMENT. INDEMNITEE SHALL HAVE THE RIGHT, AT ITS DISCRETION AND CHOOSING, TO DEFEND ANY AND ALL CLAIMS WHICH MAY BE ASSERTED AGAINST IT, AND CONTRACTOR AGREES TO REIMBURSE INDEMNITEE FOR ANY AND ALL EXPENDITURES WHICH INDEMNITEE MAY MAKE OR INCUR ON ACCOUNT OF ANY SUCH CLAIM.

10.3 CONTRACTOR AND CONTRACTOR'S AGENTS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS OR EQUIPMENT.

10.4 Subcontractor's and Supplier's Indemnity Obligations. Contractor shall require each of its subcontractor to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required in this section and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms as Section 13. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the actions of any subcontractor engaged by Contractor, whether in written agreement or otherwise, or who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed to be the obligation of the subcontractors to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with completed operations coverage which contains a per occurrence limit of no less than one million dollars (\$1,000,000.00), and an aggregate limit of no less than two million dollars (\$2,000,000.00) protecting against liability for bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products and completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL Policy shall not contain a deductible or self insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering completed operations for any applicable statute of repose for commencing lawsuits associated with the Work.

11.2 Other Insurance. Contractor agrees to carry (i) Worker's Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Worker's Compensation obligations imposed by law; (ii) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than one million dollars (\$1,000,000.00) and an aggregate of no less than one million dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (iii) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person (Bodily Injury) and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both on-going operations and completed operations (equivalent to form CG20101185 or form CG2037). Coverage obtained by Contractor naming Owner as an Additional Insured shall be primary with any insurance of Owner being excess coverage. That insurance coverage will be carried continuously during the term of this Agreement and thereafter as required by this Agreement with insurance companies acceptable to Owner in its sole and absolute discretion. That insurance shall provide for a waiver of subrogation. All insurance shall be with

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a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies. Each Certificate of Insurance or policy shall contain an unqualified clause to the effect that the policy shall (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days' prior written notice to Owner, (ii) be carried continuously from the date of commencement of the Work until expiration of the period of the Contractor's warranty provided in this Agreement, (iii) specifically identify Owner as an Additional Insured, and (iv) indicate that coverage applies in the state where the Work is being performed. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself and the Work required to be performed under this Agreement.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER IN ITS SOLE AND ABSOLUTE DISCRETION) IN EFFECT AT THE TIME WORK IS PERFORMED TO COMPENSATE OWNER FOR ANY ADDITIONAL COSTS OF ITS WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS, CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS CONTRACT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work to the extent permitted under this Agreement, Contractor guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an Additional Insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or another contractor's work is damaged by an act for which Contractor, or its employees, agents or subcontractors, are responsible, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct such Work, replace or repair any defective material, or repair any damage. Contractor shall make all repairs and correct such within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours notice on a non-emergency basis, or (ii) retain a third party to undertake to perform those duties, and retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld resulting in a deficiency, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and reasonable attorneys' fees, incurred by Owner, and shall pay to Owner this amount within thirty (30) days of demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Paragraph 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or permitted subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's actions or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement, Exhibit A of this Agreement, or the specifications; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order that is Contractor's obligation under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary tools, material, or equipment for, or cleaned up after, the Work; (viii) Contractor fails to comply with any other provision of this Agreement.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement and rights and remedies available under this Agreement shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise unpeped or available by law. Owner shall have a right to collect from Contractor its reasonable attorneys' fees and expenses incurred in enforcing Contractor's obligations.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These Disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking equitable relief from and arbitrator or a court of appropriate jurisdiction.

13.3 Arbitration. If mediation fails, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq., regardless of any other choice of law provision in any underlying contract or this Agreement. All demands for arbitration shall be made before the expiration of the applicable statutes of limitations and repose. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in any court of competent jurisdiction.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrators mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes, is over \$200,000, but only one arbitrator shall be appointed if the Dispute is 200,000 or less. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of a mediator or arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint a mediator or arbitrator. The AAA's Code of Arbitrator Ethics (revised March 1, 2004) is applicable to all arbitrations.

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13.5 Rules. To the extent not in conflict with the Federal Arbitration Act, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner may join Contractor in any litigation, mediation, or arbitration initiated against Owner by a third person so that the rights of all parties (Owner, Contractor, Subcontractor, or any third person) shall be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner where necessary to facilitate resolution in a single forum. If multiple lawsuits or arbitrations are commenced, they shall all be consolidated into a single proceeding. Notwithstanding any other provision of this section, if a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect to unilaterally waive mediation or arbitration and litigate the Dispute with Contractor.

14. TERMINATION.

14.1 Termination by Owner for Cause or Convenience. This Agreement shall remain in full force and effect until terminated in writing by mailing notice to the other Party. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) Days' written notice before the effective date of termination, and shall perform fully under this Agreement during that notice period. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.3 Survival. All obligations, duties and warranties for Work performed under this Agreement shall survive termination.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms, (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority, (v) Contractor has, and each Contractor's employees, agents or permitted subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement, (vi) Contractor is in compliance with all governmental requirements to which it is subject, and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement, and with respect to prices and quantities only, the Price Schedule and all written Purchase Orders shall be the entire agreement between Owner and Contractor related to the Work, and there are no other agreements, oral or written, made by or relied upon by Owner and Contractor. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended or supplemented except in writing signed by both Owner and Contractor.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights and obligations are not assignable or transferable without the express written consent of Owner, who may consent can be withheld in Owner's sole and absolute discretion. Subject to the restrictions and prohibitions on assignment set forth in this section, the terms of the Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Contractor shall provide and transfer ownership to any and all samples and/or shop drawings requested by Owner.

18. NOTICES. All notices required pursuant to this Agreement or otherwise shall be in writing and shall be delivered to the respective business address of Owner and Contractor. However, Contractor's business address shall be as noted on page one (1) of this Agreement. Notices shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by overnight delivery service, and upon confirmation if sent by facsimile transmission.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or articles.

SOUTH CAROLINA REVISED 7/23/2007

INITIALS: OWNER CASO, CONTRACTOR [Signature]

KDC 013555

EXHIBIT A
SCOPE OF WORK

no do landscape and irrigation
work

INITIALS: OWNER AU , CONTRACTOR

DD-DR-HORTON

1132921

SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR A-2 Inc. ("Contractor")
 Sole Proprietorship ☐ Partnership ☒ Corporation ☐ L.L.C ☐ Other (ATTACH W-9)
 Social Security No. or Tax ID No. 36-2163705
 Name of Owner(s)/Officer(s): Michael T. Green
 Division Name: _____ Area Name: _____ Assigned Vendor No.: _____
 Address for All Notices: PO Box 460
 City: Duncan State: SC Zip Code: 29334
 Telephone: 843-303-3084 Fax: 843-576-4053 E-Mail Address: a2inc1234@gmail.com
 Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
 This agreement (the "Agreement") is entered into on this 3 day of April, 2018, between
 DR Horton Inc. ("Owner") and Contractor.

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all work performed and materials supplied by Contractor, directly or indirectly, to Owner, including but not limited to the labor, services and/or materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing shall not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders, as defined herein, issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed, accepted Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, and Contractor provides invoices for progress payments, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO CONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN. CONTRACTOR AGREES THAT OWNER DOES AND WILL NOT OWE INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF ANY DELAYED PAYMENT.

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA, IF ANY.

Executed this 3 day of April, 2018

Owner:
By: [Signature]
Name: William McCallough
Title: Controller, AVP

Contractor:
By: Michael T. Green
Name: Michael T. Green
Title: Pres

INITIALS: OWNER mm, CONTRACTOR M76

4.2 Contractor Payments. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, warranty service, or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work and obligations under this Agreement. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("**Purchase Order**"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Owner shall have the right to make changes to the schedule of Work at Owner's sole discretion, and Contractor shall comply with such changes. Contractor shall not be entitled to any additional compensation for such schedule changes.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Contractor shall immediately notify Owner in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractor's Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "**Requirements**"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, regardless of any alleged fault of Owner. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform warranty or repair work after a house is occupied.

6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("**Inspector**") shall have the right, but not the obligation, to observe, inspect or test the Work at any time, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("**Change Order**") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including but not limited to, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not

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limited to trash, unused building materials, garbage, refuse or rubbish ("Waste"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon Owner's demand and may be deducted from any sums owed Contractor.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe working conditions and equipment exist and safe practices are observed. Contractor shall have a competent person on the Work Site at all times in charge of Contractor's safety program. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition or practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Law"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation, regardless of any alleged fault of Owner. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, nor allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substance" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. For the longer of ten years or the period of any applicable statute of limitation or repose, Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work shall conform to the specifications of this Agreement (including but not limited to the standards referenced in Subsection 6.1), shall be free from any defects or deficiencies in workmanship or materials, shall comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, shall meet or exceed the FHA/VA minimum property standards, and shall comply with the Home Owners' Warranty, defined below and its applicable warranty standards (which Contractor has read and understands). All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects. Contractor shall be liable to make good or promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Subsection 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, any initial home purchaser of property subject to the Work: (i) for a period of ten (10) years all structural elements, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; and (iii) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (a) any statutory warranty or (b) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner, including but not limited to the Residential Warranty Corporation Program (a "Home Owners Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners Warranty that is longer than the warranty periods stated above; provided, however, failure to give that notice will not affect the extension of the warranty period to the applicable warranty period under the Home Owners Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform warranty services thereafter.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product information, and guarantees by manufacturers on components of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including, but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

INITIALS: OWNER WMM, CONTRACTOR MZL

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the lesser of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of this State.

9.3 Lien Claim Indemnity. If any liens, affidavits of claim, stop payment notices, or lis pendens arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such liens, affidavits of claim, stop payment notices, or lis pendens to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any such liens, affidavits of claim, stop payment notices, or lis pendens, and further agrees immediately upon Owners' request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge any and all liens, affidavits of claim, stop payment notices, or lis pendens, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any home purchaser in discharging the liens, affidavits of claim, stop payment notices, or lis pendens whichever remedy Owner elects in its sole and absolute discretion. This Section shall be in addition to any rights Owner has under applicable law with respect to such liens, affidavits of claim, stop payment notices, or lis pendens.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF, ATTORNEYS' FEES AND INTEREST), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR OR BY CONTRACTOR'S AGENTS OR EMPLOYEES, OR BY ITS SUPPLIERS OR SUBCONTRACTORS OF ANY TIER, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES; (3) ANY NEGLIGENCE OR INTENTIONAL ACT OR OMISSION, OR ANY STRICT LIABILITY, OF CONTRACTOR OR ANY OF CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, SUPPLIERS OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENCE OR INTENTIONAL ACT OR OMISSION, OR ANY STRICT LIABILITY, OF INDEMNITEE RELATED IN ANY WAY TO THE WORK. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY. THE DEFENSE DUTY IS TRIGGERED BY ALLEGATIONS IN A LAWSUIT OR OTHER SIMILAR ACTION, REGARDLESS OF WHETHER THEY ARE GROUNDED, FALSE OR FRAUDULENT, OR ALTERNATIVELY BY ANY FACTS (EXTRINSIC TO THE ALLEGATIONS) NOT PLED, OR NOT PLED WITH SPECIFICITY, BY THE CLAIMANT. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY CONTRACTOR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO INDEMNIFY INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR AGREES THAT ITS OBLIGATIONS SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

10.3 NO BAILMENT. CONTRACTOR AND ITS EMPLOYEES, PERSONNEL, AGENTS, SUPPLIERS, AND SUBCONTRACTORS, OF ANY TIER, AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS, MATERIALS, OR EQUIPMENT; OR (2) ANY DAMAGE TO SUCH TOOLS, MATERIALS OR EQUIPMENT.

10.4 Subcontractors and Suppliers Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor or supplier who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors or suppliers to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Requirements Applicable to All Required Insurance. Prior to commencing any Work under this Agreement, and until expiration of the periods set out below, Contractor shall maintain at its expense such insurance as will protect Contractor and Owner from claims and liabilities that may arise out of Contractor's operations under this Agreement, whether such operations are performed by Contractor or its subcontractors or suppliers, or any other person involved in performing Contractor's obligations under this Agreement. All policies of insurance provided and maintained by Contractor pursuant to the Agreement shall provide for a waiver of subrogation in favor of Owner, D.R. Horton, Inc., all affiliates and subsidiaries of

INITIALS: OWNER WMM, CONTRACTOR 476

D.R. Horton, Inc., and their respective affiliates, officers, directors, and employees (collectively "Horton") for damages to the extent covered by such policies. All policies provided and maintained pursuant to this Agreement shall indicate that coverage applies in the state where the Work is being performed; and are written by an insurer licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor determines to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement. In the event that Contractor obtains insurance coverage that is broader than the minimums required by this Agreement, this Agreement shall be deemed to require the broader coverage, including but not limited to any greater limits and any excess or umbrella coverages. Coverage obtained by Contractor with Horton as an additional insured shall be primary, with any insurance of Horton being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work. Contractor shall immediately notify Owner in writing of any incident, occurrence, injury, or situation related in any way with the Work which may give rise to any claim or loss under any of the insurance coverages required by this Section 11.

11.2 Commercial General Liability. Contractor shall maintain Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with a minimum per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and a minimum aggregate limit of no less than Two Million Dollars (\$2,000,000.00). The CGL Policy shall apply separately to Contractor's Work under this Agreement, and shall protect against bodily injury, property damage, and personal injury claims arising from the exposures of: premises-operations; products-completed operations, including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); independent subcontractors; contractual liability covering the indemnity obligations set forth in this Agreement; and where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type, nature, or volume of the Work or limit the type of structure or number of units on which the Work is to be performed. The CGL Policy shall not contain a deductible or self-insured retention of more than Twenty Five Thousand Dollars (\$25,000.00), and shall allow the satisfaction of any and all deductible or self-insured retention through payments made by any third party, including but not limited to Owner or any additional insured, co-insureds, co-insurers, or insureds other than the primary or first named insured. Contractor shall continuously maintain its CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work. To the fullest extent permitted by law, Contractor shall add Horton as Additional Insureds, specifically identifying Horton, on the CGL Policy covering both ongoing operations and completed operations using endorsement form CG 2010 1185 or, if unavailable, both forms CG 2010 1001 and CG 2037 1001, or endorsement forms providing equivalent coverage.

11.3 Workers Compensation and Employers Liability Insurance. Contractor shall maintain Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law and Employer's Liability Insurance in an amount not less than One Million Dollars (\$1,000,000.00) for each accident for bodily injury, One Million Dollars (\$1,000,000.00) for bodily injury by disease, and One Million Dollars (\$1,000,000.00) for each employee for bodily injury by disease. The Workers Compensation and Employers Liability Policy shall not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner.

11.4 Business Automobile Insurance. Contractor shall maintain Business Automobile Liability Insurance coverage with limits of not less than One Million Dollars (\$1,000,000.00) per accident, specifying "all autos" coverage or "all owned, leased, hired or non-owned autos." The Business Automobile Liability Policy shall not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner. Owner shall be included as an Additional insured on the Business Automobile Liability Policy.

11.5 Professional Liability Insurance. If Contractor's Work includes design services, Contractor shall maintain Contractor's Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment. The policy obtained to satisfy this requirement not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner.

11.6 Proof of Insured Status. Prior to commencing the Work, Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance signed by a duly authorized representative of the insurers and showing compliance with the insurance requirements set out above, including endorsements adding Horton as Additional Insured and waivers of subrogation. Alternatively, Owner reserves the right to request portions of policies (including but not limited to declarations pages and endorsements) or certified copies of the required policies. Contractor shall not be relieved of any indemnification obligation under this Agreement, including, but not limited to, those undertaken in Section 10 of this Agreement, by securing insurance coverage in accordance with Owner's insurance requirements or by Owner's approval of certificates of insurance or policies. Any acceptance of insurance coverage by Owner shall not be construed as accepting in any way deficiencies in the insurance.

11.7 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR CONTRACTOR AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.8 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Horton as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with this Agreement.

11.9 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any Indemnitee, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or if another contractor's

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work, or other property, is damaged by an act or omission of Contractor, or its employee, agent, supplier, or subcontractor, of any tier, or their respective employee or agent, Owner shall have the right to elect, at its sole, absolute discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs to complete, repair, or replace, plus any related costs or damage including re-inspection fees, with any excess to be paid to Contractor. If such costs exceed the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's acts or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or (viii) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may set off from amounts owing to Contractor hereunder any amounts owing by Contractor to Owner's parent company, any subsidiary or affiliate, under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other rights or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not mediate before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("FAA"). All demands for arbitration shall be made before the expiration of the applicable statutes of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for One Million Dollars (\$1,000,000.00) or more, but only one arbitrator shall be appointed if the Dispute is for less than One Million Dollars (\$1,000,000.00). If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by mailing notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor

INITIALS: OWNER WMM, CONTRACTOR M76

is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and each Contractor's employees, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement; (vi) Contractor is in compliance with all governmental requirements to which it is subject; and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior Independent Contractor Agreements (other than any Master National Independent Contractor Agreement) for this State or other prior understandings or written or oral agreements regarding Work in this State, specifically including but not limited to all prior pre-printed standard contractor/subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement for this State is executed, shall alter the terms set forth in this Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement is executed. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by law, the Master National Independent Contractor Agreement shall control.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, but is not limited to, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner to any assignment or delegation of duties by Contractor, including but not limited to any work by a subcontractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina, and is applicable to Work for all construction projects in this State. In the event Contractor performs any work for Owner, or its parent company, affiliate or subsidiary, for a project in another State, and Contractor has not executed a written Independent Contractor Agreement for that State, Contractor hereby agrees that such work shall be governed by the terms and conditions of the form Independent Contractor Agreement of Owner (in use at the time of execution of this Agreement) for that State, which shall be deemed effective on the day this Agreement is executed. Upon request, Owner will provide Contractor with applicable Independent Contractor Agreements.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, Contractor shall return any and all confidential material or proprietary property or documents to Owner.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or subsections.

SOUTH CAROLINA VERSION (DECEMBER 9, 2016)

INITIALS: OWNER mm, CONTRACTOR MTG

SCOPE OF WORK

The following is a description of Basic Services performed by the Independent Contractor:

- ① Bath tub repairs
- ② Cultured marble repairs
- ③ Vinyl window repairs



SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR MJ Cowboys LLC ("Contractor")
 Sole Proprietorship ☐ Partnership ☒ Corporation ☐ LLC ☐ Other (ATTACH W-9)
 Social Security No. or Tax ID No.: 46-4331473
 Name of Owner(s)/Officer(s): Mauricio Reyna
 Division Name: Greenville Area Name: TOGUS Assigned Vendor No.: 1956708
 Address for All Notices: 7740 Augusta Rd Ste 1A #129
 City: Piedmont State: SC Zip Code: 29673
 Telephone: 803-850-8510 Fax: 803-852-7562 E-Mail Address: mjcowsboysllc@gmail.com
 Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
 This agreement (the "Agreement") is entered into on this 16 day of MAY, 2014, between
D-R Horton Inc ("Owner") and Contractor.

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all work performed and materials supplied by Contractor, directly or indirectly, to Owner, including but not limited to the labor, services and/or materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing shall not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders, as defined herein, issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-54 AND 29-6-59 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO CONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN. CONTRACTOR AGREES THAT OWNER DOES AND WILL NOT OWE INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF ANY DELAYED PAYMENT.

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA, IF ANY.

Executed this 16 day of MAY, 2014.

By: MARC MARTENS Name: Mauricio Reyna
 Title: CFO Title: Owner

INITIALS: OWNER MM CONTRACTOR MR

4.2 Contractor Payments. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed by Owner to Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, warranty service, or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work and obligations under this Agreement. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("Purchase Order"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Owner shall have the right to make changes to the schedule of Work at Owner's sole discretion, and Contractor shall comply with such changes. Contractor shall not be entitled to any additional compensation for such schedule changes.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common law), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Subcontractor shall immediately notify Contractor in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, rules, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "Requirements"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, regardless of any alleged fault of Owner. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform warranty or repair work after a house is occupied.

6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("Inspector") shall have the right, but not the obligation, to observe, inspect or test the Work at any time during or after construction, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such

INITIALS: OWNER , CONTRACTOR MR.

rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not limited to trash, unused building materials, garbage, refuse or rubbish ("Waste"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon demand by Owner and may be deducted by Owner from any sums owed to Contractor.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe working conditions and equipment exist and safe practices are observed. Contractor shall have a competent person on the Work Site at all times in charge of Contractor's safety program. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisor of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition or practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Law"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation, regardless of any alleged fault of Owner. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, or allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substance" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. For the longer of ten years or the period of any applicable statute of limitation or repose, Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work shall conform to the specifications of this Agreement (including but not limited to the standards referenced in Subsection 6.1), shall be free from any defects or deficiencies in workmanship or materials, shall comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, shall meet or exceed the FHA/VA minimum property standards, and shall comply with the Home Owners' Warranty, defined below and its applicable warranty standards (which Contractor has read and understands). All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects. Contractor shall be liable to make good or promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Subsection 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, any initial home purchaser of property subject to the Work: (i) for a period of ten (10) years all structural elements, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers; (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home; and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; and (iii) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (a) any statutory warranty or (b) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner, including but not limited to the Residential Warranty Corporation Program (a "Home Owners' Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners' Warranty that is longer than the warranty periods stated above; provided, however, failure to give that notice will not affect the extension of the warranty period to the applicable warranty period under the Home Owners' Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform warranty services thereafter.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product information, and guarantees by manufacturers on components of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including, but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon

INITIALS: OWNER  ; CONTRACTOR 

receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Work is located.

9.3 Lien Claim Indemnity. If any liens, affidavits of claim, stop payment notices, or its pends arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien, affidavit, stop payment notice, or its pends to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any such liens, affidavit, stop payment notice, or its pends, and further agrees immediately upon Owners' request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge that lien, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any home purchaser in discharging the lien, affidavit, stop payment notice, or its pends whichever remedy Owner elects to its sole and absolute discretion. The provisions of this paragraph shall be in addition to any rights Owner may have under applicable law with respect to such liens, affidavits, stop payment notices, or its pends.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF AND ATTORNEYS' FEES), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR OR BY CONTRACTOR'S AGENTS OR EMPLOYEES, OR BY SUPPLIERS OR SUBCONTRACTORS OF ANY TIER, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES; (3) ANY NEGLIGENCE OR INTENTIONAL ACT OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENCE OR INTENTIONAL ACT OR OMISSION OF INDEMNITEE, RELATED IN ANY WAY TO THE WORK, EXCEPTING ONLY LIABILITY OR CLAIMS ARISING OUT OF BODILY INJURY TO PERSONS, DEATH, OR DAMAGE TO PROPERTY PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY CONTRACTOR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO INDEMNIFY INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

10.3 NO BAILMENT. CONTRACTOR AND CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, ALL SUBCONTRACTORS, AND SUPPLIERS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS, MATERIALS, OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS, MATERIALS OR EQUIPMENT.

10.4 Subcontractors and Suppliers Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor or supplier who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors or suppliers to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with products-completed operations coverage, which contains a per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and an aggregate limit of no less than Two Million Dollars (\$2,000,000.00) protecting against bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products-completed operations including materials designed, furnished, and/or

INITIALS: OWNER *h* CONTRACTOR *ma*

modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL policy shall not contain a deductible or self-insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work.

11.2 Other Insurance. Contractor agrees to carry (a) Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law; (b) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (c) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person for bodily injury and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as a named, Additional Insured, specifically identifying Owner, on the CGL Policy and policies required above covering both ongoing operations and completed operations (equivalent in scope to form CG 2010 1185 or, if unavailable, both forms CG 2010 1001 and CG 2037 1001). Coverage obtained by Contractor with Owner as an additional insured shall be primary, with any insurance of Owner being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work; (iii) provide for a waiver of subrogation; (iv) indicate that coverage applies in the state where the Work is being performed; and (v) be with a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies, as requested by Owner.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

11.7 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any Indemnitee, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or if another contractor's work, or other property, is damaged by an act or omission of Contractor, its employees, agents, suppliers, or subcontractors, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's acts or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or (viii) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may set off from amounts owing to Contractor hereunder any amounts owing by Contractor to Owner's parent company, any subsidiary or affiliate, under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations,

INITIALS: OWNER  CONTRACTOR 

rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other rights or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Dispute. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Dispute") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("FAA"). All demands for arbitration shall be made before the expiration of the applicable statute of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for \$1,000,000 or more, but only one arbitrator shall be appointed if the Dispute is for less than \$1,000,000. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by mailing notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligations of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and each Contractor's employees, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement; (vi) Contractor is in compliance with all governmental requirements to which it is subject; and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior independent Contractor Agreements (other than any Master National Independent Contractor Agreement) or other prior understandings or written or oral agreements, specifically including but not limited to all prior pre-printed standard contractor/subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement, shall alter the terms set forth in this Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by

INITIALS: OWNER  CONTRACTOR 

law, the Master National Independent Contractor Agreement shall control.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, without limitation, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner to any assignment or delegation of duties by Contractor, including but not limited to any work by a subcontractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, Contractor shall return any and all confidential material or proprietary property or documents to Owner.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or subsections.

48026 Foundation Concrete
43048 Masonry
43060 Stone
45530 Flatwork Labor

SOUTH CAROLINA VERSION (REV. 12 APRIL 2013)

INITIALS: OWNER W CONTRACTOR MR

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SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR Kings Landscaping LLC ("Contractor")
Sole Proprietorship ☐ Partnership ☐ Corporation ☐ LLC ☒ Other (ATTACH W-9)
Social Security No. or Tax ID No.: 910 74 0231 016 30 3205
Name of Owner(s)/Officer(s): Antonio Jimenez & Maria Jimenez
Division Name: _____ Area Name: _____ Assigned Vendor No.: _____
Address for All Notices: 903 S. Main St.
City: Fountain Inn State: SC Zip Code: 29644
Telephone: 814 304 0388 Fax: () _____ E-Mail Address: Kingslandscaping15@gmail.com
Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
This agreement (the "Agreement") is entered into on this 5 day of October, 2016, between
DR Horton Inc. ("Owner") and Contractor.

1. SCOPE OF WORK This Agreement is entered on a blank basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all work performed and materials supplied by Contractor, directly or indirectly, in flower, including but not limited to the labor, services and/or materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, shall not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders, as defined herein, issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-30 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO CONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN. CONTRACTOR

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA, IF ANY.

Executed this 5th day of October, 2016

By: [Signature]
Name: Antonio Jimenez
Title: Division President

Contractor:
By: [Signature]
Name: Antonio Jimenez & Maria Jimenez
Title: Owner

INITIALS: OWNER (A) CONTRACTOR AV & MU

AGREES THAT OWNER DOES, AND WILL, NOT OWE INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF ANY DELAYED PAYMENT.

4.2 Contractor Payments. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties, and these joint payments shall satisfy amounts owed by Owner to Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, warranty service, or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work and obligations under this Agreement. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("Purchase Order"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Owner shall have the right to make changes to the schedule of Work at Owner's sole discretion, and Contractor shall comply with such changes. Contractor shall not be entitled to any additional compensation for such schedule changes.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common law), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Contractor shall immediately notify Owner in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractor's Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, rules, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "Requirements"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, regardless of any alleged fault of Owner. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform warranty or repair work after a house is occupied.

6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("Inspector") shall have the right, but not the obligation, to observe, inspect or test the Work at any time during or after construction, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which

INITIALS: OWNER [Signature] CONTRACTOR AV & MU

the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location, (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not limited to trash, unused building materials, garbage, refuse or rubbish ("Waste"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon demand by Owner and may be deducted by Owner from any sums owed to Contractor.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe working conditions and equipment exist and safe practices are observed. Contractor shall have a competent person on the Work Site at all times in charge of Contractor's safety program. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition or practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Law"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation, regardless of any alleged fault of Owner. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, nor allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substance" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. For the longer of ten years or the period of any applicable statute of limitation or repose, Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work shall conform to the specifications of this Agreement (including but not limited to the standards referenced in Subsection 6.1), shall be free from any defects or deficiencies in workmanship or materials, shall comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, shall meet or exceed the FHAA's minimum property standards, and shall comply with the Home Owners' Warranty, defined below and its applicable warranty standards (which Contractor has read and understands). All Work not conforming to these requirements shall be considered to be defective. All material shall be new and complying with the standards set forth in this Section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Subsection 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, any initial home purchaser of property subject to the Work: (i) for a period of ten (10) years all structural elements, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers; (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home; and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; and (iii) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (a) any statutory warranty or (b) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner, including but not limited to the Residential Warranty Corporation Program (a "Home Owners' Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners Warranty that is longer than the warranty periods stated above; provided, however, failure to give that notice will not affect the extension of the warranty period to the applicable warranty period under the Home Owners Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform warranty services thereafter.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product information, and guarantees by manufacturers on components of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

INITIALS: OWNER  CONTRACTOR 

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including, but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Work is located.

9.3 Lien Claims Indemnity. If any liens, affidavits of claim, stop payment notices, or its penders arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such liens, affidavits of claim, stop payment notices, or its penders to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any such liens, affidavits of claim, stop payment notices, or its penders, and further agrees immediately upon Owners' request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge any and all liens, affidavits of claim, stop payment notices, or its penders, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any home purchaser in discharging the liens, affidavits of claim, stop payment notices, or its penders whichever remedy Owner elects in its sole and absolute discretion. The provisions of this paragraph shall be in addition to any rights Owner may have under applicable law with respect to such liens, affidavits of claim, stop payment notices, or its penders.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF, ATTORNEYS' FEES AND INTEREST), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO WORK PERFORMED OR TO BE PERFORMED OR SUBCONTRACTORS OF ANY TIER, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES, OR BY ITS SUPPLIERS OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, SUPPLIERS OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF INDEMNITEE RELATED IN ANY WAY TO THE WORK. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR AGREES THAT ITS OBLIGATIONS SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE, AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

10.3 NO BAILMENT. CONTRACTOR AND CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, ALL SUBCONTRACTORS, AND SUPPLIERS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS, MATERIALS, OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS, MATERIALS OR EQUIPMENT.

10.4 Subcontractors and Suppliers Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee in the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor or supplier who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors or suppliers to Owner, for which Contractor shall be fully responsible to Owner.

INITIALS: OWNER RD CONTRACTOR AU & MJ

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with products-completed operations coverage, which contains a per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and an aggregate limit of no less than Two Million Dollars (\$2,000,000.00) protecting against bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products-completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk, covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type, nature, or volume of the Work or limit the type of structure or number of units on which the Work is to be performed. The CGL policy shall not contain a deductible or self-insured retention of more than \$25,000.00, and shall allow the satisfaction of any and all deductible or self-insured retention through payments made by any third party, including but not limited to Owner or any additional insured, co-insureds, co-insurers, or insureds other than the primary or first named insured. Contractor shall continuously maintain a CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work.

11.2 Other Insurance. Contractor agrees to carry (a) Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law; (b) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (c) Commercial Automobile Liability Insurance coverage with limits of not less than \$200,000 per person for bodily injury and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner, D.R. Horton, Inc., and all affiliates and subsidiaries of D.R. Horton, Inc. (collectively "Horton") as named, Additional Insureds, specifically identifying Horton, on the CGL Policy and policies required above covering both ongoing operations and completed operations equivalent in scope to form CG 2010 1 185 or, if unavailable, both forms CG 2010 1001 and CG 2037 10011. Coverage obtained by Contractor with Horton as an additional insured shall be primary, with any insurance of Horton being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work; (iii) provide for a waiver of subrogation; (iv) indicate that coverage applies in the state where the Work is being performed; and (v) be with a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement. In the event that Contractor obtains insurance coverage that is broader than the minimums required by this Agreement, this Agreement shall be deemed to require the broader coverage, including but not limited to any greater limits.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, portions of policies (including but not limited to declarations pages and endorsements), or certified copies of the required policies, as requested by Owner.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Horton as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

11.7 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any indemnitee, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or if another contractor's work, or other property, is damaged by an act or omission of Contractor, its employees, agents, suppliers, or subcontractors, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs to complete, repair, or replace, plus any related costs or damage including re-inspection fees, with any excess to be paid to Contractor. If such costs exceed the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens

INITIALS: OWNER

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are filed against the job location as a result of Contractor's acts or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement; and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or (viii) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may set off set from amounts owing to Contractor hereunder any amounts owing by Contractor to Owner's parent company, any subsidiary or affiliate, under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other rights or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("FAA"). All demands for arbitration shall be made before the expiration of the applicable statutes of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator: Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for \$1,000,000 or more, but only one arbitrator shall be appointed if the Dispute is for less than \$1,000,000. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by mailing notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and in compliance with this Agreement, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work and the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

INITIALS: OWNER

CONTRACTOR

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior Independent Contractor Agreements (other than any Master National Independent Contractor Agreement) or other prior understandings or written or oral agreements, specifically including but not limited to all prior pre-printed standard contractor-subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement, shall alter the terms set forth in this Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by law, the Master National Independent Contractor Agreement shall control.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, without limitation, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner to any assignment or delegation of duties by Contractor, including but not limited to any work by a subcontractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, Contractor shall return any and all confidential material or proprietary property or documents to Owner.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or subsections.

Landscaping

SOUTH CAROLINA VERSION (REV. 22 JUNE 2015)

INITIALS: OWNER

CONTRACTOR

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SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR Five Star Foundation LLC ("Contractor")
Sole Proprietorship ☐ Partnership ☐ Corporation ☒ L.L.C ☐ Other (ATTACH W-9)
Social Security No. or Tax ID No.: 58-2445381
Name of Owner(s)/Officer(s): Brian Fossier
Division Name: GVL Area Name: 109 Assigned Vendor No.: 1518749
Address for All Notices: PO Box 2739
City: Greer State: SC Zip Code: 29652
Telephone: 804 877-3265 Fax: 804 877-4932 E-Mail Address: fivestarfoundation@hotmail.com
Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
This agreement (the "Agreement") is entered into on this 2 day of October, 2019, between
DR Horton Inc. ("Owner") and Contractor.

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all work performed and materials supplied by Contractor, directly or indirectly, to Owner, including but not limited to the labor, services and/or materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing shall not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders, as defined herein, issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed, accepted Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, and Contractor provides invoices for progress payments, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO CONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN. CONTRACTOR AGREES THAT OWNER DOES, AND WILL, NOT OWE INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF ANY DELAYED PAYMENT.

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA, IF ANY.

Executed this 2 day of October, 2019.

Owner:

By: [Signature]

Name:

Title: Division President

Contractor:

By: [Signature]

Name:

Title: Owner

INITIALS: OWNER BF, CONTRACTOR BF

4.2 Contractor Payments. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, warranty service, or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work and obligations under this Agreement. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("**Purchase Order**"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Owner shall have the right to make changes to the schedule of Work at Owner's sole discretion, and Contractor shall comply with such changes. Contractor shall not be entitled to any additional compensation for such schedule changes.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Contractor shall immediately notify Owner in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractor's Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "**Requirements**"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, regardless of any alleged fault of Owner. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform warranty or repair work after a house is occupied.

6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("**Inspector**") shall have the right, but not the obligation, to observe, inspect or test the Work at any time, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("**Change Order**") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including but not limited to, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not

INITIALS: OWNER *JD* CONTRACTOR *BF*

limited to trash, unused building materials, garbage, refuse or rubbish ("Waste"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon Owner's demand and may be deducted from any sums owed Contractor.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe working conditions and equipment exist and safe practices are observed. Contractor shall have a competent person on the Work Site at all times in charge of Contractor's safety program. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition or practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Law"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation, regardless of any alleged fault of Owner. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, nor allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substance" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. For the longer of ten years or the period of any applicable statute of limitation or repose, Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work shall conform to the specifications of this Agreement (including but not limited to the standards referenced in Subsection 6.1), shall be free from any defects or deficiencies in workmanship or materials, shall comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, shall meet or exceed the FHA/VA minimum property standards, and shall comply with the Home Owners' Warranty, defined below and its applicable warranty standards (which Contractor has read and understands). All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects. Contractor shall be liable to make good or promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Subsection 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, any initial home purchaser of property subject to the Work: (i) for a period of ten (10) years all structural elements, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; and (iii) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (a) any statutory warranty or (b) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner, including but not limited to the Residential Warranty Corporation Program (a "Home Owners Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners Warranty that is longer than the warranty periods stated above; provided, however, failure to give that notice will not affect the extension of the warranty period to the applicable warranty period under the Home Owners Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform warranty services thereafter.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product information, and guarantees by manufacturers on components of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including, but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

INITIALS: OWNER AP CONTRACTOR BF

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the lesser of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of this State.

9.3 Lien Claim Indemnity. If any liens, affidavits of claim, stop payment notices, or lis pendens arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such liens, affidavits of claim, stop payment notices, or lis pendens to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any such liens, affidavits of claim, stop payment notices, or lis pendens, and further agrees immediately upon Owners' request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge any and all liens, affidavits of claim, stop payment notices, or lis pendens, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any home purchaser in discharging the liens, affidavits of claim, stop payment notices, or lis pendens whichever remedy Owner elects in its sole and absolute discretion. This Section shall be in addition to any rights Owner has under applicable law with respect to such liens, affidavits of claim, stop payment notices, or lis pendens.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF, ATTORNEYS' FEES AND INTEREST), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR OR BY CONTRACTOR'S AGENTS OR EMPLOYEES, OR BY ITS SUPPLIERS OR SUBCONTRACTORS OF ANY TIER, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES; (3) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION, OR ANY STRICT LIABILITY, OF CONTRACTOR OR ANY OF CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, SUPPLIERS OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION, OR ANY STRICT LIABILITY, OF INDEMNITEE RELATED IN ANY WAY TO THE WORK. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY. THE DEFENSE DUTY IS TRIGGERED BY ALLEGATIONS IN A LAWSUIT OR OTHER SIMILAR ACTION, REGARDLESS OF WHETHER THEY ARE GROUNDLESS, FALSE OR FRAUDULENT, OR ALTERNATIVELY BY ANY FACTS (EXTRINSIC TO THE ALLEGATIONS) NOT PLED, OR NOT PLED WITH SPECIFICITY, BY THE CLAIMANT. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY CONTRACTOR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO INDEMNIFY INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR AGREES THAT ITS OBLIGATIONS SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

10.3 NO BAILMENT. CONTRACTOR AND ITS EMPLOYEES, PERSONNEL, AGENTS, SUPPLIERS, AND SUBCONTRACTORS, OF ANY TIER, AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS, MATERIALS, OR EQUIPMENT; OR (2) ANY DAMAGE TO SUCH TOOLS, MATERIALS OR EQUIPMENT.

10.4 Subcontractors and Suppliers Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor or supplier who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors or suppliers to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Requirements Applicable to All Required Insurance. Prior to commencing any Work under this Agreement, and until expiration of the periods set out below, Contractor shall maintain at its expense such insurance as will protect Contractor and Owner from claims and liabilities that may arise out of Contractor's operations under this Agreement, whether such operations are performed by Contractor or its subcontractors or suppliers, or any other person involved in performing Contractor's obligations under this Agreement. All policies of insurance provided and maintained by Contractor pursuant to the Agreement shall provide for a waiver of subrogation in favor of Owner, D.R. Horton, Inc., all affiliates and subsidiaries of

INITIALS: OWNER AB, CONTRACTOR BF

D.R. Horton, Inc., and their respective affiliates, officers, directors, and employees (collectively "Horton") for damages to the extent covered by such policies. All policies provided and maintained pursuant to this Agreement shall indicate that coverage applies in the state where the Work is being performed; and are written by an insurer licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor determines to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement. In the event that Contractor obtains insurance coverage that is broader than the minimums required by this Agreement, this Agreement shall be deemed to require the broader coverage, including but not limited to any greater limits and any excess or umbrella coverages. Coverage obtained by Contractor with Horton as an additional insured shall be primary, with any insurance of Horton being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work. Contractor shall immediately notify Owner in writing of any incident, occurrence, injury, or situation related in any way with the Work which may give rise to any claim or loss under any of the insurance coverages required by this Section 11.

11.2 Commercial General Liability. Contractor shall maintain Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with a minimum per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and a minimum aggregate limit of no less than Two Million Dollars (\$2,000,000.00). The CGL Policy shall apply separately to Contractor's Work under this Agreement, and shall protect against bodily injury, property damage, and personal injury claims arising from the exposures of: premises-operations; products-completed operations, including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); independent subcontractors; contractual liability covering the indemnity obligations set forth in this Agreement; and where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type, nature, or volume of the Work or limit the type of structure or number of units on which the Work is to be performed. The CGL Policy shall not contain a deductible or self-insured retention of more than Twenty Five Thousand Dollars (\$25,000.00), and shall allow the satisfaction of any and all deductible or self-insured retention through payments made by any third party, including but not limited to Owner or any additional insured, co-insureds, co-insurers, or insureds other than the primary or first named insured. Contractor shall continuously maintain its CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work. To the fullest extent permitted by law, Contractor shall add Horton as Additional Insureds, specifically identifying Horton, on the CGL Policy covering both ongoing operations and completed operations using endorsement form CG 2010 1185 or, if unavailable, both forms CG 2010 1001 and CG 2037 1001, or endorsement forms providing equivalent coverage.

11.3 Workers Compensation and Employers Liability Insurance. Contractor shall maintain Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law and Employer's Liability Insurance in an amount not less than One Million Dollars (\$1,000,000.00) for each accident for bodily injury, One Million Dollars (\$1,000,000.00) for bodily injury by disease, and One Million-Dollars (\$1,000,000.00) for each employee for bodily injury by disease. The Workers Compensation and Employers Liability Policy shall not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner.

11.4 Business Automobile Insurance. Contractor shall maintain Business Automobile Liability Insurance coverage with limits of not less than One Million Dollars (\$1,000,000.00) per accident, specifying "all autos" coverage or "all owned, leased, hired or non-owned autos." The Business Automobile Liability Policy shall not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner. Owner shall be included as an Additional insured on the Business Automobile Liability Policy.

11.5 Professional Liability Insurance. If Contractor's Work includes design services, Contractor shall maintain Contractor's Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment. The policy obtained to satisfy this requirement not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner.

11.6 Proof of Insured Status. Prior to commencing the Work, Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance signed by a duly authorized representative of the insurers and showing compliance with the insurance requirements set out above, including endorsements adding Horton as Additional Insured and waivers of subrogation. Alternatively, Owner reserves the right to request portions of policies (including but not limited to declarations pages and endorsements) or certified copies of the required policies. Contractor shall not be relieved of any indemnification obligation under this Agreement, including, but not limited to, those undertaken in Section 10 of this Agreement, by securing insurance coverage in accordance with Owner's insurance requirements or by Owner's approval of certificates of insurance or policies. Any acceptance of insurance coverage by Owner shall not be construed as accepting in any way deficiencies in the insurance.

11.7 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR CONTRACTOR AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.8 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Horton as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with this Agreement.

11.9 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any Indemnitee, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or if another contractor's

INITIALS: OWNER AD, CONTRACTOR BE

work, or other property, is damaged by an act or omission of Contractor, or its employee, agent, supplier, or subcontractor, of any tier, or their respective employee or agent, Owner shall have the right to elect, at its sole, absolute discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs to complete, repair, or replace, plus any related costs or damage including re-inspection fees, with any excess to be paid to Contractor. If such costs exceed the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's acts or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or (viii) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may set off from amounts owing to Contractor hereunder any amounts owing by Contractor to Owner's parent company, any subsidiary or affiliate, under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other rights or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("**Disputes**") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not mediate before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("**FAA**"). All demands for arbitration shall be made before the expiration of the applicable statutes of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for One Million Dollars (\$1,000,000.00) or more, but only one arbitrator shall be appointed if the Dispute is for less than One Million Dollars (\$1,000,000.00). If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("**AAA**") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by mailing notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor

INITIALS: OWNER , CONTRACTOR .

is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligations of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and each Contractor's employees, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement; (vi) Contractor is in compliance with all governmental requirements to which it is subject; and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior Independent Contractor Agreements (other than any Master National Independent Contractor Agreement) for this State or other prior understandings or written or oral agreements regarding Work in this State, specifically including but not limited to all prior pre-printed standard contractor/subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement for this State is executed, shall alter the terms set forth in this Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement is executed. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by law, the Master National Independent Contractor Agreement shall control.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, but is not limited to, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner to any assignment or delegation of duties by Contractor, including but not limited to any work by a subcontractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina, and is applicable to Work for all construction projects in this State. In the event Contractor performs any work for Owner, or its parent company, affiliate or subsidiary, for a project in another State, and Contractor has not executed a written Independent Contractor Agreement for that State, Contractor hereby agrees that such work shall be governed by the terms and conditions of the form Independent Contractor Agreement of Owner (in use at the time of execution of this Agreement) for that State, which shall be deemed effective on the day this Agreement is executed. Upon request, Owner will provide Contractor with applicable Independent Contractor Agreements.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, Contractor shall return any and all confidential material or proprietary property or documents to Owner.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or subsections.

SOUTH CAROLINA VERSION (DECEMBER 9, 2016)

INITIALS: OWNER AB, CONTRACTOR BF



MASTER NATIONAL ACCOUNTS INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR: ProBuild Holdings, Inc. and its wholly-owned subsidiaries ("Contractor")

☐ Sole Proprietorship ☐ Partnership ☒ Corporation ☐ L.L.C ☐ Other (ATTACH W-9)

Social Security No. or Tax ID No.: 56-2549797 for ProBuild Holdings, Inc. Please see ProBuild subsidiaries' attached W-9 forms.

Name of Owner(s)/Officer(s): Paul Hylibert -- CEO, ProBuild Holdings, Inc.

Division Name: All ProBuild Locations Area Name: All ProBuild Locations Assigned Vendor No.: 1173743

Address for All Notices: 7595 Technology Way, Suite 500 City: Denver State: CO Zip Code: 80237

Telephone: (303) 262-8500 Fax: (303) 262-8381

E-Mail Address: kamlin.nedved@probuild.com

Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.

This agreement (the "Agreement") is entered into on this 8th day of May, 2008, between D.R. Horton, Inc., ("Owner") and Contractor.

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of the Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement (the "Work") shall include all work performed and materials supplied by Contractor to Owner, including, but not limited to, the labor, services and/or materials, equipment, transportation, or facilities necessary to complete the construction-related activities of Owner authorized by written purchase order or similar document by Owner's authorized field personnel and accepted by Contractor. The applicable pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing will not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any Work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of Work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to or in place of Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, method and performance of the Work. The results achieved shall satisfy the requirements of this Agreement. Contractor shall be responsible for the performance of its employees and permitted subcontractors, and all personnel used by Contractor in the performance of Work shall be qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further agrees to provide written notification to all of its present and future employees of Contractor's provision for Worker's Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work herein covered or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total price per item or service due to Contractor.

3.2 Taxes. Contractor shall pay and shall be solely responsible for all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or permitted subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate; provided however, Contractor may collect and remit such sales taxes from Owner by including such sales or use taxes on the invoice for the labor or materials in question. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER BEFORE CONTRACTOR GIVES OWNER WRITTEN NOTICE OF SUCH PRICE INCREASE IN ACCORDANCE WITH THE TERMS OF THE THEN CURRENT PRICING SCHEDULE.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than ninety (90) days after completion of the Work. Owner shall pay Contractor within the locally agreed credit terms after receipt of an invoice for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order.

4.2 Payment to Subcontractors. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed from Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Owner may, at any time, in its

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA

Executed this 8 day of May, 2008.

Owner:
By: [Signature]
Name: VP Head Nat'l Accts
Title: Paul Contino

Contractor:
By: [Signature]
Name: Kamlin R. H. Nedved
Title: Director of National Accounts

INITIALS: OWNER [Initials] CONTRACTOR [Initials]

discretion, make checks payable jointly to Contractor and one or more third parties providing work for or supplying materials to Contractor; and these joint payments shall satisfy amounts owed by Owner to Contractor, notwithstanding the fact that the third parties may not endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the Contract Price after Contractor has been paid in full for all materials and labor shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of Work later found to be defective and shall not release Contractor from liability for warranties and warranty service and/or defective Work. Contractor shall remedy any defects and pay for any damage resulting from any defects in or caused by the Work or as required by any other contracts between Owner and Contractor or by law or customary practice. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or assigns is an acceptance of the Work or materials not in compliance with this Agreement.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work. Subject to the other provisions of this Agreement, Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors. Prior to Contractor being obligated to perform any Work, Owner and Contractor must agree on the completion date for such Work.

5.2 Commencement of the Work. Owner shall issue a written authorization (either pursuant to a written purchase order, payment schedule or work invoice ("Purchase Order")) to commence the Work and Contractor shall not commence the Work at a job location until Contractor has received instructions to begin Work at a specific job location. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such work is interrupted at the direction of Owner, Contractor shall resume such work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Contractor agrees that Owner shall have the right to make changes to the schedule of Work at Owner's discretion and agrees to use commercial reasonable efforts to comply with such changes; provided however, if such changes result in a delay in the performance of the Work in excess of two (2) months, Contractor shall have the right to reprice the Work or rescind its agreement to perform/provide the Work.

6. PERFORMANCE STANDARDS.

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner, in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FHA minimum property standards, VA requirements, all laws (statutory or common) and regulations, and any applicable building code requirements.

6.2 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date agreed to by Owner and Contractor pursuant to Section 5.1 and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, as the plans and specifications effect the Work and materials incorporated in the Work, and that the plans and specifications are clear and unambiguous, and has accepted and agreed to be bound by all such requirements.

6.3 Government Requirements. Contractor will comply with all applicable federal, state, local, and county statutes, ordinances, regulations, codes, licensing requirements and standards, and the requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 as amended, as well as the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., or similar laws or regulations, and the rules, regulations, or orders of all public authorities relating to performance of the Work, including without limitation, the procurement and posting of all required permits and notices. In addition, Contractor will not discriminate in its hiring or employment and will follow all state and federal employment laws or regulations. Contractor shall perform background checks and use only appropriate employees to perform warranty or repair work after a house is occupied.

6.4 Indemnity. To the fullest extent allowed by law, Contractor will indemnify, defend, and hold Owner harmless from the payment of any fine or penalty imposed under applicable laws and regulations relating to the Work for failure of Contractor to comply or cause its employees or subcontractors to comply with those laws and regulations.

6.5 Observation and Testing by Owner and Repair by Contractor. Owner shall have the right to observe or test the Work at any time during or after construction, but that observation or testing is solely for the benefit of the Owner and is not for Contractor's benefit. Owner's failure to note defects in the Work during an inspection will not waive any of Contractor's obligations, representations or warranties related to the Work. Notwithstanding anything contained in this Agreement to the contrary, all Work shall be performed and any defects shall be corrected in accordance with this Agreement to the satisfaction of Owner.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work, and shall report in writing to Owner any defects prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractor's work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses and approvals necessary for or applicable to the performance of the Work.

6.8 Change Orders. The Contractor shall furnish the materials for and to make all changes requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes.

6.9 Subdivision Rules. Contractor shall comply fully with all known rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. This agreement includes those rules which provide for fines payable to Owner by Contractor for failure to comply with such rules. Contractor shall have no duty to insure that plans and specifications of Owner conform with the rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste materials or rubbish caused by its operations and shall remove all of Contractor's materials, and if materials are furnished by Owner, Contractor shall move all usable materials provided by Owner to a location designated by Owner. Contractor shall sweep out any waste material from inside the home under construction upon completion of their operation. All refuse shall be placed in receptacles provided or at locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up activities and collect a One Hundred Dollar (\$100.00) fine from Contractor for each incident.

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The cost of such clean-up and the aforementioned fine shall be deducted from any sums owed by Owner to Contractor, or shall be immediately payable by Contractor upon demand therefore by Owner.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Work or conditions at the construction site on which the work is being performed (the "Work Site") created by Contractor, and ensuring full compliance with all government safety and OSHA rules and regulations. Owner reserves the right to set minimum standards or rules relating to work on its site. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OWNERS MINIMUM REQUIREMENTS. Contractor shall immediately notify Owner's construction supervisors of any unsafe condition or practice observed on the Work Site. Further, Contractor shall immediately notify Owner of any accidents or injuries on the Work Site. Contractor shall have an ongoing safety program and conduct inspection to determine that safe working conditions and equipment exist and safe practices are observed. Contractor shall prohibit and prevent the presence of children under age 18 from the Work Site.

7.2 Safety Laws and Indemnity Agreement. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations. Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq. and provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, permitted subcontractors or suppliers at a job location or performance of the Work by any person under the influence of alcohol or drugs.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate corporations, or successors and assigns, that all labor performed and materials furnished by Contractor shall conform to the specifications of this Agreement, shall be free from any defects or deficiencies in workmanship or materials, and will comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, will meet or exceed the FHA/VA minimum property standards, and will comply with the Residential Warranty Corporation program being issued by Owner to homeowners in conjunction with the sale of the home which incorporates the Work, which is attached hereto as Exhibit A or such other similar warranty as Owner and Contractor may agree upon (the "Home Owners Warranty"). Contractor acknowledges that it has read and understands the aforementioned warranty. All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule, and free from defects. Contractor shall make good and promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Homeowners Warranty. In addition to the warranty in Paragraph 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the date of the completion of the Work: (i) for a period of ten (10) years all structural elements, including but not limited to, roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; (d) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under any statutory warranty. If there is any discrepancy between this provision and any warranty set forth in the Home Owners Warranty, this provision shall control.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty obligations, Contractor's indemnity obligations, or the ability of Owner to request Contractor to perform warranty services in the future.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish all warranties and/or guarantees by manufacturers on appliances and equipment, and shall furnish all certificates required by any municipality and/or VA and/or FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and are not in limitation of periods of applicable statutes of limitation.

9. LIENS AND RETAINAGE.

9.1 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all installation Work in progress, the greater of ten percent (10%) or any allowable retainer amount set forth in state lien statutes where the Project is located. For purposes of clarification, this section shall not apply to any Work other than installation Work.

9.3 Lien Claim Indemnity. If any liens are filed against Owner relating to portions of the Work for which Owner has paid Contractor, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien or affidavit to be removed and released of record. Contractor agrees to **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any liens relating to portions of the Work for which Owner has paid Contractor, and further agrees at Owners' request to: (i) procure a bond to indemnify Owner and any home purchaser from Owner, in an amount sufficient to discharge that lien, or (ii) refund to Owner all monies, including any additional amount necessary to cover all of Owner's or home purchaser's attorneys' fees and court costs paid in discharging the lien, whichever remedy Owner elects in its sole and absolute discretion.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL HOLD HARMLESS, AND INDEMNIFY OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), AGAINST ALL DEMANDS, CLAIMS, ACTIONS, CAUSES OF ACTION, PROCEEDINGS, LAWSUITS, SETTLEMENTS, JUDGMENTS, FINES, PENALITIES, LOSSES OR EXPENSES (INCLUDING ATTORNEYS' FEES AND INTEREST), FOR DAMAGES FROM BODILY OR PERSONAL INJURY, DEATH, THE DESTRUCTION OR LOSS OF PROPERTY (INCLUDING LOSS OF USE), OR ANY OTHER KIND OF DAMAGES OR HARM (COLLECTIVELY, "LOSSES"), ARISING OUT OF, OR RESULTING FROM, OR RELATED TO THE WORK PERFORMED AND/OR THE MATERIALS SUPPLIED UNDER THIS AGREEMENT, INCLUDING LOSSES FOUNDED PARTIALLY UPON THE NEGLIGENT ACTS OR OMISSIONS OF

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INDEMNITEE IN FAILING TO SUPERVISE CONTRACTOR, ATTRIBUTABLE IN WHOLE OR IN PART TO: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS COVENANTS OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR OR BY CONTRACTOR'S AGENTS OR EMPLOYEES, SUPPLIERS OR SUBCONTRACTORS AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, AND/OR ALL OTHER ENTITIES OVER WHOM THE CONTRACTOR MAY EXERCISE CONTROL; OR (3) ANY NEGLIGENT OR INTENTIONAL ACT AND/OR OMISSION OF CONTRACTOR RELATED IN ANY WAY TO THE WORK (COLLECTIVELY, "INDEMNIFIED LOSSES"). IT IS THE EXPRESS INTENT OF THE PARTIES IN AGREEING TO THIS SECTION 10 THAT CONTRACTOR SHALL INDEMNIFY INDEMNITEE, FOR THE NEGLIGENCE OF CONTRACTOR, ITS SUBCONTRACTORS, EMPLOYEES AND ANYONE OVER WHOM CONTRACTOR EXERCISES CONTROL AS WELL AS FOR OWNER'S AND/OR INDEMNITEE'S CONCURRENT OR JOINT NEGLIGENCE ARISING FROM A FAILURE TO PROPERLY SUPERVISE CONTRACTOR. THIS SHALL INCLUDE, BUT IS NOT LIMITED TO, DEMANDS, CLAIMS, OR ACTIONS ASSERTED BY ANY PRESENT OR FUTURE OWNER OF THE HOUSE INCORPORATING THE WORK, OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER). THE INDEMNIFICATION OBLIGATION UNDER THIS AGREEMENT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.

10.2 NO INDEMNITY FOR CERTAIN LOSSES. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR OR OTHERWISE REQUIRED TO HOLD HARMLESS OR INDEMNIFY INDEMNITEE FOR LOSSES ARISING OUT OF, OR RESULTING FROM, OR RELATED TO THE FOLLOWING (COLLECTIVELY, "NON-INDEMNIFIED LOSSES") (A) THE WORK PERFORMED AND/OR MATERIALS SUPPLIED BY, OR THE NEGLIGENT ACTS OR OMISSIONS OF, OTHER SUBCONTRACTORS OF INDEMNITEE OR (B) THE NEGLIGENCE OF INDEMNITEE EXCEPT TO THE EXTENT THAT SUCH NEGLIGENCE RELATES TO THE FAILURE TO PROPERLY SUPERVISE CONTRACTOR FOR WHICH CONTRACTOR SHALL BE REQUIRED TO SO INDEMNIFY INDEMNITEE PURSUANT TO SECTION 10.1 ABOVE.

10.3 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. CONTRACTOR AND CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, AND PERMITTED SUBCONTRACTORS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS AND EQUIPMENT, AND WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS OR EQUIPMENT, OR (2) ANY DAMAGE TO THEIR TOOLS OR EQUIPMENT. CONTRACTOR'S INDEMNITY OBLIGATIONS WILL SURVIVE THE TERMINATION OF CONTRACTOR OR THIS AGREEMENT.

10.4 DUTY TO DEFEND. CONTRACTOR SHALL HAVE A DUTY TO DEFEND INDEMNITEE AS TO ANY INDEMNIFIED LOSS EVEN IF THE ALLEGATIONS INCLUDE NON-INDEMNIFIED LOSSES AS WELL. NOTWITHSTANDING THE FOREGOING, IF A COURT OF COMPETANT JURISDICTION DETERMINES A PORTION OF THE LOSSES CONSTITUTE NON-INDEMNIFIED LOSSES, INDEMNITEE SHALL BE RESPONSIBLE TO AND SHALL PROMPTLY REIMBURSE CONTRACTOR FOR A PERCENTAGE OF THE AGGREGATE COSTS OF DEFENSE THAT IS EQUAL TO A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT OF NON-INDEMNIFIED LOSSES AND THE DENOMINATOR OF WHICH IS THE TOTAL OF THE INDEMNIFIED AND NON-INDEMNIFIED LOSSES AS DETERMINED BY SUCH COURT OR ARBITRATOR. SUBJECT TO THE FOREGOING, CONTRACTOR SHALL BE RESPONSIBLE FOR THE COSTS AND EXPENSE OF SUCH DEFENSE AND SHALL HAVE THE SOLE RIGHT TO SELECT LEGAL COUNSEL TO BE USED IN SUCH DEFENSE.

10.5 Subcontractors and Suppliers Indemnity Obligations. For all purposes of this Agreement, Contractor shall be fully responsible for all of the actions of any subcontractor engaged by Contractor, whether in written agreement or otherwise, or who performs any part of the Work.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with completed operations coverage which contains a per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and an aggregate limit of no less than Two Million Dollars (\$2,000,000.00) protecting against bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products and completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL policy shall not contain a deductible or self insured retention of more than \$250,000.00. Contractor shall continuously maintain a CGL Policy covering completed operations for any applicable statute of repose for commencing lawsuits associated with the Work.

11.2 Other Insurance. Contractor agrees to carry (a) Worker's Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Worker's Compensation obligations imposed by law; (b) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (c) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person (Bodily Injury) and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both on-going operations and completed operations (equivalent to form CG20101185 or form CG2037). Coverage obtained by Contractor naming Owner as an additional insured shall be primary with any insurance of Owner being excess coverage. That insurance coverage will be carried continuously during the term of this Agreement and thereafter as required by this Agreement with insurance companies acceptable to Owner (acting reasonably). That insurance shall provide for a waiver of subrogation. All insurance shall be with a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A- and a financial size rating of VII as determined by A.M. Best.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies. Each Certificate of Insurance or policy shall contain an unqualified clause to the effect that (i) the insurer will endeavor to provide thirty (30) days prior written notice to Owner prior to cancellation, non-renewal, adverse change, or reduction of amounts of coverage, (ii) the policy shall be carried continuously from the date of commencement of the Work until expiration of the period of the Contractor's warranty provided in this Agreement, (iii) the policy shall specifically identify Owner as an Additional Insured, and (iv) the policy shall indicate that coverage applies in the state where the Work is being performed. The amounts and types of insurance required by this Agreement are

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the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself and the Work required to be performed under this Agreement.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER IN ITS REASONABLE DISCRETION) IN EFFECT AT THE TIME WORK IS PERFORMED TO COMPENSATE OWNER FOR ANY ADDITIONAL COSTS OF ITS WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS, CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS CONTRACT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work to the extent permitted under this Agreement, Contractor guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

11.7 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including, without limitation, claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against the Indemnitees for Indemnified Losses. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or another contractor's work is damaged by an act for which Contractor, or its employees, agents or subcontractors, are responsible, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct such Work, replace or repair any defective material, or repair any damage. Contractor shall make all repairs and correct such within twenty-four (24) hours of notice in an emergency (as determined by Owner in its reasonable discretion) and within forty-eight (48) hours notice on a non-emergency basis; or (ii) retain a third party or undertake to perform those duties, and retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld resulting in a deficiency, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and reasonable attorneys' fees, incurred by Owner, and shall pay to Owner this amount within thirty (30) days of demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Paragraph 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or permitted subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's actions or omissions; (iii) in Owner's reasonable discretion, Owner believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement or the specifications; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order that is Contractor's obligation under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary tools, material, or equipment for, or cleaned up after, the Work; (viii) Contractor fails to comply with any other provision of this Agreement. Prior to any exercise of its rights under this section, Owner shall provide written notice to Contractor of the alleged breach by Contractor and Contractor shall have thirty (30) days to cure such breach. Any amounts withheld by Owner pursuant to this section shall not be greater than the amount reasonably necessary to cure Contractor's alleged breach of this Agreement.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement and rights and remedies available under this Agreement shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. Owner shall have a right to collect from Contractor its reasonable attorney's fees and expenses incurred in enforcing Contractor's obligations.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to the Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution pursuant to this Section 13. Disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking equitable relief from an arbitrator or a court of appropriate jurisdiction.

13.3 Arbitration. If mediation fails, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq., regardless of any other choice of law provision in any underlying contract or this Agreement. All demands for arbitration shall be made before the expiration of the applicable statutes of limitations and repose. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in any court of competent jurisdiction.

13.4 Number of Arbitrators. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes, is over more than \$200,000, but only one arbitrator shall be appointed if the Dispute is \$200,000 or less. The AAA's Code of Arbitrator Ethics (revised March 1, 2004) is applicable to all arbitrations.

13.5 Rules. To the extent not in conflict with the Federal Arbitration Act, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

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13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, a party may join the other party in any litigation, mediation, or arbitration initiated against such party by a third person so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) shall be subject to resolution in a single forum in the same proceeding. If multiple lawsuits or arbitrations are commenced, they shall all be consolidated into a single proceeding to the extent possible. Notwithstanding any other provision of this Section 13, if a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Contractor or Owner may elect to unilaterally waive mediation or arbitration and litigate the Dispute.

13.7 Costs and Expenses. Each party shall initially be responsible for its own costs and attorney's fees and similar costs, and shall share the expenses of the arbitration equally; provided that the arbitrator(s) shall award all expenses of the arbitration, costs and reasonable attorney's fees and similar costs to the prevailing party.

13.8 Lien Rights. Notwithstanding any provision in this Section 13 to the contrary, Contractor reserves the right to take any and all steps legally necessary to file and maintain any applicable statutory mechanic's, materialman's or similar lien to secure payment for the Work provided pursuant to this Agreement.

14. TERMINATION.

14.1 Termination by Owner for Cause of Convenience. This Agreement shall remain in full force and effect until terminated in writing by mailing notice to the other Party. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If Owner terminates this Agreement in the absence of a breach or default of Contractor, Owner shall be required to pay Contractor for any Work that has been completed and any costs incurred by Contractor in obtaining materials and labor to perform Work for which a purchase order or similar written authorization has been issued by Owner and accepted by Contractor; provided however, Contractor shall take commercially reasonable efforts to mitigate any such costs.

14.2 Termination by Contractor. Contractor may terminate this Agreement at any time, whether or not Owner is in breach or default of this Agreement. If Contractor terminates this Agreement in the absence of a breach or default by Owner, Contractor shall be required to complete all Work for which a purchase order or similar written authorization has been issued by Owner and accepted by Contractor.

14.3 Survival. All obligations, duties and warranties for Work performed under this Agreement shall survive termination.

15. REPRESENTATIONS.

15.1 Contractors Representations. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms, (iv) this Agreement and Contractor's performance does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority, (v) Contractor has, and each Contractor's employees, agents or permitted subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement, (vi) Contractor is in compliance with all governmental requirements to that relate to the Work, and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

15.2 Owner's Representations. Owner represents to Contractor that: (i) the person executing this Agreement on behalf of Owner is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) a binding obligation of Owner, enforceable in accordance with its terms, (iv) this Agreement and Owner's performance, does not and will not violate any provisions of Owner's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Owner is subject, and the same do not require the consent or approval of any governmental authority, and (v) Owner has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Owner under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement is entered into on a national basis between the Owner and Contractor and shall be deemed to amend, supersede, and have retroactive effect on all prior Independent Contractor Agreements or other prior understandings or written or oral agreements, specifically including, but not limited to, all prior pre-printed standard contractor/subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods and/or services by Contractor relating to the subject matter herein; provided however, the Agreement shall not affect the pricing, quantities or time of performance under any such existing agreement between the parties. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work of the respective operating divisions of Owner and Contractor. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices, quantities and time of performance only of sale only. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended or supplemented except in writing, signed by the both Owner and Contractor.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights and obligations are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole discretion. Subject to the restrictions and prohibitions on assignment set forth in this section, the terms of the Agreement shall be binding on, and be for the benefit of, Owner, Contractor, each of Contractor's subsidiaries, and their respective successors, representatives, heirs and assigns.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No delay or failure by Owner or Contractor to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of Texas.

16.7 Force Majeure. Notwithstanding anything in this agreement to the contrary, Contractor shall not be liable for any failure or delay in delivery, installation, furnishing of materials or services by reason of an act of God, war, civil disturbance, strike, labor disturbance, storm, fire, flood,

INITIALS: OWNER RE CONTRACTOR AM

KDC 013182

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transportation contingencies, material or labor shortage, law, regulation, act or order of any government or any agency or official thereof, or any other causes not within its control.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Contractor shall provide and transfer ownership to any and all samples and/or shop drawings requested by Owner.

18. NOTICES. All notices required pursuant to this Agreement or otherwise shall be in writing and shall be delivered to the respective business address of Owner and Contractor. However, Contractor's business address shall be as noted on page one (1) of this Agreement. Notices shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by overnight delivery service, and upon confirmation if sent by facsimile transmission.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or articles.

ACCEPTED:
PROBUILD HOLDINGS, INC.

By: Kenneth H. Nedved
Its: Director of National Accts.
Dated: 5/8/08

ACCEPTED:
D. R. HORTON, INC.

By: [Signature]
Its: VP, Dir of Nat'l Accts.
Dated: 5/10/08

INITIALS: OWNER [Signature] CONTRACTOR [Signature]

KDC 013183

Version 1 of the ICA

1. AJ Landscaping & Grading
2. Allpro Textures, LLC,
3. Alpha & Omega Construction Group, Inc.
4. A Grade Above Others, LLC
5. BMC East, LLC D/B/A Coleman Floors, LLC
6. Builders Firstsource Southeast Group, LLC a/k/a Builders Firstsource, Inc
7. Bravo Carpenters, Inc.
8. Caryl Mechanics, II, Inc. and Caryl Mechanicals, Inc.
9. Five Star Construction Inc.
10. Galloway Bell, Inc. a/k/a Galloway-Bell, Inc. II Bget Floored, LLC
11. IBP Asset, LLC d/b/a Blue Ridge Building Products
12. JLS Masonry, Inc.
13. Long Heating & Air Conditioning, Inc.
14. Manale Landscaping, LLC
15. P&T Construction, LLC
16. Rodney Howard Grading Co.
17. Sodfather, Inc.
18. Stock Building Supply, LLC
19. Dupree Plumbing Company, Inc.
20. Willow Tree Landscaping, Inc.
21. CBU Enterprises, Inc.
22. M&M Foundations, LLC

Version 2 of the ICA

1. American Concrete and Precast, Inc.
2. A-Z, Inc.
3. Cannaday Siding and Gutter, Inc.
4. Rite Rug Co

Version 3 of the ICA

1. A&J Framing, Inc.
2. MJ Cowboys, LLC
3. Nazareth Builders, LLC
4. BKF Builders, Inc.
5. Cortes Painting, LLC

Version 4 of the ICA

1. Kings Landscaping, LLC
2. Landshapers, LLC
3. M&L Reyna Construction, LLC
4. NB Contractors, LLC
5. Atlanta Floor Designs Center

Version 5 of the ICA

1. Five Star Foundation, LLC

Version 6 of the ICA

1. Probuild Company a/k/a Probuilding Holdings, Inc.

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

Natalie Zitek, individually, and on behalf)
of all others similarly situated,)

Plaintiff)

vs)

D.R. Horton, Inc., Jane Doe #1-10; and,)
John Doe #1-50,)

Defendant)

D.R. HORTON, INC.)

Third-Party Plaintiff)

vs)

AJ LANDSCAPING & GRADING,)
LLC, A/K/A AJ LANDSCAPING &)
GRADING, LLC; ALLPRO)
TEXTURES, LLC; ALPHA OMEGA)
CONSTRUCTION GROUP, INC.;)
AMERICAN CONCRETE AND)
PRECAST, INC.; A/K/A ACP)
CONCRETE, INC.; A&J FRAMING,)
INC; ALPHA E.M.C.; A-Z, INC.;)
ATLANTA FLOOR DESIGNS)
CENTER; A GRADE ABOVE)
OTHERS, LLC; BRAND-VAUGHAN)
LUMBER CO, INC.; BKF BUILDERS,)
INC.;BUILDERS DESIGNHOUSE,)
LLC; BMC EAST LLC D/B/A)
COLEMAN FLOOR, LLC; BUILDERS)
FIRSTSOURCE SOUTHEAST GROUP,)

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT

C.A. No. 2019-CP-04-1942

**DEFENDANT D.R. HORTON, INC.'S
MEMORANDUM IN OPPOSITION TO
THIRD-PARTY DEFENDANTS FIVE STAR
FOUNDATIONS, LLC, LONG HEATING &
AIR CONDITIONING, INC., CARYL
MECHANICS II, INC. A/K/A CARYL
MECHANICALS, INC., ALPHA OMEGA
CONSTRUCTION GROUP, INC., GENERAL
SHALE BRICK, INC., P&T CONSTRUCTION,
INC., KINGS LANDSCAPING, LLC, AJ
LANDSCAPING & GRADING, LLC,
LANDSHAPERS, LLC, RITE RUG
COMPANY, INC. A/K/A RITE RUG CO.,
ATLANTA FLOOR DESIGNS CENTER,
ALLPRO TEXTURES, LLC, AND MANALE
LANDSCAPING, LLC'S MOTIONS FOR
SUMMARY JUDGMENT**

LLC, A/K/A BUILDERS)
 FIRSTSOURCE, INC; BRAVO)
 CARPENTERS, INC.; CARYL)
 MECHANICS II, INC., A/K/A CARYL)
 MECHANICALS, INC.; CANNADAY)
 SIDING & GUTTER, INC.; CORTES)
 PAINTING, LLC; CBU ENTERPRISES,)
 INC.; CPI SECURITY SYSTEMS, INC.;)
 DOM GROUP, LLC; FERGUSON)
 ENTERPRISES, INC.; FIVE STAR)
 CONSTRUCTION INC.; FIVE STAR)
 FOUNDATIONS, LLC; GALLOWAY-)
 BELL, INC. A/K/A GALLOWAY-)
 BELL, INC. II; GET FLOORED, LLC;)
 GBS BUILDING SUPPLY – US LBM,)
 LLC, F/K/A GBS BUILDING SUPPLY,)
 INC.; GENERAL SHALE BRICK INC.;)
 GREENER PASTURES, INC. A/K/A)
 GREENER PASTURES OF AIKEN,)
 LLC; IBP ASSET, LLC D/B/A BLUE)
 RIDGE BUILDING PRODUCTS; JLS)
 MASONRY, INC.; KINGS)
 LANDSCAPING, LLC;)
 LANDSHAPERS, LLC; LADE-)
 DANLAR, INC.; LANSING BUILDING)
 PRODUCTS, INC.; LONG HEATING &)
 AIR CONDITIONING, INC.; L&M)
 ELECTRIC, INC; MANALE)
 LANDSCAPING, LLC; MJ COWBOYS,)
 LLC; M&L GENERAL)
 CONSTRUCTION, LLC, A/K/A M&L)
 GENERAL CONSTRUCTION, INC.;)
 M&L REYNA CONSTRUCTION, LLC;)
 M&M FOUNDATIONS, LLC;)
 NAZARETH BUILDERS, LLC; NB)
 CONTRACTORS, LLC; POINSETT)
 DEVELOPMENT, LLC; POINSETT)
 HOMES, LLC; P&T CONSTRUCTION,)
 INC., A/K/A P&T CONSTRUCTION,)
 INC.; P&L ENTERPRISES, LLC;)
 PROBUILD COMPANY, LLC A/K/A)
 PROBUILD HOLDINGS, INC.; RITE)
 RUG CO.; RODNEY HOWARD)
 GRADING, INC. A/K/A RODNEY)
 HOWARD GRADING CO.;)
 SANDLAPPER CONCRETE, LLC;)

SODFATHER INC., LANDSCAPE)
 CONTRACTORS; STOCK BUILDING)
 SUPPLY, LLC; TOPBUILD HOME)
 SERVICES, INC., A/K/A GALE)
 CONTRACTORS SERVICE; TUCKER)
 MATERIALS, INC., A/K/A GYPSUM;)
 UTM ENTERPRISES, INC; DUPREE)
 PLUMBING COMPANY, INC. AND)
 WILLOW TREE LANDSCAPING, INC;)
 AND SILVER LINE BUILDING)
 PRODUCTS CORPORATION)
)

Third-Party

Defendants

TO: ALL COUNSEL OF RECORD:

COMES NOW, Defendant D.R. Horton, Inc. (“DRH”) and hereby responds to Third-Party Defendants Five Star Foundation, LLC (“Five Star”), Long Heating & Air Conditioning, Inc. (“Long”), Caryl Mechanics II, Inc. a/k/a Caryl Mechanicals, Inc. (“Caryl”), Alpha Omega Construction Group, Inc. (“Alpha”), General Shale Brick, Inc. (“Shale”), P&T Construction, Inc. (“P&T”), Kings Landscaping, LLC (“Kings”), AJ Landscaping & Grading, LLC (“AJ”), Landshapers, LLC (“Landshapers”), Rite Rug Company, Inc. a/k/a Rite Rug Co. (“Rite Rug”), Atlanta Floor Designs Center (“Atlanta Floor”), AllPro Textures, LLC (“AllPro”) and Manale Landscaping, LLC’s (“Manale”) (Collectively “Third-Party Defendants”) Motions for Summary Judgment, showing this honorable Court as follows:

I. STATEMENT OF FACTS

Plaintiff initiated this class action lawsuit on September 25, 2019, against DRH and Jane Doe #1-10 and John Doe #1-50 as Defendants. (See Plaintiff’s Complaint). The lawsuit concerns the construction of approximately 234 homes (the “Subject Properties”). As noted in the Complaint, “Defendants Jane Doe #1-10, whose true names are unknown (“Jane Doe Defendants”), are other entities or individuals who are actual or de facto joint venturers and/or

partners, control persons, and/or agents of DRH and/or each other in connection with the design, construction, and repair of the [Subject Properties].” (Id. at ¶8). Plaintiff further alleged “Defendants John Doe #1-50 (“John Doe Defendants”) are persons or entities who participated in the design, development, marketing, construction, repair, and/or sale of the [Subject Properties] as contractors, subcontractors, manufacturers, material supplier, consultants, architects, engineers, real estate agents, managers, marketers, laborers, or otherwise.” (Id. at ¶16). Plaintiff brought the following claims against Defendants: negligence and gross negligence, breach of implied warranties, and unfair trade practices.

However, DRH did not self-perform any of the work in the construction of the Subject Properties. In response to Plaintiff’s Complaint, DRH brought claims against the entities and individuals with whom it contracted with to provide labor and/or supply materials for the construction of the Subject Properties including the Third-Party Defendants. DRH brought the following claims against the Third-Party Defendants: contractual indemnification, equitable indemnification, breach of contract, breach of express warranties, breach of implied warranties, and negligence/gross negligence/recklessness.

DRH entered into agreements with subcontractors, including the Third-Party Defendants, to perform the work (collectively hereinafter referred to as the “ICAs”).¹ Each of the ICAs included indemnity provisions (collectively hereinafter referred to as the “Indemnity Provisions”).

The indemnity provision between DRH and AJ provides in relevant part:

The work performed by Subcontractor shall be at the exclusive risk of Subcontractor. To the fullest extent permitted by law, Subcontractor shall indemnify, defend (at Subcontractor’s sole expense) and hold harmless [DRH] ... from and against any and all claims for bodily injury or death, damages to property, demands, causes of action, suits, losses, judgments, obligations and any

¹ Copies of the ICAs are attached hereto as **Exhibit A**.

liabilities, costs and expenses (including, but not limited to investigation and repair costs, attorney fees and costs, and consultant's fees and costs), which arises or are in any way connected with the work performed, materials furnished, or services provided under this Agreement, but Subcontractor or its agents. ***Said indemnity and defense obligations, shall further apply, whether or not said claims arise out of the concurrent act, omission, or negligence of the [DRH], whether active or passive. Subcontractor shall not be obligated to indemnify or defend [DRH] or owner for claims found to be due in the sole negligence or willful misconduct of [DRH].*** (Emphasis added).²

The indemnity provision between DRH and Caryl, Long, Alpha, P&T, AllPro and Manale provides in relevant part:

[Subcontractor] hereby agrees to hold harmless, indemnify, protect and defend [DRH] ... from and against any and all demands, claims, causes of action, proceedings, lawsuits ... and expenses of any kind ... for damages from bodily or personal injury, death, the destruction or loss of property (including loss of use), or any other kind of damages or harm, arising out of, or resulting from, or related in any way to the work performed and/or the materials supplied under this contract, ***regardless of whether or not caused in part by [DRH].*** Such losses specifically include, but are in no way limited to losses arising out of or attributable to: (1) a breach of any warranties, representations, covenants or obligations of [subcontractor] set forth herein; (2) the work performed or to be performed or material supplied by the [subcontractor] ... (3) any negligent, grossly negligent and/or intentional act and/or omission of [subcontractor] ...; or (4) any negligent, grossly negligent, and/or intentional act and/or omission of [DRH] related in any way to the work. ***Notwithstanding the foregoing, nothing herein shall require indemnity for losses caused solely by fault or negligence of [DRH].*** (Emphasis added).

The indemnity provision between DRH and Shale provides in relevant part:

[Subcontractor] shall protect defend, indemnify, and hold [DRH] ... harmless from and against any and all claims, demands, lawsuits or other litigation...or other liability of every kind and character including all costs therefore and attorneys' fees ... on account of bodily or personal injury, death, or damage to or loss of personal

² There are two ICA agreements with AJ. The quoted language is from the ICA dated June 23, 2011. A second ICA agreement was entered into on May 27, 2013. The indemnity provision from the 2013 ICA agreement mirrors the language included in the ICAs with Caryl, Long, Alpha, and P&T quoted below.

property...arising out of or in connection with: (1) a breach of any warranties, representations, obligations, or covenants provided herein by [subcontractor]; (2) the work performed by the [subcontractor ...; (3) any negligent or intentional act and/or omission of the [subcontractor] ... ***except that [DRH] shall not be indemnified and held harmless for any negligent or intentional act or omission on the part of [DRH].*** (Emphasis added).

The indemnity provisions between DRH and Kings, Atlanta Floor, Landshapers, Rite Rug, and Five Star provides in relevant part:

[Subcontractor] shall protect, defend, indemnify and hold [DRH] ... harmless from and against any and all claims, demands, lawsuits or other litigation, actions...or other liability of every kind and character (including all costs thereof, attorneys' fees and interest) ... on account of bodily or personal injury, death, or damage to or loss of tangible or intangible property ... arising out of or in connection with: (1) breach of any warranties, representations, covenants, or other obligations of [subcontractor] set forth in this Agreement; (2) the work...; (3) any negligent or intentional act or omission of [subcontractor]... ***regardless of whether caused in part by [DRH]; (4) any negligent or intentional act or omission of [DRH] related in any way to the work ... Notwithstanding the foregoing, nothing shall require [subcontractor] to indemnify [DRH] against liability for damages arising ... from the sole negligence or sold intentional act or omission of [DRH].*** (Emphasis added).

The Third-Party Defendants contend that they are entitled to summary judgment because DRH's claims for breach of contract, breach of warranties, and negligence/gross negligence/recklessness are merely disguised claims for indemnity and DRH's claims for contractual indemnity are barred and unenforceable. Five Star and Shale further contend that they are entitled to summary judgment against DRH's contractual indemnity claims due to lack of a written contract. Five Star, Alpha, Caryl, Shale, Kings, P&T, AJ and AllPro further argue that they are entitled to summary judgment on the equitable indemnity claims because DRH has unclean hands.

For the reasons set forth below, the Third-Party Defendants' motions must be denied.

II. ARGUMENT & CITATION OF AUTHORITY

A. Applicable Standard

Summary judgment is only appropriate where the evidence shows that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law on that claim. Rule 56(c), SCRCP. In considering a motion for summary judgment, the trial court “must view the facts in the light most favorable to the non-moving party.” *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). Moreover, “[a]ll ambiguities, conclusions, and inferences arising from the evidence must be construed most strongly against the moving party.” *Murray v. Holnam, Inc.*, 344 S.C. 129, 137, 542 S.E.2d 743, 747 (Ct. App. 2001).

B. The Indemnity Provisions are Not Illegal and Unenforceable

The Third-Party Defendants relying heavily on *DRH, Inc. v. Builders FirstSource-Se. Grp., LLC*, 422 S.C. 144, 148, 810 S.E.2d 41, 45 (Ct. App. 2018) contend that the Indemnity Provisions included in the ICAs are illegal and unenforceable because they are barred by S.C. Code § 32-2-10, *et. seq.* (the “Anti-Indemnity Statute”).

This perfunctory analysis is insufficient, as the South Carolina Court of Appeal’s decision in *Builders* made specific reference to the concealment and unreasonable award of damages, which impacted D.R. Hortons ability to recover under the indemnification agreement.³ In *Builders*, Patricia Clark (hereinafter “Clark”) filed a suit against D.R. Horton for negligence, breach of contract, multiple breaches of warranty and a violation of the South Carolina Unfair Trade Practice Act. *Id.* at 148. The lawsuit alleged various defects in the Clark home, including but not limited to, the work performed by Builders FirstSource. Clark and D.R. Horton participated in arbitration,

³ *Id.* at 153. “D.R. Horton cannot ask the arbitrator to conceal its reasons for an award, which may have included damages caused by its own negligence, then ask the circuit court to award it damages that would be barred by the statute.”

where Clark was awarded \$150,000. *Id.* However, the arbitration award did not indicate what damages the arbitrator found compensable. *Id.* Further, the arbitrator noted that “(c)ounsel for the parties have requested an order containing a monetary award only.” *Id.*

Following the arbitration award, D.R. Horton filed a complaint seeking contractual indemnification and contribution from Builders FirstSource for recovery of the arbitration award and attorney’s fees that D.R. Horton incurred as a result of the Clark suit. *Id.* Subsequently, Builders FirstSource filed a motion for summary judgement alleging D.R. Horton’s claim for contractual indemnification failed as the agreement required D.R. Horton to be indemnified from its own negligence. *Id.* at 148-49. Upon the request via multiple motions, the trial court granted Builders FirstSource’s motion for Summary Judgment. *Id.* at 149. D.R. Horton then appealed the trial court’s decision, asserting that the trial court erred by reading additional terms into the agreement and failed to require Builders FirstSource to pay the entire arbitration award and attorney’s fees. *Id.* at 150.

1. General Differences Between Zitek and Builders

The development of the Zitek Class Action is distinguishable as D.R. Horton has brought claims against all relevant subcontractors in this suit. First, Zitek is a class action involving potentially hundreds of homes and dozens of subcontractors. As a result of this complex litigation, D.R. Horton has filed third party claims against all subcontractors whose scope of work has been implicated in the Zitek Class Action⁴. Additionally, D.R. Horton has requested indemnification from all relevant subcontractors during the process of litigation with the Plaintiff. Overall, *Builders*

⁴ After filing the subject lawsuit, Plaintiff provided a Notice and Opportunity to Cure to D.R. Horton listing thirteen (13) categories of issues that were alleged to have been experienced by Plaintiff and similarly situated individuals. The subcontractors whose work was implicated by that notice have been named in the lawsuit.

is distinguishable based on the essential formation and development of the Zitek Class Action and therefore cannot be blindly applied to this case and requires further analysis.

Notwithstanding the clear differences between Builders and the current matter, the Third-party Defendants' position is further flawed because the Indemnity Provisions in this matter specifically exclude losses caused by the sole negligence of DRH.

The Anti-Indemnity Statute provides, in pertinent part, as follows:

Notwithstanding any other provision of law, a promise or agreement in connection with the design, planning, construction, alteration, repair or maintenance of a building ... purporting to indemnify the promisee, its independent contractors, agents, employees, or indemnitees against liability for damages arising out of bodily injury or property damage proximately caused by or resulting ***from the sole negligence of the promisee***, its independent contractors, agents, employees, or indemnitees is against public policy and unenforceable. Nothing contained in this section shall affect a promise or agreement whereby the promisor shall indemnify or hold harmless the promisee or the promisee's independent contractors, agents, employees or indemnitees against liability for damages resulting from the negligence, in whole or in part, of the promisor, its agents or employees.

(*Emphasis added*).

In D.R. Horton, Inc. v. Builders FirstSource-Se. Grp., LLC, the South Carolina Court of Appeals found that a prior version of DRH's ICA violated S.C. Code § 32-2-10. The former ICA required the indemnitee to indemnify DRH for claims "related in any way to the work, even when the loss is caused by the fault or negligence of the indemnitee." 422 S.C. 144, 148, 810 S.E.2d 41, 45 (Ct. App. 2018). As explained by the court,

[The Anti-Indemnity Statute] allows D.R. Horton and [the Third-Party Defendants] to agree that [the Third-Party Defendants] will indemnify D.R. Horton for damages caused by [Third-Party Defendants] or its subcontractors. To the extent the trial court found that aspect of the agreement to be against public policy, we disagree. However, we agree that the indemnification clause is void as against public policy to the extent it purports to require [Third-Party

Defendants] to indemnify D.R. Horton for damage caused by [D.R. Horton's] negligence or the negligence of its subcontractors.

Id. The court held that the contract at issue “purport[ed] to require [subcontractor] to indemnify D.R. Horton for its own negligence in violation of section 32-3-10.” *Id.*

In the present case, the Indemnity Provisions specifically exclude claims arising out of the sole negligence of DRH by providing:

- “nothing herein shall require indemnity for losses caused **solely** by fault or negligence of the [DRH]” (See ICA with Shale, Exhibit A) (*emphasis added*);
- “nothing herein shall require [subcontractor] to indemnify [DRH] against liability for damages ... proximately caused by or resulting from the **sole** negligence or the sole intentional act or omission of [DRH]” (See ICA with Kings, Atlanta Flooring, Landshapers, Rite Rug and Five Star, **Exhibit A**) (*emphasis added*);
- “Subcontractor shall not be obligated to indemnify or defend [DRH] or owner for claims found to be due in the **sole** negligence or willful misconduct of [DRH]” (See 2011 ICA with AJ, Exhibit A) (*emphasis added*); and
- “nothing herein shall require indemnity for losses caused **solely** by fault or negligence of [DRH]” (See ICA with Caryl, Long, Alpha, P&T, 2013 ICA with AJ, Allpro, and Manale **Exhibit A**) (*emphasis added*).

Because the ICAs with the Third-Party Defendants exclude claims arising out of DRH's sole negligence, the Indemnity Provisions do not violate Section 32-3-10 and are distinguishable from the agreement in D.R. Horton, Inc. v. Builders FirstSource-Se. Grp., LLC. See **Exhibit A**, the ICAs.

C. **The Indemnity Provisions Comply With The Requirements Set Forth In Concord & Cumberland Horizontal Prop. Regime V. Concord & Cumberland, LLC**

The Third-Party Defendants contend that the Indemnity Provisions do not comply with the requirements laid out in Concord & Cumberland Horizontal Prop. Regime v. Concord & Cumberland, LLC, 424 S.C. 639, 819 S.E.2d 166 (Ct. App. 2018) and are therefore unenforceable. The court in Concord held that when a party seeks indemnification for its own concurrent negligence, the clear and unequivocal standard applies. Id. at 649, 172. Additionally, “when an indemnity clause purports ‘to relieve an indemnitee from the consequences of its own negligence,’ [South Carolina] case law requires strict construction of the clause.” Id. at 650, 172 (quoting Laurens Emergency Med. Specialists, PA v. M.S. Bailey & Sons Bankers, 355 S.C. 104, 111 584 S.E.2d 375, 378-379 (2003)).

There were two indemnity agreements entered at issue in Concord. For the first agreement, the court found that the phrase “to the extent caused or alleged to be caused in whole or in part by any negligent act or omission of the [Muhler]” specifically limited Muhler’s obligation to indemnify to damages and losses caused by the negligence of the Muhler and its subcontractors.⁵ Id. at 654, 174. Additionally, the phrase “regardless of whether it is caused in part by a party indemnified hereunder” did not alter the limiting language. Id. Therefore, the general contractor was not entitled to indemnification from the subcontractor, Muhler, for the general contractor’s concurrent negligence pursuant to the first agreement.

⁵ The first indemnity agreement in Concord stated, in relevant part, as follows:

the Subcontractor shall indemnify and hold harmless the Owner, the Architect, the Contractor ... and other contractors and subcontractors ... from and against all claims, damages, loss and expenses, including but not limited to attorney’s fees, arising out of or resulting from the performance of the Subcontractor’s Work ...

- (a) ... to the extent cause or alleged to be caused in whole or in part by any negligent act or omission of the Subcontractor ... regardless of whether it is caused in part by a party indemnified hereunder.

Id. at 643, 168-169.

With regard to the second agreement, the court found that although the language was broader and excluded the limiting “to the extent caused” language from the first agreement, it still failed to include any reference to indemnification for the general contractor’s concurrent negligence.⁶ *Id.* at 656-657, 176. While “there is no verbatim phrase that must be used to meet the clear and unequivocal standard, there must be some language in an indemnity clause that clearly shows the parties’ intent to absolve the indemnitee of the consequences of its own concurrent negligence.” *Id.* at 657, 176 (citation omitted). Further, the court indicated that the following language may be sufficient to meet the clear and unequivocal standard: “[subcontractor] agrees to indemnify for all damages, regardless of whether the damages are caused in part by a party indemnified hereunder[.]” *Id.* at 656-657, 176.

The indemnity provisions between DRH and Five Star, Atlanta Flooring, Landshapers, Rite Rug, and Kings provide in relevant part:

[Subcontractor] shall protect, defend, indemnify and hold [DRH] harmless from and against any and all claims, demands, lawsuits or other ligation...including all costs, attorneys’ fees and interest...on account of bodily or personal injury, death, damage to or loss of tangible or intangible property ... arising out of or in connection with a) breach of any warranties, representations, covenants, or other obligations of [subcontractor] set forth in this agreement; (b) the work performed or materials supplied by [subcontractor] ... ; (c) any negligent or intentional act or omission of [subcontractor] ... ***regardless of whether or not caused in part by [DRH]; (4) any negligent or intentional act or omission of [DRH] related in any way to the work[.]*** (Emphasis added).

⁶ The second indemnity provision provided, in pertinent part,

In the event either Superior or Concord and Cumberland, LLC are sued hereafter ... alleging that one or more of the windows and/or doors do not comply with the original or amended contract documents, or are defectively installed, Muhler agrees to unconditionally indemnify both Superior and Concord and Cumberland, LLC ... and will pay all damages ... incurred by either or both[.]

Id. at 644, 169.

The indemnity provision between DRH and AJ provides in relevant part:

Said indemnity and defense obligations, shall further apply, ***whether or not said claims arise out of the concurrent act, omission, or negligence of the [DRH]***, whether active or passive. (Emphasis added).

The indemnity provision between DRH and Caryl, Long, Alpha, P&T, AllPro, and Manale provides in relevant part:

[Subcontractor] hereby agrees to hold harmless, indemnify, protect and defend [DRH] ... from and against any and all demands, claims, causes of action, proceedings, lawsuits ... and expenses of any kind . for damages from bodily or personal injury, death, the destruction or loss of property (including loss of use), or any other kind of damages or harm, arising out of, or resulting from, or related in any way to the work performed and/or the materials supplied under this contract, ***regardless of whether or not caused in part by [DRH]***. (Emphasis added).

The Indemnity Provisions between DRH and Five Star, Kings, Atlanta Flooring, Landshapers, Rite Rug, Allpro, Manale Caryl, Long, Alpha, P&T, and the 2013 ICA with AJs closely track the language suggested by the court in Concord. Similarly, the indemnity provision in the 2011 ICA with AJ clearly and unequivocally states that the indemnity obligation covers the concurrent negligence of DRH. The ICAs with Five Star, Atlanta Flooring, Landshapers, Rite Rug, AllPro, Manale, Kings, Caryl, Long, Alpha, P&T, and AJ, specifically provides that they will indemnify DRH for certain losses regardless of whether or not the losses caused in part by DRH. The Indemnity Provisions clearly and unequivocally show that the parties intended to absolve DRH of the consequences of its own concurrent negligence. Therefore, the Indemnity Provisions meet the standard set forth in Concord and are enforceable. See **Exhibit A**, the ICAs.

Furthermore, Five Star and Shale contend they are entitled to summary judgment as they do not have a contract with DRH. However, DRH has an ICA with each of these third-party defendants. See **Exhibit A**, the ICAs.

D. DRH Claims for the Third-Party Defendants' Contractual Duty to Defend is Not Applicable Under S.C. Ann. Code § 32-2-10.

The Third-Party Defendants contend that the Indemnity Provisions do not comply with the requirements laid out in the ICAs as they are contrary to each other and in violation of S.C. Ann. Code § 32-2-10. Specifically, Third Party Defendants reference Section 10.1, which addresses the Third-Party Defendants indemnification obligations under the ICA, and Section 10.2 which establishes the duty of the Third-Party Defendants and their insurers to defend DRH, including but not limited to attorneys' fees and costs. Section 10.2 between DRH and King provides in relevant part:

Indemnity Not Exclusive Remedy. Any payments by Contractor under Section 10 to or on behalf of the indemnitee shall be in addition to all other legal remedies available to the indemnitee and shall not be considered the indemnitees exclusive remedy. Indemnitee shall have the right if it so chooses in its absolute discretion to defend all claims which may be asserted, and contractor will reimburse indemnitee for all expenditures that owner may incur on account of the claim.

Third-Party Defendants have attempted to conflate section 10.1 and 10.2 of the ICAs by stating that the provisions are contrary to each other and in violation of S.C. Ann. Code § 32-2-10. As a preliminary matter, the Anti-Indemnity Statute does not address the duty to defend obligation but rather specifically addresses obligations to indemnify a party. Accordingly, Third-Party Defendants reliance on this statute is misplaced.

Further, these interpretations are contrary to the actual language of the indemnity clause. The section of the indemnity clause that excludes indemnity for sole acts of the indemnitee's negligence also applies to the duty to defend. The ICA specifically state that nothing "shall require the contractor **to defend**, insure, indemnify or hold indemnitee harmless for liability or claims arising out of bodily injury to person, death, or damage to property caused by or resulting from the sole negligence or sole intentional act or omission of indemnitee." Additionally, the first sentence

in 10.1 indicates that the indemnity obligations are being provided to as permitted by law, “To the fullest extent permitted by Law, Contractor shall protect, defend indemnify...” These cited references clearly qualify the obligations of the contractor to D.R. Horton.

Finally, 16.2 of the ICA provides that, “The provisions of this Agreement shall be independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

“A severable contract is one in its nature and purpose susceptible of division and apportionment, having two or more parts, in respect to matters and things contemplated and embraced by it, not necessarily dependent upon each other, nor is it intended by the parties that they shall be. **The entirety or severability of a contract depends primarily upon the intent of the parties** rather than upon the divisibility of the subject, although the latter aids in determining the intention. We think it a significant indication of the nature of the contract and the intent of the parties that the document embodying the agreement of the parties provides for a mutual exchange of performances which is indicative of a severable contract.” Columbia Architectural Grp., Inc. v. Barker, 274 S.C. 639, 641, 266 S.E.2d 428, 429 (1980), citing Field v. Byrd, 73 S.C. 1, 6, 51 S.E. 678, 679 (1905) (*emphasis added*).

The presence of a severability clause argues in favor of the conclusion that the parties intended that the contract be severable rather than entire. “The Agreement here contains a severability clause, reflecting that if any part of the contract is found ‘unenforceable for any reason, the remainder shall remain enforceable.’ Given this intent and our belief that removing the unconscionable clause does not disrupt the core of the parties’ bargain, we disagree with the circuit court that the entire Agreement must fall.” Doe v. TCSC, LLC, 430 S.C. 602, 846 S.E.2d 874 (S.C.

App. 2020) (voiding an arbitration clause for unconscionability but not invalidating the entire contract) (citing Columbia Architectural Grp.).

Therefore, to the extent 10.2 is found to be in violation of the Anti-Indemnity Statute, that section can be severed without rendering 10.1 unenforceable.

E. DRH's Claims For Negligence, Breach Of Warranties, And Breach Of Contract Are Independently Viable

DRH could sue and recover damages against the Third-Party Defendants under theories of negligence, gross negligence, recklessness, breach of contract, and breach of warranties, related to construction deficiencies, regardless of whether Plaintiff ever filed a lawsuit. Therefore, DRH's causes of action are not "disguised" equitable indemnity claims derivative of Plaintiff's lawsuit. DRH's rights to pursue these claims do not evaporate simply because DRH was not the first to discover the Third-Party Defendants' failures and a lawsuit was instituted by Plaintiff after the structure was sold. The Third-Party Defendants' reliance upon Stoneledge v. Clear View, LLC, 413 S.C. 615, 776 S.E.2d 426 (Ct. App. 2015) (hereinafter referred to as "Stoneledge I") and Stoneledge at Lake Keowee Owners' Ass'n v. Builders FirstSource-Southeast Grp., 413 S.C. 630, 776 S.E.2d 434 (Ct. App. 2015) (hereinafter referred to as "Stoneledge II") (collectively referred to as "Stoneledge") is misplaced. Moreover, the Third-Party Defendants' interpretation of the Stoneledge decisions is overbroad.

Instead, a more reasonable interpretation of the Stoneledge decisions is that if the general contractor alleges and proves damages that do arise separately from having to defend itself in the purchasers' lawsuit, the general contractor's claims for breach of warranty and negligence are independent from the equitable indemnity claim. Indeed, a careful reading of Stoneledge reveals that the court did not make a blanket bright line rule, but rather did an analysis, mostly of the

allegations in the third-party complaint, to determine if the general contractor had plead, alleged, or proved a factual issue of the existence of damages not arising from the plaintiffs' lawsuit.

As the court explained in Stoneledge II, “[t]he issue [the general contractor] raises – whether the circuit court properly interpreted its claims for breach of contract and breach of warranty as one claim for equitable indemnity – requires us to construe its cross-complaint, and thus presents a question of law.” Stoneledge II at 634. In determining that the general contractor’s claims for breach of warranty and breach of contract were equitable indemnity claims, the court explained that “[the general contractor’s] injuries arose exclusively from having to defend itself in [plaintiff’s] lawsuit.” Id. at 636.

In reviewing the general contractor’s allegations, the court held that the

allegations demonstrate [the general contractor] did not sustain its own damages as a result of any breach of contract or breach of warranty by the respondents. Rather, the allegations show [plaintiff] is the party that suffered damages, and [the general contractor’s] injuries ***arose exclusively from having to defend itself in [plaintiff’s] lawsuit.*** Consequently, the damages [the general contractor] seeks to recover resulted only from its potential liability to [plaintiff] and from the expenses [the general contractor] incurred defending itself.

Id. at 634. (Emphasis added). The court then highlighted this point further:

[u]nder [the general contractor’s] own allegations, its cross-claims arose only when it faced potential liability for [plaintiff’s] damages and incurred fees and costs defending against [plaintiff’s] lawsuit.

Id. at 637.

The Stoneledge court looked to two federal court cases in making this decision: South Carolina National Bank v. Stone, 749 F. Supp. 1419 (D.S.C. 1990) and United States Fidelity & Guaranty Co. v. Patriot's Point Development Authority, 788 F. Supp. 880 (D.S.C. 1992) (“USF&G”). As explained by the Stoneledge court,

In Stone, the defendants asserted cross-claims for breach of contract, negligence, and fraud against co-defendants that settled with the plaintiffs. The district court barred the non-settling defendants from asserting these cross-claims against the settling defendants because it found they were not independent causes of action. The court explained the cross-claims arose only if the non-settling defendants were liable to the plaintiffs, and these purported causes of action are nothing more than claims for ... indemnification with a slight change in wording.

Similarly, in USF&G, the defendants argued they had “independent claims” against a co-defendant in addition to their claim for indemnification. The district court barred the defendants from bringing these claims, finding **“without plaintiffs suing the ... defendants[,] the ‘independent claims’ ... would not exist,”** and thus “these claims are really nothing more than claims for indemnity.” Id. We agree with Stone and USF&G and find the reasoning in those decisions applies to this case. Under [the general contractor’s] own allegations, its cross-claims arose only when it faced potential liability for [plaintiff’s] damages and incurred fees and costs defending against [plaintiff’s] lawsuit.

Stoneledge II at 636-637 (emphasis added).

Here, Plaintiff’s lawsuit did not give rise to DRH’s legal rights against the Third-Party Defendants. DRH can bring claims of implied warranties negligence/gross negligence/recklessness against the Third-Party Defendants. See Kennedy v. Columbia Lumber and Mfg. Co., Inc., 384 S.E.2d 730, 299 S.C. 335 (S.C. 1988). Those rights existed before the lawsuit was initiated by Plaintiff, which only provided notice of those issues to DRH. Thus, these claims, which existed but were latent, are not disguised indemnity claims derivative of the Plaintiff’s lawsuit – they are preexisting claims which are separate and distinct from DRH’s claim for equitable indemnity. Moreover, in addition to the damages DRH is incurring related to defending this lawsuit, DRH seeks to recover for extra workload, repairs or repair costs of the defective work, costs of investigation, and damage and harm to reputation. (DRH’s Amended Answer to Plaintiff’s Complaint and Crossclaims, ¶¶ 87, 96, and 112).

These separate damages are explained by the court in Addy v. Bolton, 257 S.C. 28, 183 S.E.2d 708 (1971). In Addy, the defendant owner of a building was sued by its tenant when the building caught fire. The building owner then sued the contractor whose negligent work caused the fire. The owner's recovery of fees and costs from the negligent contractor was upheld by the South Carolina Supreme Court, reasoning that "the weight of authority sustains [the building owner's] right of recovery, either on the theory of an implied contract to indemnify, or because they were put to the necessity of defending themselves against the claim by the tortious conduct of the contractor, or by his breach of contract." Addy at 33. As explained by the Stoneledge court, "[u]nlike in this case, the Addy appellants did suffer their own damages independent of their obligation to defend themselves in the underlying lawsuit." Stoneledge II at 639 (emphasis added).

The facts in Addy are aligned with the facts of this case. Like the building owner in Addy, DRH is forced to defend itself from the Plaintiff's claims arising from the Third-Party Defendants' tortious conduct (negligent performance of work) and breach of warranties (failure to perform work in a workmanlike manner). Moreover, DRH seeks not only damages related to defending this lawsuit, but also for costs to investigate and repair the deficient or defective work, attorneys' fees and costs, and damage to reputation. These facts distinguish this case from Stoneledge I and Stoneledge II. DRH's damages are thus recoverable under the separate causes of action it has pled, and those claims must remain in this action.

F. Dismissing DRH's Crossclaims Would Not Be Appropriate Because Discovery Is Not Complete

The Third-Party Defendants Motions for Summary Judgment are premature because discovery is in its infancy. The depositions of Five Star, Caryl, Alpha, P&T, Kings, AJ, Allpro, Rite Rug, Landshapers, Atlanta Flooring, and Manale have not been taken in this case thus far.

DRH is in the process of scheduling these depositions. At this point in the litigation, it is premature to rule upon a motion for summary judgment before discovery is concluded and before the main parties to the motion are deposed.

Furthermore, Shale contends they are entitled to Summary Judgment as there is no claim that the materials supplied by Shale were defective. As stated above, discovery is still ongoing. As such, it would be premature to grant Shale summary judgment until discovery has been completed.

G. DRH Does Not Have Unclean Hands And Can Recover In Equity

Five Star, Alpha, Caryl, Shale, Kings, Allpro, P&T, and AJ contend that DRH cannot recover under its equitable indemnity claim because DRH is not without fault. However, they cannot meet their burden of proof to obtain judgment as a matter of law on DRH's equitable indemnity claim by arguing that the jury *might* find DRH liable to Plaintiff. Because there is a question of fact as to whether DRH is at fault for the alleged construction defects, Five Star, Alpha, Caryl, Shale, Kings, Allpro, P&T, and AJ's motions for summary judgment as to DRH's claim for equitable indemnity should be denied.

South Carolina courts have consistently found that equitable indemnity claims may be brought against a negligent co-defendant during the initial action. *See, e.g., Stoneledge at Lake Keowee Owners' Ass'n v. Clear View Constr., LLC*, 413 S.C. 615, 622, 776 S.E.2d 426, 430 (Ct. App. 2015) (stating that "[w]e agree Addy controls this case to the extent it shows Marick may assert a claim for equitable indemnity against a negligent co-defendant"). Additionally, *Stoneledge* held that the lower court erred in granting summary judgment on the merits of the general contractor's equitable indemnity crossclaim because the general contractor presented a question of fact as to whether it was at fault for the alleged construction defect.

“[T]he doctrine of unclean hands precludes a plaintiff from recovering in equity if he acted unfairly in a matter that is the subject of the litigation to the prejudice of the defendant.” Wachovia Bank, N.A. v. Coffey, 389 S.C. 68, 75, 698 S.E.2d 244, 247 (Ct. App. 2010) (citation omitted). Five Star, Alpha, Caryl, Shale, Kings, Allpro, P&T, and AJ bear the burden of proof in seeking summary judgment on such an affirmative defense. However, they have failed to come forward with any evidence that DRH has unclean hands as a matter of law.

It is well settled that where a party is exposed to liability to a third party due to the conduct of another, through no fault of its own, that party may recover in equitable indemnity against the second party. See Town of Winnsboro v. Wiedeman-Singleton, Inc., 303 S.C. 52, 398 S.E.2d 500 (Ct. App. 1990). Moreover, a general contractor is not automatically responsible for the negligence of a subcontractor. See Fields v. J. Haynes Waters Builders, 376 S.C. 545, 658 S.E.2d 80 (S.C. 2008).

It is clear that there is a factual issue whether or not DRH appropriately supervised and oversaw the project. DRH did not self-perform any of the construction on the project, and therefore, relied on the subcontractors, including Five Star, Alpha, Caryl, Shale, Kings, Allpro, P&T, and AJ, for their knowledge, expertise, experience and installation. Because there is a question of fact as to whether DRH had fault, the Third-Party Defendants’ unclean hands defense does not preclude DRH’s claim for equitable indemnity at this time.

CONCLUSION

Based on the foregoing, the Third-Party Defendants have not met their burden of proof, and therefore, the Third-Party Defendants’ Motions for Summary Judgment on DRH’s Crossclaims must be denied.

WHEREFORE, Defendant DRH shall, and hereby does, move the Court for an Order

denying the Third-Party Defendant's Motions for Summary Judgment on DRH's Crossclaims.

Respectfully submitted,

KENISON, DUDLEY & CRAWFORD, LLC

s/ Jason M. Imhoff

John T. Crawford, Jr. (SC Bar # 69682)

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Counsel for Defendant D.R. Horton, Inc.

September 7, 2022

Greenville, South Carolina

CROWN

COMMUNITIES, INC.

SUBCONTRACTOR/VENDOR AGREEMENT

Name of Subcontractor/Vendor: Antonio Jimenez AJ Landscaping & Grading
 Tax ID or Social Security Number: 910 74 6311
 Name of Owner(s): Antonio Jimenez
 Home Address: 117 Eastview Cir
 City: Simpsonville State: SC Zip Code: 29681
 Business Address: 117 Eastview Cir Business Phone: 864 304 0386
 City: Simpsonville SC State: SC Zip Code: 29681

This AGREEMENT is entered into this 23 day of Jun, 2011, between Crown Communities, Inc. (and/or its subsidiary(ies), as applicable) ("Contractor") and the "Subcontractor/Vendor" identified above, whereby the parties agree to the following terms and conditions:

- 1. GENERAL DESCRIPTION OF WORK.** The labor, services, and/or equipment to be furnished by Subcontractor are as set forth in Exhibit "A" attached hereto and incorporated herein by this reference. The business set forth in Exhibit "A" shall be hereinafter referred to as the "work" to be performed hereunder, and shall include progress payments, if applicable, and all other charges proposed by Subcontractor. Any and all work must be completed to the sole and absolute satisfaction of Contractor at the agreed price. It is expressly understood and agreed by Subcontractor that Contractor will not pay "extras" for work otherwise agreed upon herein. Further, the "work" shall include any and all communities and/or projects in which Subcontractor performs services for Contractor, whether or not expressly outlined in Exhibit "A."

- 2. REPRESENTATION AND WARRANTIES.** Subcontractor agrees, represents and warrants that:

All work shall be performed in a good and workmanlike manner in accordance with standard industry practices. All labor and material shall meet or exceed all requirements relating to the home building industry, including, without limitation, FHA, VA, local building code and Contractor requirements. With respect to any home upon which Subcontractor performs work, all labor and material utilized by Subcontractor in connection therewith shall be free from defect for a period of at least one (1) year from the date Contractor transfers such home to the original buyer of said home. In the event of any faulty, defective or improper work discovered within the time period referred to in the previous sentence, Subcontractor shall remove and/or replace the work at its own expense as directed by Contractor and/or the home owner. Subcontractor hereby assigns and conveys to Contractor all rights and privileges under any manufacturer or other third-party warranties covering materials and systems utilized, installed and/or implemented by Subcontractor in connection with the work. Notwithstanding the foregoing, Contractor may (at its discretion) pursue any claim for defects against Subcontractor and/or third parties. In addition to the matters set forth above, with respect to any defect that is not readily visible to inspection or otherwise detectable, Subcontractor expressly agrees that the warranties set forth herein shall extend for a period of one (1) year from the date that any such defect is detected. Subcontractor shall pay for all damages, direct and consequential, suffered by Contractor as a result of defects in the work, failure to perform in accordance with the terms of this agreement, or any breach of the warranties contained herein, and all costs associated with correcting, removing, replacing or repairing the work.

The job site(s) will be kept reasonably neat at all times and Subcontractor shall thoroughly clean the job site(s) upon completion of the work, (including the sweeping of the home) and remove all refuse from the job site(s) to an area designated by the Contractor.

Subcontractor warrants that all materials and equipment furnished under this agreement will be new unless otherwise specified in this agreement.

Compliance with law. Subcontractor shall keep itself fully informed of all local, state, and national laws (including, without limitation, codes, regulations, safety practices and permits) which in any manner affect those persons Subcontractor engages or employs in the work, and is solely responsible for compliance with all federal and state laws regarding non-discrimination in hiring practices and non-employment of illegal aliens. All work shall be performed in accordance with applicable federal, state and local safety and health requirements (including OSHA). Subcontractor will be held responsible for any and all fines (including, without limitation, OSHA) incurred by the Contractor due to the negligence of the Subcontractor. All Subcontractor debris (work related and personal) will be cleaned up by the Subcontractor on a daily basis.

Flammable Materials. Subcontractor shall not burn any waste material on the job site, nor shall it store any such waste and/or flammable materials and/or equipment less than forty (40) feet from the outside walls of any building(s) on the job site.

Initial - Subcontractor/Vendor: AJ
 Initial - Crown Communities, Inc.: PJ

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Taxes. Subcontractor shall pay any and all applicable federal, state, and/or local taxes arising out of this contract or any purchase order, including taxes measured by wages, salaries, or other remunerations, and sales tax.

3. **PRICING.** Subcontractor shall provide pricing to Contractor and all pricing will be approved by Contractor's Director of Purchasing prior to the commencement of work. Such pricing shall be organized by commodity and as set forth in Exhibit "B," attached hereto and incorporated herein by this reference. Further, pricing shall include all miscellaneous fees and expenses of Subcontractor, including, without limitation, fuel, freight and applicable taxes (or shall specify that taxes are not included). Amounts not included in Exhibit "B" will not be paid by Contractor. Purchase Orders will not be issued until all pricing is received, reviewed and authorized by the Director of Purchasing. Any price changes must be submitted in writing to Purchasing a minimum of 30 days prior to the anticipated price increase and any price increases must be authorized by Purchasing prior to taking effect, and, to the extent approved, shall replace the pricing identified in Exhibit "B," as applicable. Approved Purchase Orders which have been released will not incur any price increases. Subcontractor is solely responsible for withholding social security and all employment-related taxes for all personnel (third party or otherwise) performing work for Subcontractor under this agreement.
4. **MATERIALS/INSPECTIONS.** All materials furnished by or on behalf of Subcontractor shall comply with all local, state and federal laws and regulations. If Subcontractor supplies materials that are not in compliance with all local, state and federal laws and regulations, or do not meet Contractor's specifications, purchase order or plans, then such material shall be returnable to Subcontractor at Subcontractor's sole expense and Subcontractor shall replace such unsatisfactory materials with materials which meet the above detailed criteria. If Subcontractor releases, wastes, or destroys any material not supplied or included in Subcontractor's contract price during the performance of work, then Contractor shall have the right to charge such loss against any amounts still owing to Subcontractor.
5. **JOB PROGRESS AND COORDINATION.** Subcontractor shall commence the work pursuant to Contractor's project schedule and shall complete the work as rapidly as job conditions permit. Contractor shall not be liable to Subcontractor for any delays in completing the work, regardless of cause. Subcontractor shall, at all times, employ sufficient workforce and supply a sufficient quantity of material to keep pace and proper order with the progress of the project and in accordance with the time schedule established by Contractor. The provisions of section 17 may be invoked by Contractor should Subcontractor fail to fully comply with this paragraph.
6. **PAYMENT.** Contractor shall be liable for payment to Subcontractor in accordance with the agreed schedule for work and material furnished pursuant to the following terms:
 - A. Subcontractor shall submit a sworn statement of twice as to laborers and maintenance, together with the amount due or to become due to each; and
 - B. Subcontractor shall submit executed lien waivers, including partial waivers from its subcontractors and suppliers, as well as any other data required by Contractor.
 - C. Contractor shall have the right to issue a two-party check to Subcontractor and its subcontractors, material suppliers, or equipment suppliers if Subcontractor fails to provide lien waivers or partial lien waivers as may be required by Contractor.
 - D. Contractor shall not pay any finance charges incurred by Subcontractor in connection with past due amounts owed by Subcontractor to its subcontractors, material suppliers and/or equipment suppliers.

Contractor reserves the right to order a change in work, and the contract sum shall be increased or decreased accordingly. Subcontractor shall have no claim for payment in excess of the amount on issued purchase orders.

WITHHOLDING OF PAYMENTS. Subcontractor expressly agrees that payments may be withheld by Contractor and all costs incurred by Contractor shall be charged against monies due Subcontractor under this agreement (and/or any other agreements with Contractor) if:

- E. Work is found to be defective and is not remedied in a timely manner;
- F. Another subcontractor is damaged by an act for which the Subcontractor is responsible;
- G. Subcontractor fails to perform warranty services as required by this agreement.

CROWN PAYMENT POLICY

- H. Purchase orders must be submitted for payment. Subcontractor may attach and reference its invoice to the purchase order, and that invoice will be referenced on the payment voucher. If no invoice is submitted, then the purchase order will be referenced on the payment voucher. Request P.O. on Delano or email spencer@cmnpl.org for a purchase order.
- I. In the event a VPO (Variance Purchase Order) is required, Subcontractor must obtain same via the job superintendent and/or area manager.
- J. Purchase orders/invoices may be submitted for payment after work is completed to the satisfaction of Contractor or its designee.
- K. If the purchase order contains an incorrect price, or if detailed items are missing, Subcontractor shall contact Contractor's purchasing department before commencing work. Subcontractor shall not commence work without a corrected or additional PO. Further, Subcontractor acknowledges and agrees that its commencement of work shall be deemed to represent acceptance of the purchase order governing the work. No additional amounts under the approved purchase order will be allowed without Contractor's prior approval.
- L. Labor and material bills are generally paid on a weekly cycle unless otherwise agreed. **INSERT PAYMENT CYCLE** noted on the DATE AFTER approval.

Initial - Subcontractor/Vendor AJ
Initial - Crown Communities, Inc. AL

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- M. For the avoidance of doubt (and in furtherance of the provisions of Section 23), under no circumstances shall payment be made to Contractor for Purchase Orders/Invoices submitted over 90 days after the closing of the home to which same relate.
7. **INSPECTION BY SUBCONTRACTOR.** Subcontractor shall be responsible for inspecting any "work" of another subcontractor that may effect the work to be performed hereunder, and shall report in writing to Contractor any defects in such third party work upon discovery of same (and prior to Subcontractor commencing work), or it shall be deemed to have accepted such third party work as correct, and it to be incorporated into the work to be performed hereunder. Further, Subcontractor shall share in the expense incurred by Contractor in correcting any deficient third party work of which it should have notified Contractor (but failed to do so) in accordance with the preceding sentence.
8. **INSURANCE.** Before commencing the work as contemplated herein, Subcontractor (and its subcontractors) shall procure and maintain at its (and/or their, respectively) expense, until completion and final acceptance of the work, the following insurance from insurance companies satisfactory to Contractor. Further, Contractor shall be identified as an "additional insured" on any such policies:
- (i) Commercial general liability insurance, with the following minimum limits of liability: (i) bodily injury, \$1,000,000 each occurrence, \$1,000,000 aggregate and (ii) property damage, \$1,000,000 each occurrence, \$2,000,000 aggregate.
 - (ii) Contractual liability insurance, sufficient to cover Subcontractor's indemnity obligations hereunder.
 - (iii) Workers' compensation as required by the State of Georgia. Subcontractor is responsible for carrying its own workers' compensation insurance in accordance with the laws of the State of Georgia. Subcontractor is required by law to give notice to the Georgia Workers' Compensation Commission and its employees stating whether Subcontractor has elected to carry workers' compensation. Contractor is not responsible for obtaining workers' compensation coverage for Subcontractor.
 - (iv) Automobile and motor vehicle (owned, non owned, and hired); bodily injury (\$100,000/\$300,000) and property damage (\$100,000/\$100,000).
 - (v) Subcontractor shall insure or assume responsibility for losses to tools, clothes, equipment, and materials owned by it, its subcontractors (if any), employees, or others who may assist in the performance of the work.
9. **TAXPAYER CERTIFICATION.** Subcontractor must complete a Form W-9 - Request for Taxpayer Identification Number and Certification and submit same to Contractor contemporaneously with this agreement.
10. **CORRECTIONS FOR DEFECTIVE WORK.** Prior to the commencement of the warranty period (Section 2), if Contractor notifies the Subcontractor (orally or in writing) that the work does not conform to the terms of the specific requirements, purchase order, and/or plans or specifications relating thereto, Subcontractor shall correct such defective work within forty-eight (48) hours and shall bear the entire cost of doing so, including the cost incurred by the disturbance of work to be completed by other subcontractors. Failure by the Subcontractor to correct such work within forty-eight (48) hours shall cause an automatic breach of this agreement, and the provisions of Section 17 may be invoked by Contractor.
11. **PATENTS.** Subcontractor hereby covenants and agrees to indemnify Contractor, its successors, assigns, and customers from any and all manner of claims, or suits for patent infringement or violation of patent, copyright, trademark, and/or trade secret rights, including all costs Contractor may incur in defending any such actions. Subcontractor shall pay all applicable royalty and license fees.
12. **ENCUMBRANCES.** Subcontractor shall turn over the work in good condition and free and clear of all claims, encumbrances or liens, and shall protect Contractor and the home owner from all claims, encumbrances or liens arising out of Subcontractor's performance of any specific requirements relating to the work and/or applicable purchase order(s). Subcontractor shall, at its own cost and expense (including attorney's fees), defend all such and pay any claims or liens established. Subcontractor further agrees to cause any such suit or lien relating to work to be removed from the subject premises within ten (10) days after Contractor's written demand, and should Subcontractor fail to do so, Contractor may do so at Subcontractor's expense, which cost shall be immediately due Contractor.
13. **LABOR DISPUTES/ WORK STOPPAGE.** Subcontractor shall not be relieved of its obligations hereunder due to any labor disputes or work stoppages involving its employees. If Subcontractor's progress is impeded due to a labor dispute and/or work stoppage, then Subcontractor shall, upon twenty-four (24) hours notice from Contractor, turn all incomplete work over to Contractor and shall release Contractor from its then remaining obligations to Subcontractor in connection with the work. Contractor shall have the right to employ a third party to complete the work. Contractor will notify Subcontractor of any cost increase to Contractor due to such a dispute or stoppage, and such increase shall be chargeable to Subcontractor upon final completion of the work.
14. **NONCUMULATIVE CHANGES OR CANCELLATION.** If a specific homeowner for whom a subject home is being built stops, cancels and/or terminates any specific requirement, purchase order, and/or other order relating to the work to be performed by Subcontractor hereunder, then Contractor shall be entitled to terminate any such specific requirement, purchase order and/or other order and shall be liable to Subcontractor only for the portion of the Subcontractor's fee as is related to the percentage of the work then completed.
15. **ASSIGNMENT.** Subcontractor may not assign or transfer any interest under this contract or any purchase order, including assignment of monies due, without Contractor's prior written consent (which consent may be withheld in Contractor's sole discretion). Subcontractor shall be responsible to Contractor for all acts or omissions of Subcontractor's assignees, subcontractors, or transferees.
16. **SAFETY.** Subcontractor shall conduct its work in a safe manner, in accordance with the latest revised edition of the Manual of Accident Prevention in Construction of the Associated General Contractors of America, Inc., and shall abide by all other applicable federal, state, and local safety laws, ordinances, regulations, standards, and rules. Subcontractor shall require all of its subcontractors to so comply and shall be solely responsible for the protection and safety of its workers. Subcontractor shall conduct safety training sessions for its employees at least once per calendar quarter. Such training shall be as set forth in Exhibit "C" attached hereto and incorporated herein by this reference. It is hereby understood and agreed that the Subcontractor is wholly responsible for the supervision of its employees, and

Initial - Subcontractor/Vendor A.J.
Initial - Crown Communities, Inc. LS

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Subcontractor agrees that it shall not look to Contractor (nor any of its employees) for same. Subcontractor agrees to indemnify, defend and hold Contractor harmless from and against any and all liability or loss Contractor may incur for Subcontractor's non-compliance therewith.

17. TERMINATION. In the event Subcontractor shall default in any respect in the full, faithful and punctual performance of any of its obligations hereunder and such default shall continue for twenty-four (24) hours after notice thereof, or Subcontractor shall become insolvent or shall make assignment for the benefit of creditors, or shall file or become involved in any reorganization or other proceeding in bankruptcy, or shall fail to adequately man the job, or perform the work in a satisfactory manner, then, in any such event, Contractor shall have the right to terminate this Agreement in whole or in part. Upon termination, Contractor shall have the right to take possession of the work to be performed by Subcontractor hereunder and of all material, tools, equipment and appliances of Subcontractor located on the premises and finish the work by whatever method Contractor may deem expedient. In such a case, Subcontractor shall not be entitled to receive any further payments under this agreement or any purchase order, and this remedy is in addition to, and not in lieu of, any and all other remedies at law available to Contractor. Contractor shall have the right to terminate this contract or limit the Subcontractor to other jobs at its sole option.

18. INDEMNIFICATION. The work performed by Subcontractor shall be at the exclusive risk of Subcontractor. To the fullest extent permitted by law, Subcontractor shall indemnify, defend (at Subcontractor's sole expense) and hold harmless Contractor, and owner (if different from Contractor), from and against any and all claims for bodily injury or death, damage to property, demands, damages, actions, causes of action, suits, losses, judgments, obligations and any liabilities, costs and expenses (including, but not limited to investigation and repair costs, attorney fees and costs, and consultant fees and costs), which arise or are in any way connected with the work performed, materials furnished, or services provided under this Agreement, by Subcontractor or its agents. Said indemnity and defense obligations shall further apply, whether or not said claim arises out of the contract, act, omission, or negligence of the indemnified parties, whether active or passive. Subcontractor shall not be obligated to indemnify or defend Contractor or owner for claims found to be due to the sole negligence or willful misconduct of indemnified parties.

19. LIENS AND CLAIMS. Subcontractor shall fully protect, indemnify, defend and save harmless Contractor from and against any and all liens and/or claims of laborers, mechanics, material men and/or other third parties performing services for Subcontractor in connection with the work to be performed hereunder. In the event that any such lien shall be filed or claim asserted, Subcontractor shall promptly remove or discharge, or cause to be removed or discharged, such lien or claim. If Subcontractor shall fail to so remove or discharge same within the (5) days after notice from Contractor, Contractor shall have the right to remove or discharge such lien or claim by bonding, payment or otherwise. The amount of any payment, cost and/or expense made or incurred by Contractor in connection with the removal or discharge of any such lien or claim may be deducted by Contractor from any payments or amounts otherwise then due or to become due to Subcontractor, whether under this agreement or from any other source.

20. MISCELLANEOUS PROVISIONS.

- (a) **Entirety Binding.** This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, heirs, devisees, administrators, executors and legal representatives; provided, however, that nothing in this section shall be construed to authorize the Subcontractor to make an assignment or transfer otherwise prohibited by this agreement.
- (b) **Paragraph headings.** The paragraph titles are for convenience only in locating information and in no way alter or limit the text of the provisions of this agreement.
- (c) **No third party beneficiary.** No provisions contained in this agreement shall create or give to third parties any claim or right of action against Contractor or Subcontractor beyond such as may legally exist in the absence of such provision.
- (d) **Governing law.** This agreement shall be construed under the laws of the State of Georgia and venue in any suit broughting this agreement or the work to be performed hereunder shall be conclusively in Gwinnett County, Georgia.
- (e) **Notice.** Any notice or communication must be in writing and given by depositing the same in the United States mail, addressed to the party to be notified, postage prepaid and registered or certified with return receipt, or by delivering the same in person or by facsimile. Such notice shall be deemed received on the date on which it is hand delivered or faxed or on the third business day following the date on which it is so mailed. For purpose of notice, the addresses of the parties shall be:

If to Contractor: Attn: Rick Thompson
1571 Dogwood Drive SW
Cumming, GA 30042
Fax # 678-303-0224

If to Subcontractor: Attn: Antonio or Bill
Fax # 864 399 9036

Any party may change its address for notice by written notice given to the other parties.

- (f) **Severability.** If any provision of this agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term hereof, such provision shall be fully severable and this agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision never comprised a part hereof; and the surviving provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such illegal, invalid, or unenforceable provision there shall be added automatically as part of this agreement a provision as similar in its terms to such illegal, invalid or unenforceable as may be possible and be legal, valid and enforceable.
- (g) **Amendments.** This agreement may only be amended by an instrument in writing executed by both Contractor and Subcontractor and executed after the effective date of this agreement.

Initial - Subcontractor/Vendor AW
Initial - Crown Communities, Inc. RL

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- (h) **Subcontractor.** The parties agree that Subcontractor and its employees are not employees of Contractor, but rather that Subcontractor is an independent contractor for Contractor. Contractor will have no control, direction or dominion over Subcontractor or the way in which Subcontractor performs the work.
- (i) **Authority.** Subcontractor has no independent authority to act for or on behalf of Contractor except as is provided herein. No other power, authority or use is granted or implied. Subcontractor represents and warrants that the person signing this agreement has the authority to enter into such agreement, including the provisions in paragraph 18, on behalf of Subcontractor.
- (j) **Entire agreement.** This agreement represents the entire agreement by and between the parties, and it may not be changed except by written agreement duly executed by all parties.
- (k) **No waiver.** The failure or delay in the enforcement of the rights detailed in this Agreement by Contractor shall not constitute a waiver of those rights or be deemed a basis for estoppel.
- (l) **Customer Service.** Subcontractor shall comply with the provisions of Exhibits "D-1" and "D-2," attached hereto and incorporated herein by this reference.
- (m) **Waiver of Subrogation.** Subcontractor waives all rights of subrogation against Contractor and/or the home owner with respect to losses, claims or costs arising out of or in connection with the work.
- (n) **Customer Contact Information.** Subcontractor acknowledges and agrees that Contractor has a general policy of not disseminating homeowner and/or customer information to Subcontractor without such homeowner and/or customer's consent. And, further, that Contractor shall not be required to disseminate any such information and/or seek any such consent unless it elects to do so in its exercise of its sole discretion.

21. TERMS

1. **Specific requirements-** an addendum to this agreement, which lists the type, price, and other specifications of the work to be performed and materials to be supplied.
2. **Purchase order-** each time Subcontractor performs work at a different home address, a corresponding purchase order shall be submitted to Contractor. The amount of such purchase order shall correspond to the agreed price stated in the specific requirements of Subcontractor's most recent bid sheet or quote. The absence of a purchase order does not void this agreement.
3. **Plans and specifications-** renderings of the home are to be constructed as drawn by a certified architect or engineer or other drawings detailing the construction of the home.
4. **Homeowner-** person or persons for whom the home is being constructed pursuant to a purchase agreement with Contractor.

22. TIME SCHEDULE. Work shall be performed in a timely manner. Failure to complete work in a timely manner shall be grounds for termination of the agreement. Any delays should be reported to Contractor (via the on-site builder) immediately.

23. SPECIAL PROVISIONS. Invoices must be submitted for payment to Crown Communities, Inc. within 90 days after the closing of a subject home. Subcontractor expressly acknowledges and agrees that it shall not be entitled to payment on any invoice submitted after the aforementioned date. Further, after such 90 day period, Contractor shall have no duty to seek reimbursement of any overpayments which may have been previously made to Subcontractor.

24. CONFIDENTIAL INFORMATION. As used in this agreement, the term "Confidential Information" shall mean any and all documents, information, documentation (including this agreement), ideas, techniques, trade secrets, reports, notes, plans, sales contracts, employee records, sales figures, vendor and subcontractor rates of pay, concepts, plans and data relating to Contractor which may be communicated by Contractor to Subcontractor, whether in writing, by computer memory, orally or in any other form or manner, provided, however, that the term "Confidential Information" shall not include information which (i) is or becomes generally available to the public other than as a result of a disclosure by Subcontractor in violation of this agreement, (ii) was within Subcontractor's possession or knowledge prior to its being furnished pursuant to this Agreement, (iii) is independently developed by Subcontractor under circumstances not involving a breach of this agreement, or (iv) is publicly disclosed pursuant to a lawful requirement or request from a governmental agency acting within its jurisdiction. Subcontractor acknowledges the confidential and proprietary nature of the Confidential Information, and agrees to use the Confidential Information for the sole purpose of performing its work hereunder. Subcontractor agrees that without the express written consent of Contractor, it will not, at any time, (a) divulge, furnish, disclose or make accessible to any person, firm, organization or corporation, in any manner whatsoever, any Confidential Information, or (b) use any Confidential Information for any purpose other than performing the work hereunder. Subcontractor acknowledges that the Confidential Information is of such character as to render the same unique and therefore agrees to disclose or use thereof in violation of the within covenants may cause irreparable damage to Contractor. Accordingly, Subcontractor agrees and consents that in the event that any action or proceeding shall be instituted by Contractor to enforce the confidentiality provisions of this agreement, Subcontractor waives the claim or defense in such action that there is adequate remedy at law available to Contractor and shall not urge in any such action or proceeding the claim or defense that such remedy at law exists. The parties agree that Contractor's remedies for any breach of this agreement shall be cumulative, and the seeking or obtaining of injunctive relief shall not preclude a claim or award for damages or other relief.

EXECUTED, THIS THE 23 DAY OF Jun. 2011

BY:

[Signature]

BY:

AJ Landscaping & Grading LLC

TITLE:

Crown Communities, Inc.

TITLE:

Owner
Subcontractor

EXHIBIT A

Initial - Subcontractor/Vendor

AJ

Initial - Crown Communities, Inc.

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Scope of Work

10/19/11

Initial - Subcontractor/Vendor AJ
Initial - Crown Communities, Inc. R.

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Exhibit B

Contract Pricing

\$375 x 1000 bricks
AJ Landscaping & Grading
Antonio Jimenez
117. Eastview circle
Simpsonville, SC 29681

10/19/11

Initial - Subcontractor/Vendor

Initial - Crown Communities, Inc.

AJ
P.

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Exhibit C
Safety Training

THE CONTRACTOR AGREES TO COMPLY WITH THE REQUIREMENTS OF THE OCCUPATIONAL SAFETY AND HEALTH ACT, TO INCLUDE BUT NOT LIMITED TO THE FOLLOWING CRITERIA:

OSHA STANDARD

***PERSONAL PROTECTIVE EQUIPMENT**

Hard hats

Eye Protection

Proper Footwear/Clothing

Dust, Mists, Paint, Fibrous Materials

***EXTERIOR FALL PROTECTION IN USE**

Roofs

Landings & Decks

Stairs

Open sided platforms

Scaffolding

Handrails

GENERAL GUIDELINES

Shall be worn on all Crown Communities, Inc. sites.

Is required whenever there are flying particles that could strike the eyes.

Appropriate for the job being done such as carpentry wearing a shoe with a hole that will resist nail penetration and wear gloves, long sleeves and long pants when appropriate.

Dust masks or appropriate respiratory equipment shall be used.

A spottier or safety net shall be used on roofs with pitch up to 8:12 and ridge height is 25 feet or less. Over 8:12 pitch conventional fall protection shall be used.

If the landing and/or deck is over 6 feet above the adjacent surface there must be a standard guardrail.

No point of access can have a step greater than 19 inches.

If there are 4 or more risers or 30 inches of rise, (whichever is less) then there must be a handrail.

All platforms 6 feet or more above the adjacent surface must be guarded with a standard guardrail.

Set up on firm solid ground.

No bricks, blocks, or scrap lumber used to level the Scaffold.

Scaffolding over 10 feet high must have guardrail, mid rail, and toe board on all open sides.

Stairs with more than 3 risers must be equipped with a handrail located between 30" and 35" above the stairs (tread) in-line with the riser.

Initial - Subcontractor/Vendor AD
Initial - Crown Communities, Inc. RT

Stair rails	Handrail must be continuous and be located a minimum of 3' out from the wall. Any stairs with an open side of 4' or more must be equipped with a stair rail on the open side. Stair rail shall be no less than 36" from the top of the stair rail to the surface of the tread, in line with the face of the riser at the forward edge of the tread.
Floor Opening	Any opening in the floor greater than 12"x12" must be properly guarded or covered.
Wall Opening	Any opening in a wall that is greater than 18"x30" is considered to be a "wall opening" and must be guarded if there is greater than a 4 foot fall to the adjacent surface.
Windows	Then the window has not been installed and the distance from the window sill to the ground is greater than 4 feet; the window must be guarded as follows: *If the sill height is between 12" and 30" above the floor there must be standard guard rail located at 42" high. *If the sill height is between 4" and 12" above the floor there must be standard guard rail at 42" and a mid-rail halfway between the sill and the guard rail. *If the sill height is less than 4" above the floor, there must be a standard guardrail, mid-rail and a 4" toe board.
*LADDERS	
Good Condition ✓	No broken side rails or steps, no loose side rails, and all braces located by the manufacturer are in place and undisturbed.
Proper Use	Used according to manufacturer's safe use instructions. Example: step ladders must be opened and rising on all four feet.
*TRENCHING AND EXCAVATION	
Protective System	If the excavation is 5 feet or deeper than a protective system must be used. Protective systems include: Shoring, Shoring and Bracing.
Perimeter Guarding	If the excavation or trench could pose a fall risk to workers on the job, or the general public, there need to be a barrier in place that will restrict access to the site.
*POWER TOOLS	
Condition	No broken handles, switches or casings.
Guard	All guards must be in operational condition.
Cords	No breaks in the insulation. Be of the size and type specified by the manufacturer of the equipment being powered.

Initial - Subcontractor/Vendor AJ
 Initial - Crown Communities, Inc. P.I.

***EXTENSION CORDS**

Condition
 Proper Ground
 GFI Protected

No breaks in the insulation or splices in the cord
 Equipped with ground probe
 All extension cords must be provided with a GFI as close to the power source as possible, or be covered by a written, signed equipment grounding program

***LP TANKS**

Stored & Secured

All LP tanks must be stored on a flat, level surface. Secured from falling over, in an area that protects them from being struck by equipment and vehicles, and if there is over 500 lbs. in total quantity, the storage area cannot be within 25 feet of any building or structure

***GROUNDED FAULT PROTECTION**

GFI temp poles

All temporary power poles must provide GFI protection
 GFI breaker must be checked before using to insure they are working

Generator GFI protected

Workers are not to use t-poles tagged as unsafe
 If the generator is over 5000 it must be grounded

***GENERATORS, COMPRESSORS AND MIXERS**

Condition
 Guards
 Cords & Hoses

Must be in good working order with no broken, missing or modified components
 All moving parts, rollers, blades, gears, pulleys and pinch points are to be guarded
 Are to be in good condition with no breaks or homemade repairs

***HOUSEKEEPING**

Material stored properly

Material stored in a manner that would not pose a hazard

Work Areas/Passageways

Stacked in a manner that would resist falling over

Combustibles storage

Clear of debris, trim and scrap lumber, lumber with nails protruding from it

Combustibles and flammables stored in an appropriate area that is identified by the job site superintendent

Flammable and combustible liquids stored in an approved metal safety can

Initial - Subcontractor/Vendor A J
 Initial - Crown Communications, Inc. RT

Exhibit D-1

Job Site Requirements

Initial - Subcontractor/Vender AJ
Initial - Crown Communities, Inc. R.

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Exhibit D-2

Customer Service Requirements

1. The Trade Partner will warrant the quality of their work for a period of and (1) year from the date of closing of the house or as outlined in our printed United Home Insurance Company Limited Warranty booklet for specific items that are covered under Warranty. A 30 day "grace period" from closing date is requested due to volume and scheduling.
2. The Trade Partner shall have seven (7) days in which to correct any Warranty problem. If the problem is not corrected within seven (7) days then Crown Communities, Inc. shall correct the problem and will back charge the Trade Partner.
3. Trade Partner shall be responsible for Customer Service work at entire subdivision regardless of whether it was higher work. Trade Partner shall further assign an individual qualified in making repairs of said nature, to work directly with Crown Communities, Inc. Customer Service Department and/or the Builder handling walk-throughs.
4. To mitigate the amount of time required by the Homeowner to take off work to have walk-through or service work completed, Crown Communities, Inc. will attempt to schedule all Trade Partners in during working hours to complete their task. The Trade Partner will be given five days notice to work within this schedule. If possible, if the work area is unclear, the Trade Partner shall use this work to coordinate with the Builder or Area Warranty Manager before attempting the work. Because of the complexity of scheduling the Homeowner and other trades in the proper sequence, the Trade Partner will be expected to meet this schedule. Crown Communities, Inc. will compensate Homeowners affected by missed appointments out of pocket due to the Trade Partner from normal billing. Missed appointments will then be rescheduled at the Homeowner's convenience, i.e., after work and/or weekends.
5. Trade Partner employees shall be identifiable by a company logo or name tag affixed to clothing when serving a Crown Communities, Inc. Homeowner.
6. Trade Partners shall provide customer service/warranty department an emergency/after hour's contact number. Trade Partners shall also provide Crown Communities, Inc. customer service/warranty department an additional contact number for emergency/after hours service in the event their "on call" service personnel fails to respond in a timely manner. "Timely Manner" shall be defined as to the satisfaction (timing) of the emergency call.
7. When Trade Partner is requested by Crown Communities, Inc. to contact the Homeowner to schedule an appointment it shall be the Trade Partner's responsibility to inform the Crown Communities, Inc. Customer Service/Warranty Department of the scheduled appointment date. Trade Partner shall inform Crown Communities, Inc. customer service/warranty department as to the outcome of said appointment, i.e., completed, parts ordered, etc. within three days of appointment.
8. Trade Partner will be responsible for clearing the job site upon completion of their work. Failure to do so will result in a back charge to the Trade Partner for clearing services.

Initial - Subcontractor/Vendor AS
Initial - Crown Communities, Inc. AW

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ACKNOWLEDGMENT

These specifications are a part of the Contractor's Scope of Work. Crown Communities, Inc. and all of its entities reserves the right to modify or amend any of the above general specifications at any time, and will notify the contractor as soon as any change is initiated.

All invoices must be accompanied by a notarized lien waiver and must be turned into the job-site Superintendent for approval prior to standard pay dates.

Contractor

AJ Landscaping & FirePog - LLC

By: Antonio Jimenez

Date: 6/23/11

Builder:

an entity of Crown Communities, Inc.

By: Phil Thompson

Date: _____



SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR ALPHA OMEGA CONSTRUCTION GROUP, INC. ("Contractor")
Sole Proprietorship ☐ Partnership ☒ Corporation ☐ L.L.C. ☐ Other (ATTACH W-9)
Social Security No. or Tax ID No.: 26-3212467
Name of Owner(s)/Officer(s): CHRIS STAFFORD
Division Name GREENVILLE, SC Area Name _____ Assigned Vendor No. _____
Address for All Notices: PO BOX 3196
City MATTHEWS State NC Zip Code: 28106
Telephone: 704 821-6510 Fax: 704 821-7058 E-Mail Address: alpha@alpha-omegacorp.com
Insurance Carriers ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
This agreement (the "Agreement") is entered into on this 11 day of FEBRUARY, 2010, between
D.R. HORTON INC. ("Owner") and Contractor

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of the Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement (the "Work") shall include all work performed and materials supplied by Contractor to Owner including but not limited to the labor, services and/or materials, equipment, transportation, or facilities necessary to complete the construction-related activities generally described in Exhibit A. The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing will not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to or in place of Contractor. Contractor will be awarded Work on a lot by lot basis. To the extent Exhibit A contains more than one type of construction-related activity, Contractor must clarify with Owner before the Work commences as to which construction-related activity it has been awarded for the lot in question.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, method and performance of the Work. Contractor shall not be considered an agent or employee of Owner for any purpose, nor shall any employees or permitted subcontractors of Contractor. Contractor shall not represent itself as the agent of Owner unless owner has specifically permitted Contractor to do so in writing. The results achieved shall satisfy the requirements of this Agreement. Contractor shall be responsible for the performance of its employees and permitted subcontractors, and all personnel used by Contractor in the performance of Work shall be qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further agrees to provide written notification to all of its present and future employees of Contractor's provision for Worker's Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work herein covered or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall pay and shall be solely responsible for all tax withholding, Social Security, state unemployment and all other withholding as required by law Contractor's employees, agents or permitted subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNLESS CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule, the superseded Pricing Schedule shall remain in effect for Purchase Orders issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing of the house incorporating the Work from Owner to a purchaser. Contractor hereby agrees that timely invoicing is an important and material term to this agreement, and timely invoicing is a part of Contractor's performance of all material terms of this contract. Contractor hereby waives payment for any Work where Contractor fails to invoice Owner in a timely manner in conformity to this agreement. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR

Executed this 11 day of FEBRUARY, 2010.

Owner:
By D.R. Horton Inc.
Name Edmund J. Stafford Jr.
Title PURCHASING
Division President

Contractor:
By ALPHA OMEGA CONSTRUCTION GROUP, INC.
Name Chris Stafford
Title OPERATIONS DIRECTOR

INITIALS: OWNER ESJ CONTRACTOR CS
2/23/10

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ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO SUBCONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN AND THAT OWNER DOES NOT AGREE TO PAY TO SUBCONTRACTOR INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF DELAYED PAYMENTS.

4.2 Payment to Subcontractors. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed from Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties, and these joint payments shall satisfy amounts owed by Owner to Contractor, notwithstanding the fact that the third parties may not endorse the checks. In any instance where Owner receives written notice from one of Contractor's sub-contractors, whereby the subcontractor claims a failure to be paid for the Work, Owner reserves the right to pay the subcontractor directly or to make payment payable to both the Contractor and its subcontractor.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the Contract Price shall waive and release all claims against Owner and the property under this Agreement, but shall not waive any claims of Owner arising out of Work later found to be defective and shall not release Contractor from liability for warranties and warranty service and/or defective Work. Contractor shall remedy any defects and pay for any damage resulting from any defects in or caused by the Work or as required by any other contracts between Owner and Contractor or by law or customary practice. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or assigns is an acceptance of the Work or materials not in compliance with this Agreement.

5. SCHEDULE OF WORK.

5.1 Time is of the Essence. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work.

5.2 Construction Schedule. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.3 Commencement of the Work. Owner shall issue an authorization (either pursuant to a written purchase order, payment schedule, or work invoice ("Purchase Order") or verbal instructions from an authorized Owner representative) to commence the Work and Contractor shall not commence the Work at a job location until Contractor has received instructions to begin Work at a specific job location. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.4 Changes in Construction Schedule. Contractor agrees that Owner shall have the right to make changes to the schedule of Work at Owner's discretion and agrees to comply with such changes.

6. PERFORMANCE STANDARDS.

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner, in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FHA minimum property standards, VA requirements, all laws (statutory or common) and regulations, and any applicable building code requirements.

6.2 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized Owner's employee and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications as the plans and specifications affect the Work and materials incorporated in the Work, and that the plans and specifications are clear and unambiguous, and has accepted and agreed to be bound by all such requirements.

6.3 Government Requirements. Contractor will comply with all applicable federal, state, local, and county statutes, ordinances, regulations, codes, licensing requirements and standards, and the requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 as amended, as well as the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., or similar laws or regulations, and the rules, regulations, or orders of all public authorities relating to performance of the Work, including without limitation, the procurement and posting of all required permits and notices. In addition, Contractor will not discriminate in its hiring or employment and will follow all state and federal employment laws or regulations. Contractor shall perform background checks and use only appropriate employees to perform warranty or repair work after a house is occupied.

6.4 Indemnity. To the fullest extent allowed by law, Contractor will agree to indemnify, defend, and hold Owner harmless from all actions, claims, investigations or other acts to enforce such laws or regulations, and further agrees to indemnify Owner from the payment of any fine, penalty or damages imposed, levied, assessed, or found as a result of the Contractor's failure to comply with or adhere to the applicable laws and regulations, or from Contractor's failure to cause its employees or subcontractors to comply with such laws and regulations.

6.5 Observation and Testing by Owner and Repair by Contractor. Owner shall have the right to observe or test the Work at any time during or after construction, but that observation or testing is solely for the benefit of Owner's and is not for Contractor's benefit. Owner's failure to note defects in the Work during an inspection will not waive any of Contractor's obligations, representations or warranties related to the Work. Notwithstanding anything contained in this Agreement to the contrary, all Work shall be performed and any defects shall be corrected timely and in accordance with this Agreement to the satisfaction of Owner.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work, and shall report in writing to Owner any defects prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractor's work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses and approvals necessary for or applicable to the performance of the Work.

6.8 Change Orders. The Contractor shall furnish the materials for and to make all changes requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed,

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(ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location, and (iv) work site safety requirements

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste materials or rubbish caused by its operations and shall remove all of Contractor's materials, and if materials are furnished by Owner, Contractor shall move all usable materials provided by Owner to a location designated by Owner. Contractor shall sweep out any waste material from inside the home under construction upon completion of its operation. All refuse shall be placed in receptacles provided or at locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up activities and collect a one hundred dollar (\$100.00) fine from Contractor for each incident. The cost of such clean-up and the aforementioned fine shall be deducted from any sums owed by Owner to Contractor, or shall be immediately payable by Contractor upon demand therefore by Owner.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Owner reserves the right to set minimum standards or rules relating to Work on its site. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OWNERS MINIMUM REQUIREMENTS. THE OWNER ASSUMES NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe condition or practice observed on the Work Site. Further, Contractor shall immediately notify Owner of any accidents or injuries on the Work Site. Contractor shall have an ongoing safety program and conduct inspections to determine that safe working conditions and equipment exist and safe practices are observed. Contractor shall prohibit and prevent the presence of children under age eighteen (18) from the Work Site.

7.1 Safety Laws and Indemnity Agreement. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards, statutes, and industry best practices concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations. Contractor shall provide Owner with written verification of its compliance with all applicable safety and health standards and regulations, including but not limited to OSHA's Hazard Communication Standard for the Construction Industry, 29 C.F.R. §1926.59 et seq., and provide written notice to Owner of the contact person responsible for Contractor's compliance with all safety and health standards and regulations. To the fullest extent allowed by law, Contractor agrees to indemnify, defend, and hold Owner harmless from all actions prosecuted to enforce and the payment of any fine or penalty imposed under such safety laws and regulations and shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work.

7.2 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, permitted subcontractors or suppliers at a job location or performance of the Work by any person under the influence of alcohol or drugs.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate corporations, and successors and assigns, that all labor performed and materials furnished by Contractor shall conform to the specifications of this Agreement, shall be free from any defects or deficiencies in workmanship or materials, and will comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, will meet or exceed the FHA/VA minimum property standards, and will comply with the Residential Warranty Corporation ("RWC") Program and the applicable limited warranty standards, which Contractor has read and understands and to which Contractor agrees to be bound. All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects for purposes of Contractor's obligations under this Contract. Contractor shall make good and promptly repair all Work not complying with the standards set forth in this section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Paragraph 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, the initial homeowner of the property on that is the subject of the Work: (i) for a period of ten (10) years all structural elements, including, but not limited to, roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; (d) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (i) any statutory warranty or (ii) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner (a "Homeowners Warranty"). Contractor expressly agrees to be bound by any such Homeowners Warranty and to the extension of warranty period hereunder. Furthermore, notwithstanding the foregoing, Contractor agrees that all express and implied warranties shall remain in full force and effect for so long as Owner is obligated to warrant the Work pursuant to applicable law. Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Homeowners Warranty that is longer than the Warranty Periods stated above, provided, however, failure to give that notice will not affect the extension of the Warranty Period to the applicable warranty period under the Homeowner's Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not effect, minimize, or in any way obviate Contractor's warranty obligations, Contractor's indemnity obligations, or the ability of Owner to request Contractor to perform warranty services in the future.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish all warranties and/or guarantees by manufacturers on appliances and equipment, and shall furnish all certificates required by any municipality and/or VA and/or FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and are not in limitation of periods of applicable statutes of limitation.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Project is located.

9.3 Lien Claim Indemnity. If any liens are filed against Owner relating to portions of the Work for which Owner has paid Contractor, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien or affidavit to be removed.

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and released of record. Contractor agrees to **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any liens relating to portions of the Work for which Owner has paid Contractor, and further agrees at Owners' request to any or all of the following: (i) procure a bond to indemnify Owner and any home purchaser from Owner, in an amount sufficient to discharge that lien, or (ii) refund to Owner all moneys, including any additional amount necessary to cover all of Owner's or home purchaser's attorneys' fees and court costs paid in discharging the lien, whichever remedy Owner elects in its sole and absolute discretion, or (iii) provide sworn testimony that payment has already been made to Contractor for the work for which the alleged lien applies.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY AGREES TO HOLD HARMLESS, INDEMNIFY, PROTECT AND DEFEND OWNER, ITS PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THE AFOREMENTIONED ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "INDEMNITEE"), FROM AND AGAINST ANY AND ALL DEMANDS, CLAIMS, ACTIONS, CAUSES OF ACTION, PROCEEDINGS, LAWSUITS, SETTLEMENTS, JUDGMENTS, FINES, PENALTIES, LOSSES, ATTORNEYS FEES, LITIGATION COSTS, INTEREST, AND EXPENSES OF ANY KIND (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "LOSSES") FOR DAMAGES FROM BODILY OR PERSONAL INJURY, DEATH, THE DESTRUCTION OR LOSS OF PROPERTY (INCLUDING LOSS OF USE), OR ANY OTHER KIND OF DAMAGES OR HARM, ARISING OUT OF, OR RESULTING FROM, OR RELATED IN ANY WAY TO THE WORK PERFORMED AND/OR THE MATERIALS SUPPLIED UNDER THIS CONTRACT, REGARDLESS OF WHETHER OR NOT CAUSED IN PART BY INDEMNITEE. SUCH LOSSES SPECIFICALLY INCLUDE, BUT ARE IN NO WAY LIMITED TO LOSSES ARISING OUT OF OR ATTRIBUTABLE TO: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS OR OBLIGATIONS OF CONTRACTOR SET FORTH HEREIN; (2) THE WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR, CONTRACTOR'S AGENTS OR EMPLOYEES, SUPPLIERS OR SUBCONTRACTORS AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, AND/OR ALL OTHER ENTITIES OVER WHOM THE CONTRACTOR MAY EXERCISE CONTROL (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "CONTRACTOR'S AGENTS"); (3) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF CONTRACTOR AND/OR CONTRACTOR'S AGENTS; OR (4) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE INDEMNITEE RELATED IN ANY WAY TO THE WORK. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE INDEMNITY FOR LOSSES CAUSED SOLELY BY FAULT OR NEGLIGENCE OF THE INDEMNITEE. THE LOSSES DESCRIBED HEREIN SHALL INCLUDE, BUT ARE NOT LIMITED TO, DEMANDS, CLAIMS, OR ACTIONS ASSERTED BY (1) ANY PRESENT OR FUTURE OWNER OF THE HOUSE INCORPORATING THE WORK; AND (2) ANY OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY CONTRACTOR AND/OR CONTRACTOR'S AGENTS). THE INDEMNIFICATION OBLIGATION UNDER THIS CONTRACT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. THE INDEMNITY PROVISIONS CONTAINED HEREIN ARE INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY LAW.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ANY AND ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. IT IS THE EXPRESS INTENTION OF THE PARTIES THAT CONTRACTOR'S INDEMNITY OBLIGATIONS HEREIN WILL SURVIVE THE TERMINATION OF CONTRACTOR OR THIS AGREEMENT. INDEMNITEE SHALL HAVE THE RIGHT, AT ITS DISCRETION AND CHOOSING, TO DEFEND ANY AND ALL CLAIMS WHICH MAY BE ASSERTED AGAINST IT, AND CONTRACTOR AGREES TO REIMBURSE INDEMNITEE FOR ANY AND ALL EXPENDITURES WHICH INDEMNITEE MAY MAKE OR INCUR ON ACCOUNT OF ANY SUCH CLAIM.

10.3 CONTRACTOR AND CONTRACTOR'S AGENTS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS OR EQUIPMENT.

10.4 Subcontractor's and Supplier's Indemnity Obligations. Contractor shall require each of its subcontractor to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required in this section and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms as Section 13. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the actions of any subcontractor engaged by Contractor, whether in written agreement or otherwise, or who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed to be the obligation of the subcontractors to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with completed operations coverage which contains a per occurrence limit of no less than one million dollars (\$1,000,000.00), and an aggregate limit of no less than two million dollars (\$2,000,000.00) protecting against liability for bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products and completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL Policy shall not contain a deductible or self-insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering completed operations for any applicable statute of repose for commencing lawsuits associated with the Work.

11.2 Other Insurance. Contractor agrees to carry (i) Worker's Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Worker's Compensation obligations imposed by law; (ii) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than one million dollars (\$1,000,000.00) and an aggregate of no less than one million dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (iii) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person (Bodily Injury) and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both on-going operations and completed operations (equivalent to form CG20101185 or form CG2037). Coverage obtained by Contractor naming Owner as an Additional Insured shall be primary with any insurance of Owner being excess coverage. That insurance coverage will be carried continuously during the term of this Agreement and thereafter as required by this Agreement with insurance companies acceptable to Owner in its sole and absolute discretion. That insurance shall provide for a waiver of subrogation. All insurance shall be with

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a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies. Each Certificate of Insurance or policy shall contain an unqualified clause to the effect that the policy shall (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days' prior written notice to Owner, (ii) be earned continuously from the date of commencement of the Work until expiration of the period of the Contractor's warranty provided in this Agreement, (iii) specifically identify Owner as an Additional Insured, and (iv) indicate that coverage applies in the state where the Work is being performed. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself and the Work required to be performed under this Agreement.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER IN ITS SOLE AND ABSOLUTE DISCRETION) IN EFFECT AT THE TIME WORK IS PERFORMED TO COMPENSATE OWNER FOR ANY ADDITIONAL COSTS OF ITS WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS CONTRACT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work to the extent permitted under this Agreement, Contractor guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an Additional Insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or another contractor's work is damaged by an act for which Contractor, or its employees, agents or subcontractors, are responsible, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct such Work, replace or repair any defective material, or repair any damage. Contractor shall make all repairs and correct such within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours notice on a non-emergency basis, or (ii) retain a third party or undertake to perform those duties, and retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld resulting in a deficiency, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and reasonable attorneys' fees, incurred by Owner, and shall pay to Owner this amount within thirty (30) days of demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Paragraph 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or permitted subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties, (ii) claims or liens are filed against the job location as a result of Contractor's actions or omissions, (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement, Exhibit A of this Agreement, or the specifications, (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order that is Contractor's obligation under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary tools, material, or equipment for, or cleaned up after, the Work; (viii) Contractor fails to comply with any other provision of this Agreement.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement and rights and remedies available under this Agreement shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. Owner shall have a right to collect from Contractor its reasonable attorneys' fees and expenses incurred in enforcing Contractor's obligations.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These Disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking equitable relief from and arbitrator or a court of appropriate jurisdiction.

13.3 Arbitration. If mediation fails, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq., regardless of any other choice of law provision in any underlying contract or this Agreement. All demands for arbitration shall be made before the expiration of the applicable statutes of limitations and repose. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in any court of competent jurisdiction.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrators mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes, is over \$200,000, but only one arbitrator shall be appointed if the Dispute is 200,000 or less. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of a mediator or arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint a mediator or arbitrator. The AAA's Code of Arbitrator Ethics (revised March 1, 2004) is applicable to all arbitrations.

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13.5 Rules. To the extent not in conflict with the Federal Arbitration Act, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner may join Contractor in any litigation, mediation, or arbitration initiated against Owner by a third person so that the rights of all parties (Owner, Contractor, Subcontractor, or any third person) shall be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner where necessary to facilitate resolution in a single forum. If multiple lawsuits or arbitrations are commenced, they shall all be consolidated into a single proceeding. Notwithstanding any other provision of this section, if a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect to unilaterally waive mediation or arbitration and litigate the Dispute with Contractor.

14. TERMINATION.

14.1 Termination by Owner for Cause or Convenience. This Agreement shall remain in full force and effect until terminated in writing by mailing notice to the other Party. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) Days' written notice before the effective date of termination, and shall perform fully under this Agreement during that notice period. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.3 Survival. All obligations, duties and warranties for Work performed under this Agreement shall survive termination.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms, (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority, (v) Contractor has, and each Contractor's employees, agents or permitted subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement, (vi) Contractor is in compliance with all governmental requirements to which it is subject, and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement, and with respect to prices and quantities only, the Price Schedule and all written Purchase Orders shall be the entire agreement between Owner and Contractor related to the Work, and there are no other agreements, oral or written, made by or relied upon by Owner and Contractor. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended or supplemented except in writing signed by both Owner and Contractor.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights and obligations are not assignable or transferable without the express written consent of Owner, who may consent can be withheld in Owner's sole and absolute discretion. Subject to the restrictions and prohibitions on assignment set forth in this section, the terms of the Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Contractor shall provide and transfer ownership to any and all samples and/or shop drawings requested by Owner.

18. NOTICES. All notices required pursuant to this Agreement or otherwise shall be in writing and shall be delivered to the respective business address of Owner and Contractor. However, Contractor's business address shall be as noted on page one (1) of this Agreement. Notices shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by overnight delivery service, and upon confirmation if sent by facsimile transmission.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or articles.

SOUTH CAROLINA REVISED 7/23/2007

INITIALS: OWNER KA, CONTRACTOR AK

KDC 013329

PERFORMANCE REQUIREMENTS AND SPECIFICATIONS

"Exhibit A"

DESCRIPTION: ROOFING-LABOR AND MATERIALS

PERFORMANCE REQUIREMENTS:

Roofed areas shall remain watertight for a period of two (2) years, and shall maintain their uniform appearance while withstanding weather conditions with winds up to fifty (50) mph for a period as specified by the Manufacturer's warranty.

Hard hats and appropriate safety equipment are to be worn at all times while on D.R. Horton's property. The contractor shall ensure that each crew leader has attended the appropriate OSHA approved "Competent Person" training course.

NON-PERFORMANCE REMEDY

The Contractor or Manufacturer shall repair or replace all areas damaged by work not meeting the performance standard. Leaks and damage caused by snow and ice buildup, or homeowner neglect, will not be the Contractor's responsibility. D.R. Horton will make the determination for all remedial actions,

SPECIFICATIONS AND SCOPE OF WORK

1. All places where the roof meets a vertical wall on the rake shall be step flashed. All horizontal roof to wall connections shall be flashed a minimum of 10" in each direction with 28 gauge aluminum flashing.
2. Contractor to inspect and correct, if necessary, all flashing adjoining the roof surface which has been installed by others. Including the reinstallation of any pipe boots and vent pipe flashing that may need to be removed during scope of work. Do not start until all roof vents and pipes are cut through roof.
3. Shingles to lap over rake mold or gable ends one (1") inch.
4. Gable overhang is to be cut square and true.
5. Shingles are to be approved by D.R. Horton specifications.
6. All invoices for completed work must be approved by jobsite Builder.
7. All valleys are to be lapped and cut, closed valley lapped with extra felt run down the valley.
8. Contractor to dispose of debris from jobsite caused by his operation.
9. Contractor's warranty to be two years from closing date.
10. Price includes installing vent-a-ridge where shown on drawings. Cut out felt sufficiently at ridge vent locations to allow proper air passage.
11. Counter flashing to be neat and free from defects on brick applications (where applicable).
12. Contractor to notify Builder of improper cricket construction.
13. Contractor shall not install roofing over improperly nailed roof decking.
14. Contractor shall notify Builder if gap between roof deck and fascia board exceeds 1/4".

Contractor agrees to comply with all applicable building codes, ordinances and OSHA regulations.

ACKNOWLEDGEMENT

These specifications are a part of the contract identified above. D.R. Horton, Inc. reserves the right to modify or amend any of the above general specifications at any time, and will notify the contractor as soon as any change is initiated.

All invoices must be accompanied by a notarized lien waiver and must be turned into the job-site Builders for approval prior to standard pay dates.

Contractor:

Builder:

Alpha Omega Construction Group Inc.

D.R. Horton, Inc.

By: *[Signature]*

By: *EDMOND G JEANFREAU, JR*

Date: *2-17-2010*

Date: *2/23/10*



SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

1327060

NAME OF CONTRACTOR Atlanta Flooring Design Ctrs Inc (Contractor)
Sole Proprietorship ☐ Partnership ☐ Corporation ☒ LLC ☐ Other (ATTACH W-9)
Social Security No. or Tax ID No.: 581621134
Name of Owner(s)/Officer(s): Donny Phillips
Address for All Notices: 3005 Swiftwater Park Dr Bldg 2
City: Suwanee State: GA Zip Code: 30024
Telephone: 770-476-8300 Fax: 770-476-0308 Mail Address: Cindy@atlantaflooringdesign.com
Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
This agreement (the "Agreement") is entered into on this 2nd day of July, 15, between D.R. Horton Inc & D.R. Horton ("Owner") and Contractor Inc - Regent LLC

1. **SCOPE OF WORK.** This Agreement is entered on a blanket basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all work performed and materials supplied by Contractor, directly or indirectly, to Owner, including but not limited to the labor, services and/or materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing shall not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. **INDEPENDENT CONTRACTOR STATUS.** Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. **CONTRACT PRICE.**

3.1 **Pricing Schedule.** The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 **Taxes.** Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 **Price Increases.** NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders, as defined herein, issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. **PAYMENT.**

4.1 **Invoices.** Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO CONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN. CONTRACTOR AGREES THAT OWNER DOES, AND WILL, NOT OWE INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF ANY DELAYED PAYMENT.

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA, IF ANY.

Executed this 2nd day of July

Owner: [Signature]
By: [Signature]
Name: [Signature]
Title: Division President

Contractor: [Signature]
By: [Signature]
Name: Cindy K. Craig
Title: Contract Mgr

INITIALS: OWNER [Initials], CONTRACTOR [Initials]

4.2 Contractor Payments. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed by Owner to Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, warranty service, or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work and obligations under this Agreement. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("**Purchase Order**"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Owner shall have the right to make changes to the schedule of Work at Owner's sole discretion, and Contractor shall comply with such changes. Contractor shall not be entitled to any additional compensation for such schedule changes.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common law), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Contractor shall immediately notify Owner in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractor's Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, rules, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "**Requirements**"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, regardless of any alleged fault of Owner. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform warranty or repair work after a house is occupied.

6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("**Inspector**") shall have the right, but not the obligation, to observe, inspect or test the Work at any time during or after construction, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("**Change Order**") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety.

INITIALS: OWNER , CONTRACTOR CUC

requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not limited to trash, unused building materials, garbage, refuse or rubbish ("Waste"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon demand by Owner and may be deducted by Owner from any sums owed to Contractor.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe working conditions and equipment exist and safe practices are observed. Contractor shall have a competent person on the Work Site at all times in charge of Contractor's safety program. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition or practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Law"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation, regardless of any alleged fault of Owner. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, nor allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substance" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. For the longer of ten years or the period of any applicable statute of limitation or repose, Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work shall conform to the specifications of this Agreement (including but not limited to the standards referenced in Subsection 6.1), shall be free from any defects or deficiencies in workmanship or materials, shall comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, shall meet or exceed the FHA/VA minimum property standards, and shall comply with the Home Owners' Warranty, defined below and its applicable warranty standards (which Contractor has read and understands). All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects. Contractor shall be liable to make good or promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Subsection 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, any initial home purchaser of property subject to the Work: (i) for a period of ten (10) years all structural elements, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor, and (iii) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (a) any statutory warranty or (b) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner, including but not limited to the Residential Warranty Corporation Program (a "Home Owners' Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners Warranty that is longer than the warranty periods stated above; provided, however, failure to give that notice will not affect the extension of the warranty period to the applicable warranty period under the Home Owners Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform warranty services thereafter.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product information, and guarantees by manufacturers on components of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including,

INITIALS: OWNER , CONTRACTOR CKC

but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Work is located.

9.3 Lien Claim Indemnity. If any liens, affidavits of claim, stop payment notices, or lis pendens arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such liens, affidavits of claim, stop payment notices, or lis pendens to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any such liens, affidavits of claim, stop payment notices, or lis pendens, and further agrees immediately upon Owner's request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge any and all liens, affidavits of claim, stop payment notices, or lis pendens, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any home purchaser in discharging the liens, affidavits of claim, stop payment notices, or lis pendens whichever remedy Owner elects in its sole and absolute discretion. The provisions of this paragraph shall be in addition to any rights Owner may have under applicable law with respect to such liens, affidavits of claim, stop payment notices, or lis pendens.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF, ATTORNEYS' FEES AND INTEREST), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR OR BY CONTRACTOR'S AGENTS OR EMPLOYEES, OR BY ITS SUPPLIERS OR SUBCONTRACTORS OF ANY TIER, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES; (3) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, SUPPLIERS OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF INDEMNITEE RELATED IN ANY WAY TO THE WORK. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY CONTRACTOR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO INDEMNIFY INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR AGREES THAT ITS OBLIGATIONS SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

10.3 NO BAILMENT. CONTRACTOR AND CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, ALL SUBCONTRACTORS, AND SUPPLIERS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS, MATERIALS, OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS, MATERIALS OR EQUIPMENT.

10.4 Subcontractors and Suppliers Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor or supplier who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors or suppliers to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

INITIALS: OWNER M, CONTRACTOR che

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with products-completed operations coverage, which contains a per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and an aggregate limit of no less than Two Million Dollars (\$2,000,000.00) protecting against bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products-completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type, nature, or volume of the Work or limit the type of structure or number of units on which the Work is to be performed. The CGL policy shall not contain a deductible or self-insured retention of more than \$25,000.00, and shall allow the satisfaction of any and all deductible or self-insured retention through payments made by any third party, including but not limited to Owner or any additional insured, co-insureds, co-insurers, or insureds other than the primary or first named insured. Contractor shall continuously maintain a CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work.

11.2 Other Insurance. Contractor agrees to carry (a) Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law; (b) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (c) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person for bodily injury and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner, D.R. Horton, Inc., and all affiliates and subsidiaries of D.R. Horton, Inc., (collectively "Horton") as named, Additional Insureds, specifically identifying Horton, on the CGL Policy and policies required above covering both ongoing operations and completed operations (equivalent in scope to form CG 2010 1185 or, if unavailable, both forms CG 2010 1001 and CG 2037 1001). Coverage obtained by Contractor with Horton as an additional insured shall be primary, with any insurance of Horton being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work; (iii) provide for a waiver of subrogation; (iv) indicate that coverage applies in the state where the Work is being performed; and (v) be with a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement. In the event that Contractor obtains insurance coverage that is broader than the minimums required by this Agreement, this Agreement shall be deemed to require the broader coverage, including but not limited to any greater limits.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, portions of policies (including but not limited to declarations pages and endorsements), or certified copies of the required policies, as requested by Owner.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Horton as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

11.7 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any Indemnitee, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or if another contractor's work, or other property, is damaged by an act or omission of Contractor, its employees, agents, suppliers, or subcontractors, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's acts or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (iv) Contractor

INITIALS: OWNER  CONTRACTOR 

fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or (viii) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may set off from amounts owing to Contractor hereunder any amounts owing by Contractor to Owner's parent company, any subsidiary or affiliate, under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other rights or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Dispute") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("FAA"). All demands for arbitration shall be made before the expiration of the applicable statutes of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for \$1,000,000 or more, but only one arbitrator shall be appointed if the Dispute is for less than \$1,000,000. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by mailing notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligations of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and each Contractor's employees, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement; (vi) Contractor is in compliance with all governmental requirements to which it is subject; and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

INITIALS: OWNER , CONTRACTOR

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior Independent Contractor Agreements (other than any Master National Independent Contractor Agreement) or other prior understandings or written or oral agreements, specifically including but not limited to all prior pre-printed standard contractor/subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement, shall alter the terms set forth in this Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by law, the Master National Independent Contractor Agreement shall control.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, without limitation, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner to any assignment or delegation of duties by Contractor, including but not limited to any work by a subcontractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, Contractor shall return any and all confidential material or proprietary property or documents to Owner.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or subsections.

Floor Covering

SOUTH CAROLINA VERSION (REV. February 11, 2015)

INITIALS: OWNER M CONTRACTOR ckc



SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

138 4843

NAME OF CONTRACTOR CARYL MECHANICALS II, INC ("Contractor")
Sole Proprietorship ☐ Partnership ☒ Corporation ☐ L I C ☐ Other (ATTACH W-9)
Social Security No. or Tax ID No. 20-521569
Name of Owner(s)/Officer(s): MATT WALKER
Division Name _____ Area Name _____ Assigned Vendor No. _____
Address for All Notices 5910 STOCKBRIDGE DRIVE
City MOORE State NC Zip Code 28110
Telephone () 714 860-4531 Fax () 714 860-4531 E-Mail Address M.WALKER@CARYLMECHANICALS.COM
Insurance Carriers ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
This agreement (the "Agreement") is entered into on this 21st day of OCT, 2009, between
D. R. HORTON INC ("Owner") and Contractor

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of the Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement (the "Work") shall include all work performed and materials supplied by Contractor to Owner including but not limited to the labor, services and/or materials, equipment, transportation, or facilities necessary to complete the construction-related activities generally described in Exhibit A. The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing will not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to or in place of Contractor. Contractor will be awarded Work on a lot by lot basis. To the extent Exhibit A contains more than one type of construction-related activity, Contractor must clarify with Owner before the Work commences as to which construction-related activity it has been awarded for the lot in question.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, method and performance of the Work. Contractor shall not be considered an agent or employee of Owner for any purpose, nor shall any employees or permitted subcontractors of Contractor. Contractor shall not represent itself as the agent of Owner unless owner has specifically permitted Contractor to do so in writing. The results achieved shall satisfy the requirements of this Agreement. Contractor shall be responsible for the performance of its employees and permitted subcontractors, and all personnel used by Contractor in the performance of Work shall be qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further agrees to provide written notification to all of its present and future employees of Contractor's provision for Worker's Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work herein covered or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall pay and shall be solely responsible for all tax withholding, Social Security, state unemployment and all other withholding as required by law Contractor's employees, agents or permitted subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNLESS CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule, the superseded Pricing Schedule shall remain in effect for Purchase Orders issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing of the house incorporating the Work from Owner to a purchaser. Contractor hereby agrees that timely invoicing is an important and material term to this agreement, and timely invoicing is a part of Contractor's performance of all material terms of this contract. Contractor hereby waives payment for any Work where Contractor fails to invoice Owner in a timely manner in conformity to this agreement. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR

Executed this 21st day of OCT, 2009

Owner:	Contractor:
By: <u>Danand P. Jeanfreau</u>	By: <u>Matt Walker</u>
Name: <u>ED JEANFREAU</u>	Name: <u>MATT WALKER</u>
Title: <u>PURCHASING</u>	Title: <u>PRJ. MGR</u>
Division President	

INITIALS: OWNER DP CONTRACTOR MW

ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO SUBCONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN AND THAT OWNER DOES NOT AGREE TO PAY TO SUBCONTRACTOR INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF DELAYED PAYMENTS.

4.2 Payment to Subcontractors. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed from Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties, and these joint payments shall satisfy amounts owed by Owner to Contractor, notwithstanding the fact that the third parties may not endorse the checks. In any instance where Owner receives written notice from one of Contractor's sub-contractors, whereby the subcontractor claims a failure to be paid for the Work, Owner reserves the right to pay the subcontractor directly or to make payment payable to both the Contractor and its subcontractor.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the Contract Price shall waive and release all claims against Owner and the property under this Agreement, but shall not waive any claims of Owner arising out of Work later found to be defective and shall not release Contractor from liability for warranties and warranty service and/or defective Work. Contractor shall remedy any defects and pay for any damage resulting from any defects in or caused by the Work or as required by any other contracts between Owner and Contractor or by law or customary practice. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or assigns is an acceptance of the Work or materials not in compliance with this Agreement.

5. SCHEDULE OF WORK.

5.1 Time is of the Essence. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work.

5.2 Construction Schedule. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.3 Commencement of the Work. Owner shall issue an authorization (either pursuant to a written purchase order, payment schedule, or work invoice ("Purchase Order") or verbal instructions from an authorized Owner representative) to commence the Work and Contractor shall not commence the Work at a job location until Contractor has received instructions to begin Work at a specific job location. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.4 Changes in Construction Schedule. Contractor agrees that Owner shall have the right to make changes to the schedule of Work at Owner's discretion and agrees to comply with such changes.

6. PERFORMANCE STANDARDS.

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner, in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FHA minimum property standards, VA requirements, all laws (statutory or common) and regulations, and any applicable building code requirements.

6.2 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized Owner's employee and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications as the plans and specifications affect the Work and materials incorporated in the Work, and that the plans and specifications are clear and unambiguous, and has accepted and agreed to be bound by all such requirements.

6.3 Government Requirements. Contractor will comply with all applicable federal, state, local, and county statutes, ordinances, regulations, codes, licensing requirements and standards, and the requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 as amended, as well as the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., or similar laws or regulations, and the rules, regulations, or orders of all public authorities relating to performance of the Work, including without limitation, the procurement and posting of all required permits and notices. In addition, Contractor will not discriminate in its hiring or employment and will follow all state and federal employment laws or regulations. Contractor shall perform background checks and use only appropriate employees to perform warranty or repair work after a house is occupied.

6.4 Indemnity. To the fullest extent allowed by law, Contractor will agree to indemnify, defend, and hold Owner harmless from all actions, claims, investigations or other acts to enforce such laws or regulations, and further agrees to indemnify Owner from the payment of any fine, penalty or damages imposed, levied, assessed, or found as a result of the Contractor's failure to comply with or adhere to the applicable laws and regulations, or from Contractor's failure to cause its employees or subcontractors to comply with such laws and regulations.

6.5 Observation and Testing by Owner and Repair by Contractor. Owner shall have the right to observe or test the Work at any time during or after construction, but that observation or testing is solely for the benefit of Owner's and is not for Contractor's benefit. Owner's failure to note defects in the Work during an inspection will not waive any of Contractor's obligations, representations or warranties related to the Work. Notwithstanding anything contained in this Agreement to the contrary, all Work shall be performed and any defects shall be corrected timely and in accordance with this Agreement to the satisfaction of Owner.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work, and shall report in writing to Owner any defects prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractor's work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses and approvals necessary for or applicable to the performance of the Work.

6.8 Change Orders. The Contractor shall furnish the materials for and to make all changes requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed;

INITIALS: OWNER  CONTRACTOR 

(iii) governing storage of materials on the job location, (iii) regulating trash pick-up and waste collection at the job location, and (iv) work site safety requirements

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste materials or rubbish caused by its operations and shall remove all of Contractor's materials, and if materials are furnished by Owner, Contractor shall move all usable materials provided by Owner to a location designated by Owner. Contractor shall sweep out any waste material from inside the home under construction upon completion of its operation. All refuse shall be placed in receptacles provided or at locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up activities and collect a one hundred dollar (\$100.00) fine from Contractor for each incident. The cost of such clean-up and the aforementioned fine shall be deducted from any sums owed by Owner to Contractor, or shall be immediately payable by Contractor upon demand therefore by Owner.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Owner reserves the right to set minimum standards or rules relating to Work on its site. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OWNERS MINIMUM REQUIREMENTS. THE OWNER ASSUMES NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe condition or practice observed on the Work Site. Further, Contractor shall immediately notify Owner of any accidents or injuries on the Work Site. Contractor shall have an ongoing safety program and conduct inspections to determine that safe working conditions and equipment exist and safe practices are observed. Contractor shall prohibit and prevent the presence of children under age eighteen (18) from the Work Site.

7.1 Safety Laws and Indemnity Agreement. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards, statutes, and industry best practices concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations. Contractor shall provide Owner with written verification of its compliance with all applicable safety and health standards and regulations, including but not limited to OSHA's Hazard Communication Standard for the Construction Industry, 29 C.F.R. §1926.59 et seq., and provide written notice to Owner of the contact person responsible for Contractor's compliance with all safety and health standards and regulations. To the fullest extent allowed by law, Contractor agrees to indemnify, defend, and hold Owner harmless from all actions prosecuted to enforce and the payment of any fine or penalty imposed under such safety laws and regulations and shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work.

7.2 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, permitted subcontractors or suppliers at a job location or performance of the Work by any person under the influence of alcohol or drugs.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate corporations, and successors and assigns, that all labor performed and materials furnished by Contractor shall conform to the specifications of this Agreement, shall be free from any defects or deficiencies in workmanship or materials, and will comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, will meet or exceed the FHA/VA minimum property standards, and will comply with the Residential Warranty Corporation ("RWC") Program and the applicable limited warranty standards, which Contractor has read and understands and to which Contractor agrees to be bound. All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects for purposes of Contractor's obligations under this Contract. Contractor shall make good and promptly repair all Work not complying with the standards set forth in this section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Paragraph 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, the initial homeowner of the property on that is the subject of the Work: (i) for a period of ten (10) years all structural elements, including, but not limited to, roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems, (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; (d) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (i) any statutory warranty or (ii) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner (a "Homeowners Warranty"). Contractor expressly agrees to be bound by any such Homeowners Warranty and to the extension of warranty period hereunder. Furthermore, notwithstanding the foregoing, Contractor agrees that all express and implied warranties shall remain in full force and effect for so long as Owner is obligated to warrant the Work pursuant to applicable law. Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Homeowners Warranty that is longer than the Warranty Periods stated above, provided, however, failure to give that notice will not affect the extension of the Warranty Period to the applicable warranty period under the Homeowner's Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty obligations, Contractor's indemnity obligations, or the ability of Owner to request Contractor to perform warranty services in the future.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish all warranties and/or guarantees by manufacturers on appliances and equipment, and shall furnish all certificates required by any municipality and/or VA and/or FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and are not in limitation of periods of applicable statutes of limitation.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Project is located.

9.3 Lien Claim Indemnity. If any liens are filed against Owner relating to portions of the Work for which Owner has paid Contractor, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien or affidavit to be removed.

INITIALS: OWNER  CONTRACTOR 

and released of record. Contractor agrees to **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any liens relating to portions of the Work for which Owner has paid Contractor, and further agrees at Owner's request to any or all of the following: (i) procure a bond to indemnify Owner and any home purchaser from Owner, in an amount sufficient to discharge that lien, or (ii) refund to Owner all monies, including any additional amount necessary to cover all of Owner's or home purchaser's attorneys' fees and court costs paid in discharging the lien, whichever remedy Owner elects in its sole and absolute discretion, or (iii) provide sworn testimony that payment has already been made to Contractor for the work for which the alleged lien applies.

10. CONTRACTOR'S INDEMNITY.

10.1 **GENERALLY.** TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY AGREES TO HOLD HARMLESS, INDEMNIFY, PROTECT AND DEFEND OWNER, ITS PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THE AFOREMENTIONED ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "INDEMNITEE"), FROM AND AGAINST ANY AND ALL DEMANDS, CLAIMS, ACTIONS, CAUSES OF ACTION, PROCEEDINGS, LAWSUITS, SETTLEMENTS, JUDGMENTS, FINES, PENALTIES, LOSSES, ATTORNEYS FEES, LITIGATION COSTS, INTEREST, AND EXPENSES OF ANY KIND (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "LOSSES") FOR DAMAGES FROM BODILY OR PERSONAL INJURY, DEATH, THE DESTRUCTION OR LOSS OF PROPERTY (INCLUDING LOSS OF USE), OR ANY OTHER KIND OF DAMAGES OR HARM, ARISING OUT OF, OR RESULTING FROM, OR RELATED IN ANY WAY TO THE WORK PERFORMED AND/OR THE MATERIALS SUPPLIED UNDER THIS CONTRACT, REGARDLESS OF WHETHER OR NOT CAUSED IN PART BY INDEMNITEE. SUCH LOSSES SPECIFICALLY INCLUDE, BUT ARE IN NO WAY LIMITED TO LOSSES ARISING OUT OF OR ATTRIBUTABLE TO: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS OR OBLIGATIONS OF CONTRACTOR SET FORTH HEREIN; (2) THE WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR, CONTRACTOR'S AGENTS OR EMPLOYEES, SUPPLIERS OR SUBCONTRACTORS AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, AND/OR ALL OTHER ENTITIES OVER WHOM THE CONTRACTOR MAY EXERCISE CONTROL (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "CONTRACTOR'S AGENTS"); (3) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF CONTRACTOR AND/OR CONTRACTOR'S AGENTS; OR (4) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE INDEMNITEE RELATED IN ANY WAY TO THE WORK. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE INDEMNITY FOR LOSSES CAUSED SOLELY BY FAULT OR NEGLIGENCE OF THE INDEMNITEE. THE LOSSES DESCRIBED HEREIN SHALL INCLUDE, BUT ARE NOT LIMITED TO, DEMANDS, CLAIMS, OR ACTIONS ASSERTED BY (1) ANY PRESENT OR FUTURE OWNER OF THE HOUSE INCORPORATING THE WORK; AND (2) ANY OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY CONTRACTOR AND/OR CONTRACTOR'S AGENTS). THE INDEMNIFICATION OBLIGATION UNDER THIS CONTRACT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. THE INDEMNITY PROVISIONS CONTAINED HEREIN ARE INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY LAW.

10.2 **INDEMNITY NOT EXCLUSIVE REMEDY.** ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ANY AND ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. IT IS THE EXPRESS INTENTION OF THE PARTIES THAT CONTRACTOR'S INDEMNITY OBLIGATIONS HEREIN WILL SURVIVE THE TERMINATION OF CONTRACTOR OR THIS AGREEMENT. INDEMNITEE SHALL HAVE THE RIGHT, AT ITS DISCRETION AND CHOOSING, TO DEFEND ANY AND ALL CLAIMS WHICH MAY BE ASSERTED AGAINST IT, AND CONTRACTOR AGREES TO REIMBURSE INDEMNITEE FOR ANY AND ALL EXPENDITURES WHICH INDEMNITEE MAY MAKE OR INCUR ON ACCOUNT OF ANY SUCH CLAIM.

10.3 **CONTRACTOR AND CONTRACTOR'S AGENTS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO:** (1) ANY LOSS OF SUCH TOOLS OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS OR EQUIPMENT.

10.4 **Subcontractor's and Supplier's Indemnity Obligations.** Contractor shall require each of its subcontractor to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required in this section and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms as Section 13. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the actions of any subcontractor engaged by Contractor, whether in written agreement or otherwise, or who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed to be the obligation of the subcontractors to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 **General Liability.** Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with completed operations coverage which contains a per occurrence limit of no less than one million dollars (\$1,000,000.00), and an aggregate limit of no less than two million dollars (\$2,000,000.00) protecting against liability for bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations, (ii) products and completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit), (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL Policy shall not contain a deductible or self insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering completed operations for any applicable statute of repose for commencing lawsuits associated with the Work.

11.2 **Other Insurance.** Contractor agrees to carry (i) Worker's Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Worker's Compensation obligations imposed by law, (ii) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than one million dollars (\$1,000,000.00) and an aggregate of no less than one million dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment, and (iii) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person (Bodily Injury) and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 **General Requirements Applicable to All Required Insurance.** Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both on-going operations and completed operations (equivalent to form CG20101185 or form CG2037). Coverage obtained by Contractor naming Owner as an Additional Insured shall be primary with any insurance of Owner being excess coverage. That insurance coverage will be carried continuously during the term of this Agreement and thereafter as required by this Agreement with insurance companies acceptable to Owner in its sole and absolute discretion. That insurance shall provide for a waiver of subrogation. All insurance shall be with

INITIALS: OWNER 6/11, CONTRACTOR M. al.

a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies. Each Certificate of Insurance or policy shall contain an unqualified clause to the effect that the policy shall (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days' prior written notice to Owner, (ii) be carried continuously from the date of commencement of the Work until expiration of the period of the Contractor's warranty provided in this Agreement, (iii) specifically identify Owner as an Additional Insured, and (iv) indicate that coverage applies in the state where the Work is being performed. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself and the Work required to be performed under this Agreement.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER IN ITS SOLE AND ABSOLUTE DISCRETION) IN EFFECT AT THE TIME WORK IS PERFORMED TO COMPENSATE OWNER FOR ANY ADDITIONAL COSTS OF ITS WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS CONTRACT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work to the extent permitted under this Agreement, Contractor guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an Additional Insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or another contractor's work is damaged by an act for which Contractor, or its employees, agents or subcontractors, are responsible, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct such Work, replace or repair any defective material, or repair any damage. Contractor shall make all repairs and correct such within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours notice on a non-emergency basis, or (ii) retain a third party or undertake to perform those duties, and retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld resulting in a deficiency, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and reasonable attorneys' fees, incurred by Owner, and shall pay to Owner this amount within thirty (30) days of demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Paragraph 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or permitted subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's actions or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement, Exhibit A of this Agreement, or the specifications; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order that is Contractor's obligation under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary tools, material, or equipment for, or cleaned up after, the Work; (viii) Contractor fails to comply with any other provision of this Agreement.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement and rights and remedies available under this Agreement shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. Owner shall have a right to collect from Contractor its reasonable attorneys' fees and expenses incurred in enforcing Contractor's obligations.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These Disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking equitable relief from and arbitrator or a court of appropriate jurisdiction.

13.3 Arbitration. If mediation fails, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq., regardless of any other choice of law provision in any underlying contract or this Agreement. All demands for arbitration shall be made before the expiration of the applicable statutes of limitations and repose. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in any court of competent jurisdiction.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrators mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes, is over \$200,000, but only one arbitrator shall be appointed if the Dispute is 200,000 or less. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of a mediator or arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint a mediator or arbitrator. The AAA's Code of Arbitrator Ethics (revised March 1, 2004) is applicable to all arbitrations.

INITIALS: OWNER , CONTRACTOR 

13.5 Rules. To the extent not in conflict with the Federal Arbitration Act, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner may join Contractor in any litigation, mediation, or arbitration initiated against Owner by a third person so that the rights of all parties (Owner, Contractor, Subcontractor, or any third person) shall be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner where necessary to facilitate resolution in a single forum. If multiple lawsuits or arbitrations are commenced, they shall all be consolidated into a single proceeding. Notwithstanding any other provision of this section, if a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect to unilaterally waive mediation or arbitration and litigate the Dispute with Contractor.

14. TERMINATION.

14.1 Termination by Owner for Cause or Convenience. This Agreement shall remain in full force and effect until terminated in writing by mailing notice to the other Party. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) Days' written notice before the effective date of termination, and shall perform fully under this Agreement during that notice period. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.3 Survival. All obligations, duties and warranties for Work performed under this Agreement shall survive termination.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms, (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority, (v) Contractor has, and each Contractor's employees, agents or permitted subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement, (vi) Contractor is in compliance with all governmental requirements to which it is subject, and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement, and with respect to prices and quantities only, the Price Schedule and all written Purchase Orders shall be the entire agreement between Owner and Contractor related to the Work, and there are no other agreements, oral or written, made by or relied upon by Owner and Contractor. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended or supplemented except in writing signed by both Owner and Contractor.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights and obligations are not assignable or transferable without the express written consent of Owner, who may consent can be withheld in Owner's sole and absolute discretion. Subject to the restrictions and prohibitions on assignment set forth in this section, the terms of the Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Contractor shall provide and transfer ownership to any and all samples and/or shop drawings requested by Owner.

18. NOTICES. All notices required pursuant to this Agreement or otherwise shall be in writing and shall be delivered to the respective business address of Owner and Contractor. However, Contractor's business address shall be as noted on page one (1) of this Agreement. Notices shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by overnight delivery service, and upon confirmation if sent by facsimile transmission.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or articles.

SOUTH CAROLINA REVISED 7/23/2007

INITIALS: OWNER BA, CONTRACTOR ML

PERFORMANCE REQUIREMENTS AND SPECIFICATIONS
"Exhibit A"

DESCRIPTION: HVAC

PERFORMANCE REQUIREMENTS

Contractor will warrant the installation of each installed HVAC unit. Contractor agrees to provide all labor, material, hand tools, equipment (including safety equipment), supervision, supplies and other incidentals necessary to install the heating, ventilating and air conditioning (HVAC) work and perform all such work in accordance with the house plans, specifications addenda and other documents that make up the contract documents.

All work shall meet or exceed the requirements of the D.R. Horton Protection Plan and all applicable building codes.

Hard hats and appropriate safety equipment are to be worn at all times while on D.R. Horton's property. The contractor shall ensure that each crew leader has attended the appropriate OSHA approved "Competent Person" training course.

NON-PERFORMANCE REMEDY

Contractor is also responsible for all inspections and work must conform to all city, county, and state code requirements per area. Contractor is responsible for all costs associated with failed inspections.

SPECIFICATIONS AND SCOPE OF WORK

Work shall comply with, or exceed the most restrictive requirements of this specification or the latest adopted standards of the following publications, which form a part of this specification: (LCO, ASHRAE, ANSI, ASME, NBS, NEC, NFPA, SMC, SMACNA, ARI, SGC, IRC, CABO, and OSHA)

The HVAC Trade partner shall use the design standards described in the most current edition of Manual J and D.R. Horton "u" value calculations for walls, ceilings and floors.

The basic system should be bid including all labor and materials necessary to install a complete job. A system shall be identified by its total BTUH cooling capacity by designating indoor coil and outdoor coil tonnage. The system shall include:

1. Attic installation of a vertical flow furnace
2. Zoned system with all two-story plans. One zone and thermostat for each floor. (minimum)
3. Dampers as needed or at builder's direction
4. Attic run duct work (no risers)
5. 50' or less of line set (copper run)
6. Maximum of five (5) line terminations
7. Master and Hall bath exhaust fan with vent to outside (supplied and wired by others)
8. Powder room exhaust fan/light with vent to outside (supplied and wired by others)
9. Run Type "A" gas vents for furnace and water heater through chase and attic terminating with approved storm collar and cap. Type "C" single wall vent can be used from furnace to water heater "T" if applicable
10. Dryer vent to be 4" Type "C" with approved 4" vent cap.
11. Condensation drain piping and traps
12. Low-voltage wiring needed to operate the system
13. Gas venting, vent pipe, caps, transitions for both heating systems and water tank
14. Pressure testing of gas lines
15. A minimum of one return per floor (return size per code)
16. A return in all master bedrooms. All returns will be carefully checked to assure all trash has been removed prior to installation.
17. Mount thermostat 5' above finished floor per plan location. Mount the 2nd thermostat in the master bedroom

1. Coordinate the location and installation of ducts, freon and condensation lines with other trades and D.R. Horton to ensure a free and unencumbered area for the runs.
2. Coordinate with the drywall trade contractor to insure that all return air plenums are properly and completely sealed and free of air loss.

Revised 7/27/2004

Page 1 of 1

Initials

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3. Start up, test and balance entire system as well as check for leaks. **(Including all gas hook ups and gas range.)**
4. Clean up all materials resulting from the work and remove from the site or place in on-site disposal container. (If available).
5. Install specified range and cook-top exhaust and bath venting.
6. Cut, Core and patch as required to complete work, holding responsibility for finished workmanship on any and all modification to structure during install.
7. 4" wide nail protector (HVAC Strap) to be used at all top plate penetrations and trim nails @ weinscoat.

Under no circumstances shall a truss member be cut or altered. Truss systems incompatible with ductwork shall be brought to the attention of DR Horton and shall be replaced or modified per truss manufacturer's specifications. All gas pipes shall be installed and tested in accordance with the Standard Gas Code. Penetration for main gas service line shall be set 6" above finish floor.

Contractor must clean up any trash and waste and place in designated trash receptacle. House is to broom swept clean daily. Contractor agrees to comply with all applicable building codes, ordinances and OSHA regulations.

ACKNOWLEDGMENT

These specifications are a part of the contract identified above. D.R. Horton, inc. reserves the right to modify or amend any of the above general specifications at any time, and will notify the contractor as soon as any change is initiated.

Contractor:

CARYL MECHANIS II

By: [Signature]

Date: Jan 14, 2010

Builder

D.R. Horton, Inc.

By: Edmond B. Jeanfrean Jr

Date: 1/20/10

U-HURION
America's Builder

SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR Five Star Foundation LLC ("Contractor")
 Sole Proprietorship ☐ Partnership ☐ Corporation ☒ L.L.C ☐ Other (ATTACH W-9)
 Social Security No. or Tax ID No.: 58-2445381
 Name of Owner(s)/Officer(s): Brian Forcier
 Division Name: GVL Area Name: 709 Assigned Vendor No.: 1518749
 Address for All Notices: PO Box 2739
 City: Greer State: SC Zip Code: 29652
 Telephone: (844) 877-3265; Fax: (844) 877-4932; E-Mail Address: FiveStarFoundation@hotmail.com
 Insurance Certificates: ATTACH OR THERE WILL AUTOMATICALLY BE REDUCTION IN PAYMENT TO CONTRACTOR.

This agreement (the "Agreement") is entered between DE Horton Inc ("Owner") and Contractor.

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all work performed and materials supplied by Contractor, directly or indirectly, to Owner, including but not limited to the labor, services and/or materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing shall not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders (defined herein) issued after any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO CONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN. CONTRACTOR AGREES THAT OWNER DOES, AND WILL, NOT OWE INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF ANY DELAYED PAYMENT.

THIS AGREEMENT CONSISTS OF EIGHT (8) PAGES.

Executed this 19 day of March, 2021.

Owner:
 DocuSigned by:
 By: Jason Powell
 Name: Jason Powell
 Title: Division President

Contractor:
 By: BC
 Name: Brian Forcier
 Title: Owner

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er than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. All of Contractor's invoices shall be dated upon initial submittal. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed, accepted Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, and Contractor provides invoices for progress payments, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

4.2 Contractor Payments. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, Corrective Services (defined hereinafter), or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

4.4 PAYMENT DISPUTE. CONTRACTOR AGREES NOT TO MAKE ANY CLAIM, OR BRING ANY ACTION (INCLUDING BUT NOT LIMITED TO A LAWSUIT OR ARBITRATION), AGAINST OWNER FOR UNPAID WORK MORE THAN TWO (2) YEARS AFTER THE DATE OF A TIMELY SUBMITTED INVOICE OR REQUEST FOR PAYMENT FOR SUCH WORK. ANY CLAIM OR ACTION FOR THESE DAMAGES NOT BROUGHT WITHIN THIS TIME PERIOD SHALL BE BARRED AND WAIVED, WITHOUT REGARD TO ANY OTHER LIMITATIONS PERIOD SET FORTH BY LAW OR STATUTE.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work and obligations under this Agreement. At all times during the progress of the Work, Contractor shall employ enough skilled workmen, and have on hand and maintain an adequate supply of materials and equipment, to complete the Work in accordance with Owner's construction schedule. Contractor agrees to keep itself continuously informed of the progress of the Project to coordinate with Owner all Work scheduled, and to cooperate with other contractors, architects, and engineers performing work on the Project. Owner, at its sole, absolute discretion, may alter the time, order, and priority for performance of all components of the Work without increase in price from or liability of any kind to Contractor or others. Contractor shall comply with such changes.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("**Purchase Order**"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Contractor shall immediately notify Owner in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractor's Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "**Requirements**"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, **INDEMNIFY, DEFEND, and HOLD HARMLESS** Owner from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of

INITIALS: OWNER JP, CONTRACTOR RF

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kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform Corrective Services after a house is occupied.

6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("**Inspector**") shall have the right, but not the obligation, to observe, inspect or test the Work at any time, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("**Change Order**") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including but not limited to, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site (defined below) safety requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not limited to trash, unused building materials, garbage, refuse or rubbish ("**Waste**"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon Owner's demand and may be deducted from any sums owed Contractor.

6.11 Stormwater Management.

6.11.1. Program Participation; Orientation Acknowledgment Receipt. Contractor, by signing this Agreement, acknowledges receipt of Owner's stormwater management program. Contractor agrees to keep itself fully informed, participate in, and comply with Owner's stormwater management program and agrees to provide program documents and training to Contractor's employees and subcontractors. Contractor agrees to hand deliver Owner's stormwater management program materials, when provided by Owner, to Contractor's employees and subcontractors (of every tier) who perform work in or deliver material or supplies to a Work Site. Owner may reasonably modify the stormwater management program and its requirements for future performance of the Work at any time in its sole discretion, and Contractor, its employees, and its subcontractors of every tier will comply with those modifications when provided. Upon Owner's request, Contractor shall provide a separate, signed acknowledgement and agreement that it shall comply with the Owner's stormwater management program and distribute Owner's stormwater management program materials as required.

6.11.2 NPDES and SWPPP Compliance. Without limiting the foregoing Subsections 6.4 and 6.11.1, Contractor represents, warrants and covenants that: (a) prior to performing any Work at a Work Site, Contractor will review and ensure that it understands the federal National Pollutant Discharge Elimination System ("**NPDES**") construction general permit ("**CGP**"), the stormwater construction general permit issued by the authorized state, and construction stormwater requirements of local government bodies applicable to the Work Site or Project (collectively the "**Applicable Permits**"), and the Work Site-specific Storm Water Pollution Prevention Plan and/or plan required by the Applicable Permits ("**SWPPP**"); and, (b) Contractor will comply with the terms, conditions and limitations of each such Applicable Permit and SWPPP, to the extent applicable to the Work. Upon Owner's request, Contractor shall provide a separate, signed acknowledgement and agreement that it shall comply with the Applicable Permits and SWPPP.

6.11.3 Program and Compliance Enforcement. In addition to any remedy for non-compliance within Owner's stormwater management program and any such other Owner deems reasonable given the circumstances in Owner's sole discretion, if Owner reasonably determines that Contractor has failed to comply with this Subsection 6.11, Owner may assess a daily fine against Contractor in such amount as Owner reasonably determines based upon the non-compliance, until Contractor has cured the non-compliant condition or practice. The amounts assessed under this Subsection 6.11.3 shall be deducted from any sums owed to Contractor or shall be immediately payable by Contractor upon demand. Nothing within this Subsection 6.11 shall: (y) relieve or absolve Contractor from its Indemnification Obligations, defined below; or, (z) limit potential consequences for failure(s) to comply with the Applicable Permits, SWPPP, or Owner's stormwater management program.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "**Work Site**"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe

INITIALS: OWNER JP, CONTRACTOR EF

DocuSign Envelope ID: 7C066C7F-895D-43E4-9338-02097CAD79F : observed. Contractor shall have a competent person on the Work Site at all times in charge of Contractor's safety program. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition or practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Law"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD HARMLESS Owner from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §3926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, nor allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substance" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

8. CONTRACTOR'S WARRANTIES.

8.1 Defective Work. For the longer of ten (10) years or the period of any applicable statute of limitation or repose, Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work performed and provided shall conform to this Agreement (including but not limited to the standards referenced in Subsection 6.1) and shall be free from any defects or deficiencies in workmanship or materials. All Work not conforming to these requirements shall be considered defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects.

8.2 Homeowners Warranty. In addition to Contractor's warranties under Subsection 8.1 above, Contractor acknowledges that Owner provides its residential customers a warranty program, which consists of a limited one-year warranty from Owner, its parent company or one of its subsidiaries or affiliates, and a ten-year limited warranty from the Residential Warranty Company, LLC ("Homeowners Warranty"). Contractor agrees to be bound to Owner as Owner is bound to its customer under the Homeowners Warranty with regard to the warranties, standards, and obligations related to Contractor's Work covered by the warranty program. Contractor acknowledges that it has been provided a copy of the Homeowners Warranty, it has read and understands it, and it may be provided another copy at any time upon request.

8.3 Corrective Period. If the Work is determined by Owner to be defective or in breach of any warranty, including but not limited to the Homeowners Warranty, Contractor shall promptly correct, repair, or replace the defective Work promptly at Contractor's expense after Owner notifies Contractor of the defect and requests corrective work ("Corrective Services"). Corrective Services may be requested at any time after transfer of title from Owner to any initial home purchaser (or owners association) of the property subject to, benefiting from, or improved by the Work through the following periods: (i) for a period of ten (10) years for all structural elements of housing unit included in the Work, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilation/air conditioning components, including but not limited to units, condensers, duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing, pipes (supply and waste), and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, boxes, panels, plates, breakers, and connections up to the public utility connections; and (iii) all other elements of the Work not previously described for a period of one (1) year (the "Corrective Period"). Notwithstanding the foregoing, the Correction Period shall be expanded, but in no way limited, by any statutory warranty applicable to the Work. Owner will endeavor to notify Contractor of any such extension or expansion of the Corrective Period by way of a statutory warranty; however, failure to give such notice will not affect the extension or expansion of the warranty period to the applicable warranty period under the Homeowners Warranty. In the event Contractor's defective Work has damaged other work, or other work must be damaged or removed to correct Contractor's defective Work, Contractor shall bear the cost of correcting, replacing, or repairing such other work. The performance or fulfillment of any Corrective Services by Owner or any other third party will not affect, minimize, waive, or in any way obviate Contractor's liability or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform any Corrective Services thereafter. If Corrective Services are required in or will substantially affect any portion of the property in use by a residential occupier of the home, Contractor will endeavor to coordinate any Corrective Services with the owner and/or occupier as appropriate, and Owner will cooperate in this coordination, if necessary. This Corrective Period is not a limitation or shortening of any statute of limitations or repose, and is not related to or a limitation on when proceedings may be commenced to enforce any of Contractor's obligations under this Agreement.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product

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DocuSign Envelope ID: 7C066C7F-895D-43E4-9338-02097CAD79F s of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including, but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER, OWNER'S PROPERTY, OR ANY OTHER PROPERTY RELATED TO THE WORK.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the lesser of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of this State.

9.3 Lien Claim Indemnity. If any liens, affidavits of claim, stop payment notices, or lis pendens arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such liens, affidavits of claim, stop payment notices, or lis pendens to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD HARMLESS Owner from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any such liens, affidavits of claim, stop payment notices, or lis pendens, and further agrees immediately upon Owner's request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge any and all liens, affidavits of claim, stop payment notices, or lis pendens, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any of its customers in discharging the liens, affidavits of claim, stop payment notices, or lis pendens, within fifteen (15) days of written request by Owner demanding same, whichever remedy Owner elects in its sole and absolute discretion. This Subsection shall be in addition to any rights Owner has under applicable law with respect to such liens, affidavits of claim, stop payment notices, or lis pendens.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF, REASONABLE SETTLEMENT AMOUNTS, ATTORNEYS' FEES AND INTEREST), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (a) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (b) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO SERVICES PERFORMED OR MATERIALS SUPPLIED (OR TO BE PERFORMED OR SUPPLIED) BY CONTRACTOR OR ITS AGENTS, SUPPLIERS OR SUBCONTRACTORS OF ANY TIER; (c) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF CONTRACTOR OR ANY OF ITS EMPLOYEES, AGENTS, SUPPLIERS OR SUBCONTRACTORS OF ANY TIER RELATED IN ANY WAY TO THE WORK OR THIS AGREEMENT, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR, (d) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION, OR ANY STRICT LIABILITY, OF INDEMNITEE RELATED IN ANY WAY TO THE WORK, EXCEPTING ONLY LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY, WITH ALL DOUBTS RESOLVED IN FAVOR OF TRIGGERING CONTRACTOR'S DUTY TO DEFEND. THE DEFENSE DUTY IS TRIGGERED BY ALLEGATIONS IN A LAWSUIT OR OTHER SIMILAR ACTION, REGARDLESS OF WHETHER THEY ARE GROUNDLESS, FALSE OR FRAUDULENT, OR ALTERNATIVELY BY ANY FACTS (EXTRINSIC TO THE ALLEGATIONS) NOT PLED, OR NOT PLED WITH SPECIFICITY, BY THE CLAIMANT. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY CONTRACTOR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO INDEMNIFY INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

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REES THAT ITS OBLIGATIONS UNDER THIS SECTION 10 SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION. ANY PAYMENTS BY CONTRACTOR UNDER THIS SECTION TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM. INDEMNITEE IS AN INTENDED THIRD PARTY BENEFICIARY OF THIS AGREEMENT.

10.3 NO BAILMENT. CONTRACTOR AND ITS EMPLOYEES, PERSONNEL, AGENTS, SUPPLIERS, AND SUBCONTRACTORS, OF ANY TIER, AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST INDEMNITEE WITH RESPECT TO ANY LOSS OF, OR DAMAGE TO, SUCH TOOLS, MATERIALS, OR EQUIPMENT.

10.4 Subcontractors Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the fullest extent permitted by law, Contractor shall require that each subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Requirements Applicable to All Required Insurance. Prior to commencing any Work under this Agreement, and until expiration of the periods set out below, Contractor shall maintain at its expense such insurance as will protect Contractor and Owner from claims and liabilities that may arise out of Contractor's operations under this Agreement, whether such operations are performed by Contractor or its subcontractors or suppliers, or any other person involved in performing Contractor's obligations under this Agreement. To the fullest extent permitted by law, all policies of insurance provided and maintained by Contractor pursuant to the Agreement shall provide for a waiver of subrogation in favor of Owner, D.R. Horton, Inc., all affiliates and subsidiaries of D.R. Horton, Inc., and their respective affiliates, officers, directors, and employees (collectively "Horton") for damages to the extent covered by such policies. All policies provided and maintained pursuant to this Agreement shall indicate that coverage applies in the state where the Work is being performed; and are written by an insurer licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor determines to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement. In the event that Contractor obtains insurance coverage that is broader than the minimums required by this Agreement, this Agreement shall be deemed to require the broader coverage, including but not limited to any greater limits and any excess or umbrella coverages. Coverage obtained by Contractor with Horton as an additional insured shall be primary and non-contributory, with any insurance of Horton being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work. Contractor shall immediately notify Owner in writing of any incident, occurrence, injury, or damages related in any way to the Work which may give rise to any claim or loss under any of the insurance coverages required by this Section 11. Horton is an intended third party beneficiary of this Agreement. In the event this Agreement is assigned to a third party not included within the definition of 'Horton', Contractor shall, from the date of the assignment, add the assignee as an insured as if it were originally included within the definition of 'Horton'; in addition, Contractor shall continue to maintain Horton as an insured, as required by the Agreement, after the assignment.

11.2 Commercial General Liability. Contractor shall maintain Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with a minimum per occurrence limit of no less than One Million Dollars (\$1,000,000), and a minimum aggregate limit of no less than Two Million Dollars (\$2,000,000). The CGL Policy shall apply separately to Contractor's Work under this Agreement, and shall protect against bodily injury, property damage, and personal injury claims arising from the exposures of: premises-operations; products-completed operations, including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); independent subcontractors; contractual liability covering the indemnity obligations set forth in this Agreement; and where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type, nature, or volume of the Work or limit the type of structure or number of units on which the Work is to be performed. The CGL Policy shall not contain a deductible or self-insured retention of more than Twenty Five Thousand Dollars (\$25,000), and shall allow the satisfaction of any and all deductible or self-insured retention through payments made by any third party, including but not limited to Owner or any additional insured, co-insureds, co-insurers, or insureds other than the primary or first named insured. Contractor shall continuously maintain its CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work. To the fullest extent permitted by law, Contractor shall add Horton as Additional Insureds, specifically identifying Horton, on the CGL Policy covering both ongoing operations and completed operations using endorsement form CG 20 10 11 85 or, if unavailable, both forms CG 20 10 10 01 and CG 20 37 10 01, or endorsement forms providing equivalent coverage.

11.3 Workers Compensation and Employers Liability Insurance. Contractor shall maintain Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law and Employer's Liability Insurance in an amount not

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DocuSign Envelope ID: 7C066C7F-895D-43E4-9338-02097CADC79F it for bodily injury, One Million Dollars (\$1,000,000) for bodily injury by disease, and One Million Dollars (\$1,000,000) for each employee for bodily injury by disease. The Workers Compensation and Employers Liability Policy shall not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner.

11.4 Business Automobile Insurance. Contractor shall maintain Business Automobile Liability Insurance coverage with limits of not less than One Million Dollars (\$1,000,000) per accident, specifying "all autos" coverage or "all owned, leased, hired or non-owned autos." The Business Automobile Liability Policy shall not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner. Owner shall be included as an Additional insured on the Business Automobile Liability Policy.

11.5 Professional Liability Insurance. If Contractor's Work includes design or engineering services, Contractor shall maintain Contractor's Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000) and an aggregate of no less than One Million Dollars (\$1,000,000) protecting against faulty design and faulty professional judgment. The policy obtained to satisfy this requirement not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner.

11.6 Proof of Insured Status. Prior to commencing the Work, Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance signed by a duly authorized representative of the insurers and showing compliance with the insurance requirements set out above, including endorsements adding Horton as Additional Insured and waivers of subrogation. Alternatively, Owner reserves the right to request portions of policies (including but not limited to declarations pages and endorsements) or certified copies of the required policies. Contractor shall not be relieved of any indemnification obligation under this Agreement, including, but not limited to, those undertaken in Section 10 of this Agreement, by securing insurance coverage in accordance with Owner's insurance requirements or by Owner's approval of certificates of insurance or policies. Any acceptance of insurance coverage by Owner shall not be construed as accepting in any way deficiencies in the insurance.

11.7 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR CONTRACTOR AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.8 Subcontractor Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Horton as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors to provide to Owner evidence of satisfactory insurance in accordance with this Agreement.

11.9 Subrogation. To the fullest extent permitted by law, Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any Indemnitee, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If, at any time prior to the beginning of the Corrective Period, Owners determines, in its sole, absolute discretion, that the Work is defective or incomplete, or if another contractor's work, or other property, is damaged by an act or omission of Contractor, or its employee, agent, supplier, or subcontractor, of any tier, or their respective employee or agent, Owner shall have the right to elect, at its sole, absolute discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs to complete, repair, or replace, plus any related costs or damage including re-inspection fees, with any excess to be paid to Contractor. If such costs exceed the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (a) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (b) claims or liens are filed against the job location as a result of Contractor's acts or omissions; (c) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (d) Contractor fails to perform, or to pay the costs and expenses of Corrective Services incurred by Owner, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (e) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (f) Contractor

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Owner or Contractor related directly or indirectly to the Work; (g) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or, (h) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may offset from amounts owing to Contractor hereunder any amounts owing by Contractor to Horton under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other rights or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("**Disputes**") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described herein to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not mediate before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("**FAA**"). **IN MAKING THIS AGREEMENT, THE PARTIES ARE WAIVING THEIR RIGHTS TO FILE A LAWSUIT, TO HAVE A JURY RESOLVE ANY DISPUTE BETWEEN THEM, AND TO APPEAL THE DECISION OF THE ARBITRATOR TO A COURT OF LAW.** All demands for arbitration shall be made before the expiration of the applicable statutes of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified, or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for One Million Dollars (\$1,000,000) or more, but only one arbitrator shall be appointed if the Dispute is for less than One Million Dollars (\$1,000,000). If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("**AAA**") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by mailing notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

INITIALS: OWNER DS, CONTRACTOR BF

DocuSign Envelope ID: 7C068C7F-895D-43E4-9338-02097CAD79F : represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligations of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and each Contractor's employees, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement; (vi) Contractor is in compliance with all governmental requirements to which it is subject; and, (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior Independent Contractor Agreements (other than any Master National Independent Contractor Agreement) for this State or other prior understandings or written or oral agreements regarding Work in this State, specifically including but not limited to all prior pre-printed standard contractor/subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement for this State is executed, shall alter the terms set forth in this Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement is executed. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by law, the Master National Independent Contractor Agreement shall control.

16.2 Final Expression of Terms for Materials. The terms of this Agreement and the applicable Purchase Order or other ordering document from Owner constitute the final written expression of all the terms for each purchase of materials within the Work, and are a complete and exclusive statement of those terms. Owner accepts no changes in or additions to the provisions of this Agreement unless in writing, signed by Owner's duly authorized representative and such amendment conspicuously states it amends this Agreement, with a specific reference to this Agreement by title and date executed. Notwithstanding the foregoing, no signature upon any Contractor form or invoice shall constitute Owner's acceptance of or consent to any terms or conditions therein that differ from or add to the terms and conditions of this Agreement.

16.3 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.4 Assignability. Contractor's rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, but is not limited to, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner to any assignment or delegation of duties by Contractor, including but not limited to any work by a subcontractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on and inure to the benefit of Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.5 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.6 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.7 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina, and is applicable to Work for all construction projects in this State. In the event Contractor performs any work for Owner, or its parent company, affiliate or subsidiary, for a project in another State, and Contractor has not executed a written Independent Contractor Agreement for that State or a project specific agreement related to that work, Contractor hereby agrees that such work shall be governed by the terms and conditions of the form Independent Contractor Agreement of Owner (in use at the time of execution of this Agreement) for that State, which shall be deemed effective on the day this Agreement is executed. Upon request, Owner will provide Contractor with applicable Independent Contractor Agreements.

17. CONFIDENTIALITY, DATA PRIVACY, AND DATA SECURITY.

17.1 Confidentiality. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner, including Personal Information, defined below, as confidential and proprietary information of Owner ("Confidential Information"), and, except as permitted by this Section, shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, except as permitted by

INITIALS: OWNER JP, CONTRACTOR BF

17.2 Data Privacy. To the extent Contractor receives or generates personal information (including, but not limited to, name and contact information) regarding individuals including, but not limited to, Owner's homebuyers, in the course of performing the Work ("**Personal Information**"), Contractor shall comply with all laws applicable to collection, processing, protection and destruction of Personal Information ("**Applicable Data Protection Legislation**"), including state data breach laws. Contractor agrees that it is a "service provider," or similar classification, under Applicable Data Protection Legislation. Contractor will not access, sell, use, disclose, reproduce or retain such Personal Information for purposes other than performance of the Work under the Agreement or to comply with applicable law. Contractor certifies, it understands and will comply with, the foregoing restrictions, and will ensure that third-parties to which it discloses Personal Information, if any, are likewise restricted pursuant to a written contract. Furthermore, Contractor shall comply with Owner's directions as to Personal Information, as may be necessary to comply with applicable law including, but not limited to:

17.2.1 Deletion of Personal Information. Upon written request from Owner regarding the Personal Information of an individual who has requested its deletion, Contractor will promptly, but in all cases within twenty (20) days of the request, delete the Personal Information in its possession or control and certify in writing to Owner that it has complied with the request. If Contractor is required or permitted to maintain such individual's Personal Information under applicable law, Contractor will not be required to comply with the deletion requirements of this Subsection as to such Personal Information and will instead provide, within twenty (20) days of the request, a written statement to Owner that identifies the reason for the non-deletion.

17.2.2 Access to Personal Information. Within twenty (20) days of a request by Owner, Contractor shall reasonably cooperate with Owner to identify and provide to Owner the specific pieces of Personal Information regarding an individual who has requested access to their Personal Information.

17.2.3 Correction of Personal Information. Within twenty (20) days of a request by Owner, Contractor shall reasonably cooperate with Owner to correct Personal Information regarding an individual who has requested correction to their Personal Information.

17.2.4 Individual Requests Received Directly by Contractor. If Contractor receives a request to delete, access, or correct Personal Information directly from an individual, Contractor will promptly, but in all cases within ten (10) days of receipt of the request, inform Owner of the request and, after consultation with Owner, instruct the individual to contact Owner directly.

17.3 Data Security. In compliance with applicable law and generally accepted industry practices, Contractor will implement and maintain organizational, administrative, physical, and technical safeguards ("**Safeguards**") to ensure the confidentiality and security of Confidential Information, including Personal Information, and to protect against any threats, hazards, and unauthorized, unlawful or accidental access, damage, destruction, loss, disclosure, processing, acquisition or use of Personal Information. These Safeguards will include, without limitation: (a) generally accepted industry practices for physical security of all premises; (b) generally accepted industry practices for precautions with respect to the employment, or hiring, of Contractor's personnel and third party service providers; (c) generally accepted industry practices for precautions with respect to access by Contractor's personnel and third party service providers; (d) an appropriate network security program with generally accepted industry practices for access and data integrity controls, testing and auditing of all controls, and appropriate corrective action and incident response plans; and (e) generally accepted industry practices for virus and malware protection. As part of such Safeguards, Contractor will only store and access Personal Information in the United States. Furthermore, within twenty (20) days of the expiration or termination of the Agreement or the request of Owner, Contractor will destroy all, or a requested portion, of Personal Information, all copies, reproductions, summaries or extracts thereof and all evaluations and analyses created by Contractor based on or derived from any Personal Information that are in Contractor's possession, and Contractor shall not retain copies, extracts or other reproductions of the Personal Information; provided, however, that, absent a request by Owner to delete specific Personal Information for which no legal basis exists for Contractor to retain such Personal Information, Contractor: (a) may retain one copy of the Personal Information with its legal counsel for use in connection with the obligations of Contractor hereunder; (b) shall not be required to destroy or return any system back-up media such as copies of any computer records or files containing Personal Information that have been created pursuant to automatic archiving or back-up procedures on secured central storage servers, which cannot reasonably be deleted or returned; and (c) may retain such copies as necessary for compliance with applicable law.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its sections or subsections.

SOUTH CAROLINA VERSION (REV. AUGUST 26, 2020)

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INITIALS: OWNER DS JP CONTRACTOR BF

D-R HORTON
America's Builder

NORTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR General Shale Brick Inc. ("Contractor")
Sole Proprietorship ☐ Partnership ☒ Corporation ☐ L.L.C. ☐ Other (ATTACH W-9)
Social Security No. or Tax ID No.: 26-0454569
Name of Owner(s)/Officer(s): D. TODD LAWSON (District Sales Manager)
Division Name: Greensboro Area Name: DEVELOP Assigned Vendor Number: _____
Address for All Notices: 114 Landmark Drive
City: Greensboro State: NC Zip Code: 27409
Telephone: (336) 662-0882 Fax: (336) 662-9423 E-Mail Address: TODD.LAWSON@GeneralShale.com
Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.

This agreement (the "Agreement") is entered into on this 10th day of April, 2006, between General Shale Brick Inc. (hereinafter "Owner") and Contractor.

1. SCOPE OF WORK. All work performed by Contractor for Owner shall be subject to the terms and conditions of this Agreement. The work to be performed hereunder (the "Work") is the labor, services and/or materials, equipment, transportation, or facilities necessary to complete the construction related activities generally described in Exhibit A, and shall include all work performed by Contractor for Owner. The applicable quantities and pricing for the Work shall be that reflected in the price sheet, proposal, bid, purchase order, or other documentation most recently accepted and approved by Owner (the "Pricing Schedule"). It is understood and agreed that no Pricing Schedule will modify any of the terms of this Agreement. It is understood and agreed that Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to or in place of Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the right to control the manner, method and performance of the Work, so long as the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible for the performance of its employees and permitted subcontractors, and all personnel used by Contractor in the performance of Work shall be qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further agrees to provide written notification to all of its present and future employees of Contractor's provision for Worker's Compensation insurance.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor acknowledges that this is a lump sum contract and that Contractor shall pay and shall be solely responsible for all withholding, Social Security, State unemployment and all other similar taxes for Contractor's employees, agents or permitted subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work. Taxes will not be collected or paid by Contractor under this Agreement.

3.3 Price Increases. CONTRACTOR FURTHER AGREES THAT NO PRICE INCREASE SHALL BE BINDING UPON OWNER BEFORE CONTRACTOR GIVES OWNER (120) DAYS' WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule, the superceded Pricing Schedule shall remain in effect for Purchase Orders issued after the date of any new Pricing Schedule until the expiration of the notice period unless other prior written notice was given to Owner by Contractor.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of Ninety (90) days after completion of the Work or Thirty (30) days from the date of closing of the house incorporating the Work from Owner to a purchaser. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage. Contractor acknowledges and agrees that all Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order.

4.2 Payment to Subcontractors. Contractor acknowledges and agrees that no payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, if applicable) for such Work has been submitted to Owner for payment, which action shall constitute a representation and confirmation that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. As a condition to payment, Owner may require a full and complete release of all liens for materials furnished and labor performed from Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Owner may, at any time, in its discretion, make checks payable to Contractor and one or more third parties. Such payment shall be deemed satisfaction of amounts owed by Owner to Contractor, notwithstanding the fact that such third parties may not endorse said checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the Contract Price shall constitute a waiver of all claims against Owner under this Agreement, but shall not be construed as a waiver by Owner as to Work later found to be defective and shall not release Contractor from liability for warranties and warranty service and/or defective Work. Contractor shall remedy any defects and pay for any damage resulting from any such defects in or cause by the Work as set forth herein or as required by any other contracts between the parties or by law or customary practice. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or assigns constitute an acceptance of the Work or materials not in compliance with this Agreement.

THIS AGREEMENT CONSISTS OF FIVE (5) PAGES WITHOUT ADDENDA

Executed this 5th day of JUNE, 2006.

Owner:
By: [Signature]
Name: STANLEY LAWSON
Title: Division President

Contractor:
By: [Signature]
Name: D. TODD LAWSON
Title: District Sales Manager

INITIALS: Owner: [Signature] Contractor: [Signature]

5. SCHEDULE OF WORK.

5.1 Time is of the Essence. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work.

5.2 Construction Schedule. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.3 Commencement of the Work. Owner shall issue authorization (either pursuant to a written purchase order, payment schedule, or work invoice (hereinafter the "Purchase Order") or verbal instructions from an authorized Owner representative to commence the Work, and Contractor shall not commence the Work at a job location until Contractor has received instructions to begin Work at a specific job location. Contractor shall commence the Work within three (3) days of notice to proceed from Owner, and if such work is interrupted at the direction of Owner, Contractor shall resume such work within two (2) working days from Owner's direction to resume.

5.4 Changes in Construction Schedule. Contractor agrees that Owner shall have the right to make changes to the schedule of Work at Owner's discretion and agrees to comply with such changes.

6. PERFORMANCE OF STANDARDS.

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner, in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FHA minimum property standards, requirements, all laws (statutory and common) and regulations, and any applicable building code requirements.

6.2 Contractors Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized Owner's employee and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications as such plans and specifications affect the Work and materials incorporated therein, and has accepted all such requirements so specified.

6.3 Government Requirements. Contractor agrees to comply with all applicable federal, state, local, and county statutes, ordinances, regulations, codes, licensing requirements and standards, and the requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 and amendments thereto, as well as the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq. and similar laws or regulations, and the rules, regulations, or orders of all public authorities relating to performance of the Work, including without limitation the procurement and posting of all required permits and notices.

6.4 Indemnity. Contractor agrees to indemnify, defend, and hold Owner harmless from the payment of any fine or penalty imposed as a result of Contractor's failure to comply with applicable laws and regulations.

6.5 Observation and Testing by Owner and repair by Contractor. Owner shall have the right to inspect the Work at any time, but inspection shall not be construed as a waiver of any obligations, representations or warranties of Contractor as to the Work. Notwithstanding anything contained herein to the contrary, all Work shall be performed and any defects shall be corrected in accordance with this Agreement to the satisfaction of Owner.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work and shall report in writing to Owner any defects prior to commencement of any Work, or Contractor shall be deemed to have accepted such work for inclusion into Contractor's Work.

6.7 Licenses, Permits and Approvals. Contractor shall secure and maintain all permits, licenses and approvals necessary for or applicable to the performance of the Work hereunder.

6.8 Change Orders. When Owner orders the Work in writing, Contractor shall make any and all changes in the Work as directed by Owner's authorized representative, and adjustments to the price shall be made only in accordance with a variance agreement or purchase order signed by Owner and Contractor prior to the commencement of such changes.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; and (iii) regulating trash pick-up and waste collection at the job location.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste materials or rubbish caused by its operations and shall remove all of Contractor's materials, and if materials are furnished by Owner, Contractor shall move all usable materials provided by Owner to a location designated by Owner. Contractor shall sweep out any waste material from inside the home under construction upon completion of their operation. All refuse shall be placed in receptacles provided or at locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up activities and collect a One Hundred Dollar (\$100.00) fine from Contractor. The cost of such cleanup and the aforementioned fine shall be deducted from any sums owed by Owner to Contractor, or shall be immediately payable by Contractor upon demand therefore by Owner.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, protect its employees and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Work. Contractor shall immediately notify Owner's construction supervisors of any unsafe condition or practice observed on the Work site. Further, Contractor shall immediately notify Owner of any accidents or injuries on the Work site. Contractor shall conduct inspections to determine that safe working conditions and equipment exist and safe practices are observed, and accepts sole responsibility for providing a safe place to work for its employees and the employees of all subcontractors and material suppliers. Contractor shall prohibit and prevent the presence of children under age 18 from the work site.

7.2 Safety Laws and Indemnity Agreement. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq. and provide written notice to Owner of the contact person responsible for Contractor's safety compliance. Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work.

7.3 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, permitted subcontractors or suppliers at a job location or performance by any such person under the influence of alcohol or drugs.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate corporations, or successors and assigns, (hereinafter collectively referred to as the "Owner"), that all labor performed and materials furnished by Contractor shall conform to the

INITIALS: Owner: _____ Contractor: _____

specifications of this Agreement, are free from any defects or deficiencies in workmanship or materials when judged by the standards of accepted residential construction industry trade practices, and are in accordance with the requirements of all applicable governing authorities, laws, regulations and ordinances, meet or exceed the FHA/VA minimum property standards, and will comply with any applicable limited warranty standards of any residential warranty program being provided by Owner to its customers ("Home Owners Warranty"), which Contractor has read, understands and agrees to be bound. Contractor agrees that all Work not conforming to the aforementioned requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the bid and free from defects. Contractor shall repair and make good all Work not complying with the standards set forth in this Section.

8.2 Homeowners Warranty. In addition to the foregoing warranty, Contractor expressly warrants that the Work shall remain free of defects for the following warranty periods: (1) for a period of ten (10) years all structural elements, including, but not limited to, roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (2) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and gas pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; (3) all other elements for a period of one (1) year. Notwithstanding the foregoing, in no event shall a warranty period for any system, element or other portion of the Work be less than the applicable warranty period for such system, element, or other portion of the Work under any residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner (a "Home Owners Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners Warranty which is longer than the Warranty Periods stated above; provided, however, failure to give such notice will not affect the extension of the Warranty Period to the applicable warranty period under the Home Owners Warranty.

8.3 Repair by Owner Does Not Waive Warranty. Contractor agrees that the performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty obligations, Contractor's indemnity provided herein, or the ability of Owner to request Contractor to perform warranty services in the future.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish all warranties and/or guarantees by manufacturers on appliances and equipment, and shall furnish all certificates required by any municipality and/or VA and/or FHA. The foregoing is in addition to all other warranties and obligations of Contractor provided by law or otherwise and is not in limitation of periods of applicable statutes of limitation.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the State where the Work is performed.

9.3 Lien Claim Indemnity. In the event that any liens are filed against Owner relating to the Work, Contractor agrees that Owner shall be entitled to withhold all payments to Contractor until Contractor causes such lien or affidavit to be removed and released of record. Contractor agrees to INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any liens, and further agrees at Owners' request to: (i) procure a bond to indemnify Owner and any home purchaser from Owner, in an amount equal to one hundred fifty percent of the lien amount, against such lien, or (ii) refund to Owner all monies including any additional amount necessary to cover all of Owner's or home purchaser's attorneys' fees and court costs paid in discharging the lien, whichever remedy Owner elects in its sole and absolute discretion.

10. CONTRACTOR'S INDEMNITY AND WAIVER.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY AGREES TO PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER, ITS PARENT CORPORATION, SUBSIDIARIES AND AFFILIATES, SUCCESSORS AND ASSIGNS, AND ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS, (HEREIN COLLECTIVELY REFERRED TO AS THE "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF AND ATTORNEYS' FEES), WHETHER ASSERTED BY A SUBSEQUENT PURCHASER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND PERMITTED SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, OBLIGATIONS, OR COVENANTS PROVIDED HEREIN BY CONTRACTOR; (2) THE WORK PERFORMED OR TO BE PERFORMED BY CONTRACTOR OR CONTRACTOR'S PERSONNEL, AGENTS, SUPPLIERS, OR PERMITTED SUBCONTRACTORS; OR (3) ANY NEGLIGENT OR INTENTIONAL ACT AND/OR OMISSION OF THE CONTRACTOR, ITS SUPPLIERS AND PERMITTED SUBCONTRACTORS OF ANY TIER; EXCEPT THAT, INDEMNITEE SHALL NOT BE INDEMNIFIED AND HELD HARMLESS FOR ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION ON THE PART OF INDEMNITEE.

10.2 INDEMNITY IS NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ANY AND ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. CONTRACTOR AND CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, AND PERMITTED SUBCONTRACTORS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS AND EQUIPMENT, AND HEREBY WAIVE ANY

INITIALS: Owner: Contractor:

RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO (1) ANY LOSS OF SUCH TOOLS OR EQUIPMENT OR (2) ANY DAMAGE TO SUCH TOOLS OR EQUIPMENT NOT CAUSED BY THE NEGLIGENT OR INTENTIONAL ACTS OF INDEMNITEE.

10.3 Subcontractors and Suppliers Indemnity Obligations. If Contractor subcontracts any of the Work to the extent permitted under this Agreement, Contractor guarantees that such third party shall indemnify Indemnatee to the same extent that Contractor is required to indemnify Indemnatee in this Agreement. Prior to the subcontractor's commencement of the Work, Contractor shall obtain a signed agreement from such third party indemnifying Indemnatee to the extent required in this paragraph 10 and provide said agreement and evidence of satisfactory insurance to Owner. In addition, Contractor shall require that each supplier or subcontractor indemnify Indemnatee from all losses arising from any materials or labor incorporated into the Work not caused solely by the negligence or intentional acts of Indemnatee. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth herein. Contractor understands and agrees that for all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for any and all of the actions of any subcontractor engaged by Contractor or who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed to be the obligation of such subcontractor or Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with completed operations coverage and containing a per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and an aggregate limit of no less than Two Million Dollars (\$2,000,000.00) protecting against bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products and completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the per occurrence limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or the type of structure on which the Work is to be performed. The CGL policy shall not contain a deductible or self insured retention of more than \$25,000.00. The Contractor agrees to continuously maintain a commercial general liability policy covering completed operations for the applicable statute of repose for liability associated with the Work.

11.2 Other Insurance. Contractor agrees to carry (a) Worker's Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Worker's Compensation obligations imposed by law; (b) where applicable, Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment, and (c) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person (Bodily Injury) and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos".

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above, it being understood that such insurance shall not apply to any liability of Owner as a result of any negligent or intentional act or omission on the part of Owner. Owner and Contractor (collectively, the Parties) intend and agree that the coverage obtained by Contractor naming Owner as an additional insured as set forth herein shall apply on a primary basis with any insurance of Owner being excess coverage. Such insurance coverage will be carried continuously during the term of this Agreement with insurance companies acceptable to Owner in its sole and absolute discretion. Such insurance shall provide for a waiver of subrogation.

11.4 Proof of Insured Status. Contractor shall provide evidence that such insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the above policies. Each Certificate of Insurance or policy shall contain an unqualified clause to the effect that the policy shall (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days' prior written notice to Owner, (ii) be carried continuously from the date of commencement of the Work until expiration of the period of the Contractor's warranty provided in this Agreement, (iii) specifically identify Owner as an Additional Insured, and (iv) indicate that coverage applies in the state where the Work is being performed. The amounts and types of insurance set forth herein are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and types of insurance which Contractor shall determine to be reasonably necessary to protect itself and the Work required to be performed under this Agreement.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IN THE EVENT THAT THE CONTRACTOR FAILS TO PROVIDE OWNER WITH EVIDENCE OF INSURANCE AS REQUIRED HEREUNDER, OWNER SHALL BE ENTITLED, BUT SHALL NOT BE OBLIGATED, TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER IN ITS SOLE AND ABSOLUTE DISCRETION) IN EFFECT AT THE TIME WORK IS PERFORMED TO COMPENSATE OWNER FOR ANY ADDITIONAL COSTS OF ITS WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. CONTRACTOR EXPRESSLY ACKNOWLEDGES THAT THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE, AND CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS CONTRACT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work to the extent permitted under this Agreement, Contractor guarantees that such third party shall carry the same insurance required to be carried by Contractor in Section 11, and that such third party shall name Owner as an additional insured on the required liability policy or policies, it being understood that Owner shall not be indemnified or held harmless for its own negligent acts. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

12. REMEDIES.

12.1 Owner's Remedies. In the event that the Work performed by Contractor pursuant to this Agreement is found by Owner to be defective or incomplete, or another contractor's work is damaged by an act for which Contractor, or its employees, agents or subcontractors, are responsible, Owner shall have the right to elect, at its sole discretion to: (1) notify Contractor, at which time Contractor shall promptly correct such Work, replace or repair any defective material, or repair any damage.

12.2 Contractor's Agreement to Repair. Contractor agrees to make all repairs and correct such defects under the applicable warranty within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty eight (48) hours notice on a non-emergency basis; (2) retain a third party to perform such duties, and retain any sums otherwise due Contractor under any Purchase Order or invoice and apply such sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess thereafter to be paid to Contractor. In the event the cost of such remedial work exceeds the funds withheld resulting in a deficiency, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and reasonable attorneys' fees, incurred by Owner, and shall pay to Owner this amount within thirty (30) days of demand.

INITIALS: Owner: 

Contractor: 

12.3 Right to Withhold or Offset. In addition to the foregoing remedies, Contractor expressly agrees that payment otherwise due Contractor from Owner may be withheld and offset against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or permitted subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's actions or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement or the specifications; (iv) Contractor fails to perform, or to pay the costs and expenses of, warranty service, any indemnity claim, taxes or legal order that is Contractor's obligation under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not accepted a waiver of such insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary tools, material, or equipment for, or cleaned up after, the Work; (viii) Contractor fails to comply with any other provision of this Agreement.

12.4 Remedies Not Exclusive. The duties and obligations imposed by this Agreement and rights and remedies available hereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. Owner shall have a right to collect from Contractor its reasonable attorney's fees and expenses incurred in enforcing Contractor's obligations.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or improvements. Contractor shall incorporate all of Section 13 in its agreements with Subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a dispute arises out of or relating to this Agreement or a breach thereof and if the dispute cannot be settled through negotiation the parties agree to first try in good faith to settle the dispute by mediation before resorting to arbitration, litigation, or another dispute resolution procedure. Cost of mediation shall be shared equally by the parties.

13.3 Arbitration. If mediation fails, any claim, controversy or dispute of any kind among the Parties, now existing or arising in the future, whether relating to the interpretation of any provision of this Agreement, the rights and obligations of the Parties under this Agreement, any other agreement relating to, or arising from, the business of Owner or the Work, shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. regardless of any other choice of law provision in any underlying contract or this Agreement. The arbitrator(s) may allocate costs of the arbitration in proportion to the success of the party.

13.4 Choice of Mediator and Arbitrator. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator mutually agreeable to the parties. In the event that the parties cannot agree on the selection of a mediator or arbitrator, either party may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint a mediator or arbitrators.

13.5 Rules. To the extent not in conflict with the Federal Arbitration Act, any mediation shall be conducted in accordance with the Commercial Mediation Rules, and any arbitration conducted in accordance with the Construction Industry Arbitration Rules, of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision. However, any mediation or arbitration need not be conducted by, or through, the AAA.

13.6 General Provisions. The Parties agree that if multiple arbitrations should be commenced, all such proceedings shall be consolidated into one arbitration. Contractor agrees to participate in, and be bound by, any arbitration proceeding between Owner and any third party relating to the Work. Notwithstanding any provision in this section to the contrary, Owner shall be entitled to terminate this Agreement and/or any Purchase Order, in whole or in part, in the event any dispute arises between Contractor and Owner, whereupon Owner shall also be entitled to exercise any and all remedies, deductions, and offsets authorized pursuant to the terms and provisions of this Agreement. Notwithstanding any other provision of this section, in the event that a subcontractor or material supplier of Contractor, or any other necessary third party, cannot be forced to mediate or arbitrate, Owner shall be entitled in lieu of mediation or arbitration to settle any dispute relating to this Agreement by filing an action in a court with proper venue and jurisdiction.

14. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of the contents thereof. Contractor shall provide any and all samples and/or shop drawings requested by Owner.

15. ASSIGNMENT. Contractor's rights and obligations under this Agreement are nontransferable and not assignable, and Contractor shall not subcontract all or any part of the Work contemplated by this Agreement without obtaining the prior written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Owner may assign this Agreement without Contractor's consent.

16. NOTICES. All notices required pursuant to this Agreement or otherwise shall be in writing and shall be delivered to the respective business address of the Parties. Notices shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by overnight delivery service, and upon confirmation if sent by facsimile transmission.

17. ENTIRE AGREEMENT. This Agreement, and with respect to prices and quantities only, the Price Schedule and all written Purchase Orders shall constitute the entire agreement between the Parties, and there are no other agreements, oral or written, made by or relied upon by and between the Parties. Except as otherwise provided herein, no provision of this Agreement may be amended or added to except in writing signed by both Parties.

18. TERMINATION AND WAIVER.

18.1 Termination by Owner for Cause of Convenience. This Agreement shall remain in full force and effect until terminated in writing by mailing notice to the other Party. Owner may terminate this Agreement at any time, irrespective of whether Contractor is in default or breach hereunder, at will.

18.2 Termination by Contractor. Contractor shall provide One Hundred Twenty (120) Days' notice prior to the effective date of termination, and agrees to perform fully under this Agreement during such notice period. If the Agreement is terminated by Owner, the Parties agree that, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement. Anything herein contained to the contrary notwithstanding, the Work to be performed by Contractor shall only include such work as specifically authorized by an authorized representative of Owner. Any failure of Owner to enforce any of the terms and provisions of this Agreement shall not constitute a waiver of such required performance by Contractor or of any other performances in the future required by Contractor hereunder.

19. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES. Contractor represents and warrants to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken prior to the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) valid and binding obligations of Contractor, enforceable in accordance with its terms, (iv) this Agreement and Contractor's performance thereof, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval

INITIALS: Owner: [Signature] Contractor: [Signature]

EXHIBIT A

SCOPE OF WORK

(Brick Mtg)

INITIALS: OWNER JP, CONTRACTOR DR

KDC 013060

of any governmental authority, (v) Contractor has, and each Contractor's employees, agents or permitted subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement, (vii) Contractor is in compliance with all governmental requirements to which it is subject, and (viii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

20. SURVIVAL. All terms of this Agreement survive its termination and shall remain in full force and effect and shall be binding upon the Parties and any successors and assigns.

21. GENERAL CONTRACT PROVISIONS.

21.1 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

21.2. Assignability. Contractors' rights and obligations are not assignable or transferable without express written consent of Owner, which consent can be withheld in Owner's sole and absolute discretion. Subject to the restrictions and prohibitions on assignment set forth in this section, the terms of the Agreement shall be binding on all Parties, their respective successors, representatives, heirs and assigns.

21.3 Conflicts with Purchase Orders or Other Agreements. In the event of a conflict between this Agreement and the terms of any Purchase Order or any other agreement or document pertaining to the subject matter hereof which cannot be reconciled by the Parties, the terms of this Agreement shall control.

21.4 Waiver. No delay or failure by Owner to exercise any right hereunder, and no partial or single exercise of such right, will constitute a waiver of that or any other right except by written agreement executed by Owner.

21.5 Choice of Law. This Agreement shall be governed by the law of the State in which the work is performed.

21.6 Miscellaneous. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of the paragraphs, sections or articles hereof.

NORTH CAROLINA, REV. 6.3.2005

EXHIBIT A

SCOPE OF WORK

(Brick MFG.)

INITIALS: Owner: *AS* Contractor: *DTL*

D.B. HORTON
America's Builder

SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR IBP Asset, LLC dba: Blue Ridge Building Products
Sole Proprietorship Partnership ☒ Corporation ☒ LLC Other (ATTACH W-9)
Social Security No. or Tax ID No 31-1795875
Name of Owner(s)/Officer(s) SEC Attached List
Division Name: _____ Area Name: _____ Assigned Vendor No: _____
Address for All Notices PO Box 587
City Greer, SC State SC Zip Code 29652
Telephone 864-895-9138 E-Mail Address info@blue-ridge.com

Insurance Carriers ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.

This agreement (the "Agreement") is entered into on this 12 day of January, 2010, between

D.B. Horton, Inc. its ("Owner") and Contractor
affiliates & subsidiaries

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of the Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement (the "Work") shall include all work performed and materials supplied by Contractor to Owner including but not limited to the labor, services and/or materials, equipment, transportation, or facilities necessary to complete the construction-related activities generally described in Exhibit A. The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing will not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to or in place of Contractor. Contractor will be awarded Work on a lot by lot basis. To the extent Exhibit A concerns more than one type of construction-related activity, Contractor must clarify with Owner before the Work commences as to which construction-related activity it has been awarded for the lot in question.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, method and performance of the Work. Contractor shall not be considered as agent or employee of Owner for any purpose, nor shall any employees or permitted subcontractors of Contractor. Contractor shall not represent itself as the agent of Owner unless owner has specifically permitted Contractor to do so in writing. The results achieved shall satisfy the requirements of this Agreement. Contractor shall be responsible for the performance of its employees and permitted subcontractors, and all personnel used by Contractor in the performance of Work shall be qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further agrees to provide written notification to all of its present and future employees of Contractor's provision for Worker's Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work herein covered or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall pay and shall be solely responsible for all tax withholding, Social Security, state unemployment and all other withholding as required by law Contractor's employees, agents or permitted subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNLESS CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule, the superseded Pricing Schedule shall remain in effect for Purchase Orders issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing of the house incorporating the Work from Owner to a purchaser. Contractor hereby agrees that timely invoicing is an important and material term to this agreement, and timely invoicing is a part of Contractor's performance of all material terms of this contract. Contractor hereby waives payment for any Work where Contractor fails to invoice Owner in a timely manner in conformity to this agreement. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR

Executed this 12 day of January, 2010

Owner:
By D.R. Horton, Inc.
Name ED JENNIFER
Title PURCHASING
Division President

Contractor:
By IBP Asset, LLC dba: Blue Ridge Building Products
Name Don Albers
Title Regional Manager

INITIALS: OWNER [Signature] CONTRACTOR DA

ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO SUBCONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN AND THAT OWNER DOES NOT AGREE TO PAY TO SUBCONTRACTOR INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF DELAYED PAYMENTS.

4.2 Payment to Subcontractors. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed from Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work to be performed, and an affidavit that no person has a right to any lien for materials or labor. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties, and these joint payments shall satisfy amounts owed by Owner to Contractor, notwithstanding the fact that the third parties may not endorse the checks. In any instance where Owner receives written notice from one of Contractor's sub-contractors, whereby the subcontractor claims a failure to be paid for the Work, Owner reserves the right to pay the subcontractor directly or to make payment payable to both the Contractor and its subcontractor.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the Contract Price shall waive and release all claims against Owner and the property under this Agreement, but shall not waive any claims of Owner arising out of Work later found to be defective and shall not release Contractor from liability for warranties and warranty service and/or defective Work. Contractor shall remedy any defects and pay for any damage resulting from any defects in or caused by the Work or as required by any other contracts between Owner and Contractor or by law or customary practice. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or assigns is an acceptance of the Work or materials not in compliance with this Agreement.

5. SCHEDULE OF WORK.

5.1 Time Is of the Essence. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work.

5.2 Construction Schedule. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.3 Commencement of the Work. Owner shall issue an authorization (either pursuant to a written purchase order, payment schedule, or work invoice ("Purchase Order") or verbal instructions from an authorized Owner representative) to commence the Work and Contractor shall not commence the Work at a job location until Contractor has received instructions to begin Work at a specific job location. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.4 Changes in Construction Schedule. Contractor agrees that Owner shall have the right to make changes to the schedule of Work at Owner's discretion and agrees to comply with such changes.

6. PERFORMANCE STANDARDS.

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner, in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FHA minimum property standards, VA requirements, all laws (statutory or common) and regulations, and any applicable building code requirements.

6.2 Contractor's Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized Owner's employee and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications as the plans and specifications affect the Work and materials incorporated in the Work, and that the plans and specifications are clear and unambiguous, and has accepted and agreed to be bound by all such requirements.

6.3 Government Requirements. Contractor will comply with all applicable federal, state, local, and county statutes, ordinances, regulations, codes, licensing requirements and standards, and the requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 as amended, as well as the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., or similar laws or regulations, and the rules, regulations, or orders of all public authorities relating to performance of the Work, including without limitation, the procurement and posting of all required permits and notices. In addition, Contractor will not discriminate in its hiring or employment and will follow all state and federal employment laws or regulations. Contractor shall perform background checks and use only appropriate employees to perform warranty or repair work after a house is occupied.

6.4 Indemnity. To the fullest extent allowed by law, Contractor will agree to indemnify, defend, and hold Owner harmless from all actions, claims, investigations or other acts to enforce such laws or regulations, and further agrees to indemnify Owner from the payment of any fine, penalty or damages imposed, levied, assessed, or found as a result of the Contractor's failure to comply with or adhere to the applicable laws and regulations, or from Contractor's failure to cause its employees or subcontractors to comply with such laws and regulations.

6.5 Observation and Testing by Owner and Repair by Contractor. Owner shall have the right to observe or test the Work at any time during or after construction, but that observation or testing is solely for the benefit of Owner's and is not for Contractor's benefit. Owner's failure to note defects in the Work during an inspection will not waive any of Contractor's obligations, representations or warranties related to the Work. Notwithstanding anything contained in this Agreement to the contrary, all Work shall be performed and any defects shall be corrected timely and in accordance with this Agreement to the satisfaction of Owner.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work, and shall report in writing to Owner any defects prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractor's work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses and approvals necessary for or applicable to the performance of the Work.

6.8 Change Orders. The Contractor shall furnish the materials for and to make all changes requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed.

INITIALS: OWNER EPH, CONTRACTOR OA.

(ii) governing storage of materials on the job location, (iii) regulating trash pick-up and waste collection at the job location, and (iv) work site safety requirements.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste materials or rubbish caused by its operations and shall remove all of Contractor's materials, and if materials are furnished by Owner, Contractor shall move all usable materials provided by Owner to a location designated by Owner. Contractor shall sweep out any waste material from inside the home under construction upon completion of its operation. All refuse shall be placed in receptacles provided or at locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up activities and collect a one hundred dollar (\$100.00) fine from Contractor for each incident. The cost of such clean-up and the aforementioned fine shall be deducted from any sums owed by Owner to Contractor, or shall be immediately payable by Contractor upon demand therefore by Owner.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Owner reserves the right to set minimum standards or rules relating to Work on its site. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OWNERS MINIMUM REQUIREMENTS. THE OWNER ASSUMES NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner of any accidents or injuries on the Work Site. Contractor shall have an ongoing safety program and conduct inspections to determine that safe working conditions and equipment exist and safe practices are observed. Contractor shall prohibit and prevent the presence of children under age eighteen (18) from the Work Site.

7.1 Safety Laws and Indemnity Agreement. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards, statutes, and industry best practices concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations. Contractor shall provide Owner with written verification of its compliance with all applicable safety and health standards and regulations, including but not limited to OSHA's Hazard Communication Standard for the Construction Industry, 29 C.F.R. §1926.59 et seq., and provide written notice to Owner of the contact person responsible for Contractor's compliance with all safety and health standards and regulations. To the fullest extent allowed by law, Contractor agrees to indemnify, defend, and hold Owner harmless from all actions prosecuted to enforce and the payment of any fine or penalty imposed under such safety laws and regulations and shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work.

7.2 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, permitted subcontractors or suppliers at a job location or performance of the Work by any person under the influence of alcohol or drugs.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate corporations, and successors and assigns, that all labor performed and materials furnished by Contractor shall conform to the specifications of this Agreement, shall be free from any defects or deficiencies in workmanship or materials, and will comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, will meet or exceed the FHA/VA minimum property standards, and will comply with the Residential Warranty Corporation ("RWC") Program and the applicable limited warranty standards, which Contractor has read and understands and to which Contractor agrees to be bound. All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects for purposes of Contractor's obligations under this Contract. Contractor shall make good and promptly repair all Work not complying with the standards set forth in this section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Paragraph 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, the initial homeowner of the property on that is the subject of the Work: (i) for a period of ten (10) years all structural elements, including, but not limited to, roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; (d) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (i) any statutory warranty or (ii) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner (a "Homeowners Warranty"). Contractor expressly agrees to be bound by any such Homeowners Warranty and to the extension of warranty period hereunder. Furthermore, notwithstanding the foregoing, Contractor agrees that all express and implied warranties shall remain in full force and effect for so long as Owner is obligated to warrant the Work pursuant to applicable law. Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Homeowners Warranty that is longer than the Warranty Periods stated above; provided, however, failure to give that notice will not affect the extension of the Warranty Period to the applicable warranty period under the Homeowner's Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty obligations, Contractor's indemnity obligations, or the ability of Owner to request Contractor to perform warranty services in the future.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish all warranties and/or guarantees by manufacturers on appliances and equipment, and shall furnish all certificates required by any municipality and/or VA and/or FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and are not in limitation of periods of applicable statutes of limitation.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Project is located.

9.3 Lien Claim Indemnity. If any liens are filed against Owner relating to portions of the Work for which Owner has paid Contractor, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien or affidavit to be removed.

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and released of record. Contractor agrees to INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any liens relating to portions of the Work for which Owner has paid Contractor, and further agrees at Owner's request to any or all of the following: (i) procure a bond to indemnify Owner and any home purchaser from Owner, in an amount sufficient to discharge that lien, or (ii) refund to Owner all monies, including any additional amount necessary to cover all of Owner's or home purchaser's attorneys' fees and court costs paid in discharging the lien, whichever remedy Owner elects in its sole and absolute discretion, or (iii) provide sworn testimony that payment has already been made to Contractor for the work for which the alleged lien applies.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY AGREES TO HOLD HARMLESS, INDEMNIFY, PROTECT AND DEFEND OWNER, ITS PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THE AFOREMENTIONED ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "INDEMNITEE"), FROM AND AGAINST ANY AND ALL DEMANDS, CLAIMS, ACTIONS, CAUSES OF ACTION, PROCEEDINGS, LAWSUITS, SETTLEMENTS, JUDGMENTS, FINES, PENALTIES, LOSSES, ATTORNEYS FEES, LITIGATION COSTS, INTEREST, AND EXPENSES OF ANY KIND (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "LOSSES") FOR DAMAGES FROM BODILY OR PERSONAL INJURY, DEATH, THE DESTRUCTION OR LOSS OF PROPERTY (INCLUDING LOSS OF USE), OR ANY OTHER KIND OF DAMAGES OR HARM, ARISING OUT OF, OR RESULTING FROM, OR RELATED IN ANY WAY TO THE WORK PERFORMED AND/OR THE MATERIALS SUPPLIED UNDER THIS CONTRACT, REGARDLESS OF WHETHER OR NOT CAUSED IN PART BY INDEMNITEE. SUCH LOSSES SPECIFICALLY INCLUDE, BUT ARE IN NO WAY LIMITED TO LOSSES ARISING OUT OF OR ATTRIBUTABLE TO: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS OR OBLIGATIONS OF CONTRACTOR SET FORTH HEREIN; (2) THE WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR, CONTRACTOR'S AGENTS OR EMPLOYEES, SUPPLIERS OR SUBCONTRACTORS AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, AND/OR ALL OTHER ENTITIES OVER WHOM THE CONTRACTOR MAY EXERCISE CONTROL (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "CONTRACTOR'S AGENTS"); (3) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF CONTRACTOR AND/OR CONTRACTOR'S AGENTS; OR (4) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE INDEMNITEE RELATED IN ANY WAY TO THE WORK. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE INDEMNITY FOR LOSSES CAUSED SOLELY BY FAULT OR NEGLIGENCE OF THE INDEMNITEE. THE LOSSES DESCRIBED HEREIN SHALL INCLUDE, BUT ARE NOT LIMITED TO, DEMANDS, CLAIMS, OR ACTIONS ASSERTED BY (1) ANY PRESENT OR FUTURE OWNER OF THE HOUSE INCORPORATING THE WORK; AND (2) ANY OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY CONTRACTOR AND/OR CONTRACTOR'S AGENTS). THE INDEMNIFICATION OBLIGATION UNDER THIS CONTRACT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. THE INDEMNITY PROVISIONS CONTAINED HEREIN ARE INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY LAW.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ANY AND ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. IT IS THE EXPRESS INTENTION OF THE PARTIES THAT CONTRACTOR'S INDEMNITY OBLIGATIONS HEREIN WILL SURVIVE THE TERMINATION OF CONTRACTOR OR THIS AGREEMENT. INDEMNITEE SHALL HAVE THE RIGHT, AT ITS DISCRETION AND CHOOSING, TO DEFEND ANY AND ALL CLAIMS WHICH MAY BE ASSERTED AGAINST IT, AND CONTRACTOR AGREES TO REIMBURSE INDEMNITEE FOR ANY AND ALL EXPENDITURES WHICH INDEMNITEE MAY MAKE OR INCUR ON ACCOUNT OF ANY SUCH CLAIM.

10.3 CONTRACTOR AND CONTRACTOR'S AGENTS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS OR EQUIPMENT.

10.4 Subcontractor's and Supplier's Indemnity Obligations. Contractor shall require each of its subcontractor to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required in this section and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms as Section 13. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the actions of any subcontractor engaged by Contractor, whether in written agreement or otherwise, or who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed to be the obligation of the subcontractors to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with completed operations coverage which contains a per occurrence limit of no less than one million dollars (\$1,000,000.00), and an aggregate limit of no less than two million dollars (\$2,000,000.00) protecting against liability for bodily injury, broad form property damage, and personal injury claims arising from the exposure of: (i) premises-operations; (ii) products and completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL Policy shall not contain a deductible or self insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering completed operations for any applicable statute of repose for commencing lawsuits associated with the Work.

11.2 Other Insurance. Contractor agrees to carry (i) Worker's Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Worker's Compensation obligations imposed by law; (ii) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than one million dollars (\$1,000,000.00) and an aggregate of no less than one million dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (iii) Commercial Automobile Liability Insurance coverage with limits of not less than \$300,000 per person (Bodily Injury) and \$500,000 property damage per occurrence specifying "all auto" coverage or "all owned, leased, hired or non-owned auto."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both on-going operations and completed operations (equivalent to form CG20101185 or form CG2037). Coverage obtained by Contractor naming Owner as an Additional Insured shall be primary with any insurance of Owner being excess coverage. That insurance coverage will be carried continuously during the term of this Agreement and thereafter as required by this Agreement with insurance companies acceptable to Owner in its sole and absolute discretion. That insurance shall provide for a waiver of subrogation. All insurance shall be with

INITIALS: OWNER ES, CONTRACTOR CA

a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies. Each Certificate of Insurance or policy shall contain an unqualified clause to the effect that the policy shall (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days' prior written notice to Owner, (ii) be carried continuously from the date of commencement of the Work until expiration of the period of the Contractor's warranty provided in this Agreement, (iii) specifically identify Owner as an Additional Insured, and (iv) indicate that coverage applies in the state where the Work is being performed. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself and the Work required to be performed under this Agreement.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER IN ITS SOLE AND ABSOLUTE DISCRETION) IN EFFECT AT THE TIME WORK IS PERFORMED TO COMPENSATE OWNER FOR ANY ADDITIONAL COSTS OF ITS WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS, CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS CONTRACT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work to the extent permitted under this Agreement, Contractor guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an Additional Insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or another contractor's work is damaged by an act for which Contractor, or its employees, agents or subcontractors, are responsible, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct such Work, replace or repair any defective material, or repair any damage. Contractor shall make all repairs and correct such within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours notice on a non-emergency basis; or (ii) retain a third party or undertake to perform those duties, and retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any access to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld resulting in a deficiency, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and reasonable attorneys' fees, incurred by Owner, and shall pay to Owner this amount within thirty (30) days of demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Paragraph 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or permitted subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties, (ii) claims or liens are filed against the job location as a result of Contractor's actions or omissions, (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement, Exhibit A of this Agreement, or the specifications; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order that is Contractor's obligation under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary tools, material, or equipment for, or cleaned up after, the Work; (viii) Contractor fails to comply with any other provision of this Agreement.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement and rights and remedies available under this Agreement shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. Owner shall have a right to collect from Contractor its reasonable attorneys' fees and expenses incurred in enforcing Contractor's obligations.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These Disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking equitable relief from an arbitrator or a court of appropriate jurisdiction.

13.3 Arbitration. If mediation fails, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq., regardless of any other choice of law provision in any underlying contract or this Agreement. All demands for arbitration shall be made before the expiration of the applicable statutes of limitations and repose. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in any court of competent jurisdiction.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrators mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes, is over \$200,000, but only one arbitrator shall be appointed if the Dispute is \$200,000 or less. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of a mediator or arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint a mediator or arbitrator. The AAA's Code of Arbitrator Ethics (revised March 1, 2004) is applicable to all arbitrations.

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13.5 Rules. To the extent not in conflict with the Federal Arbitration Act, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner may join Contractor in any litigation, mediation, or arbitration initiated against Owner by a third person so that the rights of all parties (Owner, Contractor, Subcontractor, or any third person) shall be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner where necessary to facilitate resolution in a single forum. If multiple lawsuits or arbitrations are commenced, they shall all be consolidated into a single proceeding. Notwithstanding any other provision of this section, if a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect to unilaterally waive mediation or arbitration and litigate the Dispute with Contractor.

14. TERMINATION.

14.1 Termination by Owner for Cause or Convenience. This Agreement shall remain in full force and effect until terminated in writing by mailing notice to the other Party. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) Days' written notice before the effective date of termination, and shall perform fully under this Agreement during that notice period. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.3 Survival. All obligations, duties and warranties for Work performed under this Agreement shall survive termination.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms, (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority, (v) Contractor has, and each Contractor's employees, agents or permitted subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement, (vi) Contractor is in compliance with all governmental requirements to which it is subject, and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement, and with respect to prices and quantities only, the Price Schedule and all written Purchase Orders shall be the entire agreement between Owner and Contractor related to the Work, and there are no other agreements, oral or written, made by or relied upon by Owner and Contractor. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended or supplemented except in writing signed by both Owner and Contractor.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights and obligations are not assignable or transferable without the express written consent of Owner, who may consent can be withheld in Owner's sole and absolute discretion. Subject to the restrictions and prohibitions on assignment set forth in this section, the terms of the Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Contractor shall provide and transfer ownership to any and all samples and/or shop drawings requested by Owner.

18. NOTICES. All notices required pursuant to this Agreement or otherwise shall be in writing and shall be delivered to the respective business address of Owner and Contractor. However, Contractor's business address shall be as noted on page one (1) of this Agreement. Notices shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by overnight delivery service, and upon confirmation if sent by facsimile transmission.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or articles.

SOUTH CAROLINA REVISED 7/23/2007

INITIALS: OWNER PSA CONTRACTOR CS



SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR Kings Landscaping LLC ("Contractor")
 Sole Proprietorship ☐ Partnership ☐ Corporation ☐ LLC ☒ Other (ATTACH W-9)
 Social Security No. or Tax ID No.: 910 74 0311 016 30 3205
 Name of Owner(s)/Officer(s): Antonio Jimenez & Maria Jimenez
 Division Name: _____ Area Name: _____ Assigned Vendor No.: _____
 Address for All Notices: 903 S. Main St.
 City: Fountain Inn State: SC Zip Code: 29644
 Telephone: 814 304 0388 Fax: () _____ E-Mail Address: Kingslandscaping15@gmail.com
 Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
 This agreement (the "Agreement") is entered into on this 5 day of October, 2016, between
DR Horton Inc. ("Owner") and Contractor.

1. SCOPE OF WORK This Agreement is entered on a blank basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all work performed and materials supplied by Contractor, directly or indirectly, in Owner, including but not limited to the labor, services and/or materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, shall not modify any of the terms of this Agreement unless executed in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill) and labor, the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders, as defined herein, issued after the date of this new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-30 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO CONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN. CONTRACTOR

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA, IF ANY.

Executed this 5th day of October, 2016

By: [Signature]
 Name: Antonio Jimenez
 Title: Division President

Contractor:
 By: [Signature]
 Name: Antonio Jimenez & Maria Jimenez
 Title: Owner

INITIALS: OWNER [Initials] CONTRACTOR AV & MU

AGREES THAT OWNER DOES, AND WILL, NOT OWE INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF ANY DELAYED PAYMENT.

4.1 Contractor Payments. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed by Owner to Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, warranty service, or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work and obligations under this Agreement. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("Purchase Order"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Owner shall have the right to make changes to the schedule of Work at Owner's sole discretion, and Contractor shall comply with such changes. Contractor shall not be entitled to any additional compensation for such schedule changes.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common law), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Contractor shall immediately notify Owner in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractor's Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, rules, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "Requirements"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, regardless of any alleged fault of Owner. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform warranty or repair work after a house is occupied.

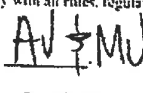
6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("Inspector") shall have the right, but not the obligation, to observe, inspect or test the Work at any time during or after construction, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which

INITIALS: OWNER  CONTRACTOR 

the Work is performed, including without limitation, rules, regulations and restrictions to establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location, (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not limited to trash, unused building materials, garbage, refuse or rubbish ("Waste"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon demand by Owner and may be deducted by Owner from any sums owed to Contractor.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe working conditions and equipment exist and safe practices are observed. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon demand by Owner and may be deducted by Owner from any sums owed to Contractor.

NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition in practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Law"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation, regardless of any alleged fault of Owner. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, nor allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substance" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

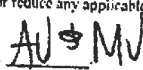
8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. For the longer of ten years or the period of any applicable statute of limitation or repose, Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work shall conform to the specifications of this Agreement (including but not limited to the standards referenced in Subsection 6.1), shall be free from any defects or deficiencies in workmanship or materials, shall comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, shall meet or exceed the FHAA minimum property standards, and shall comply with the Home Owners' Warranty, defined below and its applicable warranty standards (which Contractor has read and understands). All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects. Contractor shall be liable to make good or promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Subsection 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, any initial home purchaser of property subject to the Work: (i) for a period of ten (10) years all structural elements, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all, (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; and (iii) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (a) any statutory warranty or (b) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner, including but not limited to the Residential Warranty Corporation Program (a "Home Owners' Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners Warranty that is longer than the warranty periods stated above; provided, however, failure to give that notice will not affect the extension of the warranty period in the applicable warranty period under the Home Owners Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform warranty services thereafter.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product information, and guarantees by manufacturers on components of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

INITIALS: OWNER  CONTRACTOR 

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including, but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Work is located.

9.3 Lien Claims Indemnity. If any liens, affidavits of claim, stop payment notices, or its pends arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such liens, affidavits of claim, stop payment notices, or its pends to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any such liens, affidavits of claim, stop payment notices, or its pends, and further agrees immediately upon Owners' request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge any and all liens, affidavits of claim, stop payment notices, or its pends, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any home purchaser in discharging the liens, affidavits of claim, stop payment notices, or its pends whichever remedy Owner elects in its sole and absolute discretion. The provisions of this paragraph shall be in addition to any rights Owner may have under applicable law with respect to such liens, affidavits of claim, stop payment notices, or its pends.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF, ATTORNEYS' FEES AND INTEREST), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO WORK PERFORMED OR TO BE PERFORMED OR SUBCONTRACTORS OF ANY TIER, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES, OR BY ITS SUPPLIERS OR ACT OR OMISSION OF CONTRACTOR OR BY CONTRACTOR'S AGENTS OR EMPLOYEES; (3) ANY NEGLIGENT OR INTENTIONAL SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF INDEMNITEE RELATED IN ANY WAY TO THE WORK. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY CONTRACTOR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO INDEMNIFY INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR AGREES THAT ITS OBLIGATIONS SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE, AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

10.3 NO BAILMENT. CONTRACTOR AND CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, ALL SUBCONTRACTORS, AND SUPPLIERS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS, MATERIALS, OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS, MATERIALS OR EQUIPMENT.

10.4 Subcontractors and Suppliers Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee in the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor or supplier who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors or suppliers to Owner, for which Contractor shall be fully responsible to Owner.

INITIALS: OWNER RD CONTRACTOR AU & MJ

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with products-completed operations coverage, which contains a per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and an aggregate limit of no less than Two Million Dollars (\$2,000,000.00) protecting against bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products-completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk, covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type, nature, or volume of the Work or limit the type of structure or number of units on which the Work is to be performed. The CGL policy shall not contain a deductible or self-insured retention of more than \$25,000.00, and shall allow the satisfaction of any and all deductible or self-insured retention through payments made by any third party, including but not limited to Owner or any additional insured, co-insureds, co-insurers, or insureds other than the primary or first named insured. Contractor shall continuously maintain a CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work.

11.2 Other Insurance. Contractor agrees to carry (a) Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law; (b) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (c) Commercial Automobile Liability Insurance coverage with limits of not less than \$200,000 per person for bodily injury and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner, D.R. Horton, Inc., and all affiliates and subsidiaries of D.R. Horton, Inc. (collectively "Horton") as named, Additional Insureds, specifically identifying Horton, on the CGL Policy and policies required above covering both ongoing operations and completed operations equivalent in scope to form CG 2010 1185 or, if unavailable, both forms CG 2010 1001 and CG 2037 10011. Coverage obtained by Contractor with Horton as an additional insured shall be primary, with any insurance of Horton being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work; (iii) provide for a waiver of subrogation; (iv) indicate that coverage applies in the state where the Work is being performed; and (v) be with a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement. In the event that Contractor obtains insurance coverage that is broader than the minimums required by this Agreement, this Agreement shall be deemed to require the broader coverage, including but not limited to any greater limits.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, portions of policies (including but not limited to declarations pages and endorsements), or certified copies of the required policies, as requested by Owner.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Horton as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

11.7 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any Indemnitee, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or if another contractor's work, or other property, is damaged by an act or omission of Contractor, its employees, agents, suppliers, or subcontractors, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs to complete, repair, or replace, plus any related costs or damage including re-inspection fees, with any excess to be paid to Contractor. If such costs exceed the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens

INITIALS: OWNER CONTRACTOR

are filed against the job location as a result of Contractor's acts or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement; and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or (viii) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may set off set from amounts owing to Contractor hereunder any amounts owing by Contractor to Owner's parent company, any subsidiary or affiliate, under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other rights or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("FAA"). All demands for arbitration shall be made before the expiration of the applicable statutes of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator: Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for \$1,000,000 or more, but only one arbitrator shall be appointed if the Dispute is for less than \$1,000,000. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by mailing notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and in compliance with this Agreement, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work and the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement; and (vi) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

INITIALS: OWNER

CONTRACTOR

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior Independent Contractor Agreements (other than any Master National Independent Contractor Agreement) or other prior understandings or written or oral agreements, specifically including but not limited to all prior pre-printed standard contractor-subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement, shall alter the terms set forth in this Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by law, the Master National Independent Contractor Agreement shall control.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractor's rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, without limitation, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner in any assignment or delegation of duties by Contractor, including but not limited to any work by a subcontractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, Contractor shall return any and all confidential material or proprietary property or documents to Owner.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or subsections.

Landscaping

SOUTH CAROLINA VERSION (REV. 22 JUNE 2015)

INITIALS: OWNER AW CONTRACTOR AW & MJ

D.R. HORTON DRI
Listed
NYSE
America's Builder
D.R. Horton, Inc. Vendor Insurance Requirements

The Certificate must:

- Be mailed to Insurance Data Services – D.R. Horton, Inc. c/o Insurance Data Services – P.O. Box 12010-DR – Hemet, CA 92546-8010
- Be an original document.
- List all subsidiaries or DBA's covered by the certificate provided and included insured who signed the DRH contract.
- Provide at least 30 days notice of cancellation
- Show complete insurance carrier names as listed in the A.M. Best Property & Casualty Guide.

NO CONTRACTOR WILL BE ALLOWED TO START OR CONTINUE ANY WORK AT A D.R. HORTON, INC. AND ITS AFFILIATES AND SUBSIDIARIES JOB SITE UNTIL OUR INSURANCE REQUIREMENTS ARE FULLY SATISFIED. NO PAYMENTS WILL BE MADE UNTIL CONTRACTOR PROVIDES REQUIRED EVIDENCE OF COVERAGE TO D.R. HORTON, INC. AND ITS AFFILIATES AND SUBSIDIARIES ALL REQUIRED COVERAGES MUST BE CONTINUOUSLY MAINTAINED BY CONTRACTOR.

The Certificate of Insurance must be completed in its entirety, signed and dated.

Binder are not acceptable.

Commercial General Liability (CGL) (occurrence form) coverage not less than:

\$2,000,000	General Aggregate
\$1,000,000	Products and Completed Operations Aggregate
\$1,000,000	Each Occurrence

- *Coverage must be placed with a carrier rated not less than A, VII, by A.M. Best & Co.
- *The required Additional Insured wording is : D.R. Horton, Inc., its affiliates and subsidiaries.
- *All endorsements must be listed on the certificate.
- *Attached Additional insured Endorsements Required: ISO Form CG2010 11/85, or its equivalent, or CG 2026 11/85 or its equivalent.
- *Attached Waiver of Subrogation in favor of D.R. Horton, Inc., its affiliates and subsidiaries required.

Professional Liability:

\$1,000,000	Each Occurrence
\$1,000,000	Aggregate

- *Coverage must be placed with a carrier rated not less than A, VII by A.M. Best & Co.

Workers' Compensation:

State Statutory Limits

Employers' Liability Coverage

\$500,000	Each Accident
\$500,000	Disease – Policy limit
\$500,000	Disease – Each Employee

- *Coverage must be placed with a carrier rated not less than A, VII by A.M. Best & Co.

Note: The above requirements are for certificate tracking purposes only and do not alter your insurance obligations under your subcontractor agreement in any way.

D.R. Horton, Inc., anticipates requiring Commercial Automobile Liability coverage in the future.

Commercial Automobile Liability:

\$500,000	Combined Single Limit
OR	
\$500,000	Bodily Injury per Accident
\$500,000	Bodily Injury per Person
\$500,000	Property Damage

- *Coverage must be placed with a carrier rated not less than A, VII by A.M. Best & Co.
- *Automobile Liability Coverage shall apply to: 1)Any Auto or 2) All owned, hired and non-owned autos or 3) Scheduled hired and non-owned vehicles.

LadeDanlar00098

ELECTRONICALLY FILED - 2022 Sep 07 7:05 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0401942
ELECTRONICALLY FILED - 2023 Sep 11 3:14 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0401942



GEORGIA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR Lade-Danlar (supplier) ("Contractor") = supplier (W)
 Sole Proprietorship ☐ Partnership ☐ ☒ Corporation ☐ L.L.C. ☐ Other (ATTACH W-9)
 Social Security No. or Tax ID No.: 06-0864003
 Name of Owner(s)/Officer(s): _____
 Division Name: _____ Area Name: _____ Assigned Vendor No.: _____
 Address for All Notices: 2050 Mountain Industrial Blvd
 City: Tucker State: GA Zip Code: 30084
 Telephone: 470 939-6244 Fax: 470 939-7516 E-Mail Address: wboozer@ladedanlar.com
 Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
 This agreement (the "Agreement") is entered into on this _____ day of _____, between _____ ("Owner") and Contractor.

supplier is limited to supply of materials only. (W)
1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all ~~work performed~~ and materials supplied by Contractor, directly or indirectly, to Owner, including but not limited to ~~the labor, services and/or~~ materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing shall not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. ~~Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate.~~ If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes. (W)

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders, as defined herein, issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

4.2 Contractor Payments. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA, IF ANY.

Executed this _____ day of _____,

Owner:
 By: _____
 Name: _____
 Title: Division President

Contractor: Wayland Y. Boozer
 By: _____
 Name: WAYLAND Y. BOOZER
 Title: DIRECTOR OF OPERATIONS

INITIALS: OWNER _____, CONTRACTOR (W)

supplier

Contractor and one or more third parties; and these joint payments shall satisfy amounts owed by Owner to Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, warranty service, or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work and obligations under this Agreement. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("Purchase Order"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Owner shall have the right to make changes to the schedule of Work at Owner's sole discretion, and Contractor shall comply with such changes. Contractor shall not be entitled to any additional compensation for such schedule changes.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common law), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Subcontractor shall immediately notify Contractor in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, rules, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "Requirements"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, regardless of any alleged fault of Owner. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform warranty or repair work after a house is occupied.

6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("Inspector") shall have the right, but not the obligation, to observe, inspect or test the Work at any time during or after construction, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not limited to trash, unused building materials, garbage, refuse or rubbish ("Waste"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location

INITIALS: OWNER _____, CONTRACTOR WV

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designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon demand by Owner and may be deducted by Owner from any sums owed to Contractor.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe working conditions and equipment exist and safe practices are observed. Contractor shall have a competent person on the Work Site at all times in charge of Contractor's safety program. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition or practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Law"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation, regardless of any alleged fault of Owner. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, nor allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substance" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. For the longer of ten years or the period or any applicable statute of limitation or repose, Contractor ~~unconditionally warrants~~ to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work shall conform to the specifications of this Agreement (including but not limited to the standards referenced in Subsection 6.1), shall be free from any defects or deficiencies in workmanship or materials, shall comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, shall meet or exceed the FHA/VA minimum property standards, and shall comply with the Home Owners' Warranty, defined below and its applicable warranty standards (which Contractor has read and understands). All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects. Contractor shall be liable to make good or promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Subsection 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, any initial home purchaser of property subject to the Work: (i) for a period of ten (10) years all structural elements, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; and (iii) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (a) any statutory warranty or (b) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner, including but not limited to the Residential Warranty Corporation Program (a "Home Owners' Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners Warranty that is longer than the warranty periods stated above; provided, however, failure to give that notice will not affect the extension of the warranty period to the applicable warranty period under the Home Owners Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform warranty services thereafter.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product information, and guarantees by manufacturers on components of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including, but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

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9. LIENS AND RETAINAGE.

9.1 ~~Contractor's Lien Waiver.~~ *we are A Supplier* TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER OR ITS PROPERTY. *4/4*

9.2 ~~Retainage.~~ At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the work is located. *Not a check*

9.3 ~~Lien Claim Indemnity.~~ If any liens, affidavits of claim, stop payment notices, or lis pendens arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor cures such liens, affidavits of claim, stop payment notices, or lis pendens to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any such liens, affidavits of claim, stop payment notices, or lis pendens, and further agrees immediately upon Owners' request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge any and all liens, affidavits of claim, stop payment notices, or lis pendens, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any home purchaser in discharging the liens, affidavits of claim, stop payment notices, or lis pendens whichever remedy Owner elects in its sole and absolute discretion. The provisions of this paragraph shall be in addition to any rights Owner may have under applicable law with respect to such liens, affidavits of claim, stop payment notices, or lis pendens. *nh*

10. CONTRACTOR'S INDEMNITY. *N/A we are Supplier*

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF AND ATTORNEYS' FEES), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR OR BY CONTRACTOR'S AGENTS OR EMPLOYEES, OR BY SUPPLIERS OR SUBCONTRACTORS OF ANY TIER, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES; (3) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF INDEMNITEE RELATED IN ANY WAY TO THE WORK, EXCEPTING ONLY LIABILITY OR CLAIMS ARISING OUT OF BODILY INJURY TO PERSONS, DEATH, OR DAMAGE TO PROPERTY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY CONTRACTOR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO DEFEND, INSURE, INDEMNIFY OR HOLD INDEMNITEE HARMLESS FOR LIABILITY OR CLAIMS ARISING OUT OF BODILY INJURY TO PERSONS, DEATH, OR DAMAGE TO PROPERTY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

10.3 NO BAILMENT. CONTRACTOR AND CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, ALL SUBCONTRACTORS, AND SUPPLIERS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS, MATERIALS, OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS, MATERIALS OR EQUIPMENT.

10.4 Subcontractors and Suppliers Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor or supplier who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors or suppliers to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with products-completed operations coverage, which contains a per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and an aggregate limit of no less than Two Million Dollars (\$2,000,000.00) protecting against bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products-completed operations including materials designed, furnished, and/or

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modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL policy shall not contain a deductible or self insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work.

11.2 Other Insurance. Contractor agrees to carry (a) Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law; (b) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (c) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person for bodily injury and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as a named, Additional Insured, specifically identifying Owner, on the CGL Policy and policies required above covering both ongoing operations and completed operations (equivalent in scope to form CG 2010 0704 and CG 2037 0704). Coverage obtained by Contractor with Owner as an additional insured shall be primary, with any insurance of Owner being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work; (iii) provide for a waiver of subrogation; (iv) indicate that coverage applies in the state where the Work is being performed; and (v) be with a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies, as requested by Owner.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

11.7 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any Indemnitee, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or if another contractor's work, or other property, is damaged by an act or omission of Contractor, its employees, agents, suppliers, or subcontractors, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's acts or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or (viii) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may set off from amounts owing to Contractor hereunder any amounts owing by Contractor to Owner's parent company, any subsidiary or affiliate, under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this

INITIALS: OWNER _____, CONTRACTOR WM

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Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other rights or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("FAA"). All demands for arbitration shall be made before the expiration of the applicable statutes of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for \$1,000,000 or more, but only one arbitrator shall be appointed if the Dispute is for less than \$1,000,000. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by mailing notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligations of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and each Contractor's employees, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement; (vi) Contractor is in compliance with all governmental requirements to which it is subject; and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior Independent Contractor Agreements (other than any Master National Independent Contractor Agreement) or other prior understandings or written or oral agreements, specifically including but not limited to all prior pre-printed standard contractor/subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement, shall alter the terms set forth in this Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to

INITIALS: OWNER _____, CONTRACTOR MD

supplier

control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by law, the Master National Independent Contractor Agreement shall control.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, without limitation, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner to any assignment or delegation of duties by Contractor, including but not limited to any work by a subcontractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of Georgia.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, Contractor shall return any and all confidential material or proprietary property or documents to Owner.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or subsections.

GEORGIA VERSION (REV. 21 DECEMBER 2012)

INITIALS: OWNER _____, CONTRACTOR AA

Supplier

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LadeDanlar00105



SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR Landshapers, LLC ("Contractor")
Sole Proprietorship ☐ Partnership ☐ Corporation ☒ L.L.C. ☐ Other (ATTACH W-9)
Social Security No. or Tax ID No.: 57-1199996
Name of Owner(s)/Officer(s): Mark C. Walker
Division Name: _____ Area Name: _____ Assigned Vendor No.: _____
Address for All Notices: 17 Horse Shoe Circle
City: Greenville State: SC Zip Code: 29605
Telephone: () 864-444-0536 Fax: () _____ E-Mail Address: Landshapers SC@gmail.com
Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
This agreement (the "Agreement") is entered into on this 1st day of December, 2015, between
DR Horton Inc. and DR Horton - Regent LLC ("Owner") and Contractor.

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of this Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement shall include all work performed and materials supplied by Contractor, directly or indirectly, to Owner, including but not limited to the labor, services and/or materials, equipment, transportation, or facilities used or required to complete the construction-related activities of Owner authorized by written purchase order, or similar document by Owner's authorized field personnel (the "Work"). The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing shall not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to, or in place of, Contractor.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, means, method and performance of the Work. Contractor shall ensure that the results achieved satisfy the requirements of this Agreement. Contractor shall be responsible, and liable, for all acts and omissions of its employees, agents, subcontractors and other persons performing any portion of the Work, and shall ensure that all personnel performing the Work are qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further shall provide written notification to all of its present and future employees of Contractor's provision for Workers Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall be solely responsible for and will pay all withholding, Social Security, state unemployment and all other similar taxes for Contractor's employees, agents or subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNTIL CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule implementing a price increase, the superseded Pricing Schedule shall remain in effect for Purchase Orders, as defined herein, issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing from Owner to a purchaser of the house incorporating the Work. To the extent permitted by law, Contractor waives its right to payment for any Work not invoiced in a timely manner. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order, as defined herein.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-39 AND 29-6-50, CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO CONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN. CONTRACTOR

THIS AGREEMENT CONSISTS OF SEVEN (7) PAGES AND ADDENDA, IF ANY.

Executed this 1st day of December, 2015

Owner:	Contractor:
By: <u>[Signature]</u>	By: <u>Landshapers, LLC</u>
Name: <u>Shawn Varghese</u>	Name: <u>Mark C. Walker</u>
Title: <u>Division President</u>	Title: <u>Owner</u>

INITIALS: OWNER SV CONTRACTOR MW

AGREES THAT OWNER DOES, AND WILL, NOT OWE INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF ANY DELAYED PAYMENT.

4.2 Contractor Payments. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, as defined herein, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed by Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Unless otherwise agreed by Owner and Contractor, payment to Contractor shall be made by check. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed by Owner to Contractor, whether or not all parties endorse the checks.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the contract price shall waive and release all claims against Owner under this Agreement, but shall not waive any claims of Owner arising out of or resulting from the Work and shall not release Contractor from any obligations under this Agreement, including but not limited to liability for warranties, warranty service, or any other liability for alleged defects in the Work. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or customers or assigns shall constitute an acceptance of the Work or materials not in compliance with this Agreement, or be used in any way as evidence of acceptance by Owner.

5. SCHEDULE OF WORK.

5.1 Construction Schedule. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work and obligations under this Agreement. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.2 Authorization and Commencement of the Work. Authorization for any Work shall be in writing, either pursuant to a written purchase order, work invoice, or similar document ("Purchase Order"). Contractor shall have no authority to commence the Work at any specific job location until Owner has issued instructions to proceed. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.3 Changes in Construction Schedule. Owner shall have the right to make changes to the schedule of Work at Owner's sole discretion, and Contractor shall comply with such changes. Contractor shall not be entitled to any additional compensation for such schedule changes.

6. PERFORMANCE OF THE WORK.

6.1 Applicable Standards. Contractor shall perform all Work in accordance with any plans or specifications of Owner, in a good and workmanlike manner, and in accordance with all industry standards and practices. The Work shall meet or exceed FHA minimum property standards, VA requirements, all manufacturers' or suppliers' standards or specifications for use and installation, and all laws (statutory and common law), ordinances, rules (governmental and private agency), and regulations (including but not limited to any applicable building code requirements). In the event of conflicting provisions, specifications will take precedence over the drawings; the more specific provision will take precedence over the less specific; the more stringent will take precedence over the less stringent; the more expensive item will take precedence over the less expensive; later modifications or changes will supersede or take precedence over earlier provisions. Contractor shall immediately notify Owner in writing of any allegedly conflicting provisions.

6.2 Representative(s). Contractor shall have a competent representative at the job site at all times during performance of the Work who shall have absolute authority to act, in all respects, on behalf of and for Contractor.

6.3 Contractor's Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized employee of Owner and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications, and that the plans and specifications are clear and unambiguous, and that Contractor has accepted and agreed to be bound by all such requirements.

6.4 Government Requirements. Contractor shall comply with all applicable federal, state, and local laws and statutes, ordinances, rules, regulations, orders, codes, licensing requirements and standards relating in any way to the performance of the Work, including but not limited to the requirements of the Occupational Safety and Health Act of 1970 as amended, the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and the procurement and posting of all required permits and notices (the "Requirements"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of or noncompliance with the Requirements, and shall, to the fullest extent permitted by law, **INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS** from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation of or noncompliance with the Requirements by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, regardless of any alleged fault of Owner. In addition, Contractor shall not discriminate illegally in its hiring or employment and shall comply with all state and federal employment laws or regulations. Contractor shall perform background checks and ensure only suitable persons perform warranty or repair work after a house is occupied.

6.5 Observation, Inspection and Testing. Owner and any government agency inspector ("Inspector") shall have the right, but not the obligation, to observe, inspect or test the Work at any time during or after construction, but that observation, inspection or testing is solely for the benefit of Owner and is not for Contractor's benefit. Contractor shall cooperate with Owner and Inspector during any such inspection. The failure by Owner or Inspector to note defects in the Work during an inspection shall not waive or vary any of Contractor's obligations, representations or warranties related to the Work.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work in any way, and shall report in writing to Owner any defects in the work of any other contractor prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractors' work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses, approvals, and as-built drawings necessary for, or applicable to, the performance of the Work. Contractor shall provide copies to Owner immediately upon request.

6.8 Change Orders. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes. Contractor shall comply with any Change Order requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which

INITIALS: OWNER *AW* , CONTRACTOR *MCW*

the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed; (ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) Work Site safety requirements. Contractor shall be subject to subdivision rules which provide for fines payable to Owner by Contractor for failure to comply with such rules, which may be deducted by Owner from any sums owed by Owner to Contractor.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste or other discarded materials, including but not limited to trash, unused building materials, garbage, refuse or rubbish ("Waste"), caused by its operations and shall remove all of Contractor's materials at the conclusion of the Work. If materials are furnished by Owner, Contractor shall move all usable materials at the conclusion of the Work to a location designated by Owner. In addition to removal of all Waste upon the conclusion of the Work, Contractor shall leave the inside of any home under construction in "broom clean" condition. Contractor shall dispose of all Waste properly, and may place it in any receptacles intended for that purpose or at other locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up. The cost of any such clean-up shall be payable by Contractor immediately upon demand by Owner and may be deducted by Owner from any sums owed to Contractor.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from, or in any way related to, the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Contractor shall have an ongoing safety program and conduct inspections to ensure that safe working conditions and equipment exist and safe practices are observed. Contractor shall have a competent person on the Work Site at all times in charge of Contractor's safety program. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OR EXCEED APPLICABLE LEGAL STANDARDS. CONTRACTOR AGREES THAT OWNER HAS NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe conditions or practices observed on the Work Site and promptly send Owner a written notice if the condition or practice is not immediately remedied. Further, Contractor shall immediately notify in writing Owner and Contractor's insurer of any accidents or injuries on the Work Site. Contractor shall prohibit and prevent the presence on the Work Site of persons under age eighteen (18) and all persons not involved in the Work.

7.2 Safety Laws. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards and statutes concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations ("Safety Law"). In addition to its obligations under Section 10 of this Agreement, Contractor shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work for any violation of, or noncompliance with, the Safety Law, and shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from and against any and all claims, demands, liability, losses, costs, damages or expenses including attorneys' fees and costs incurred, lawsuits, actions, causes of action, citations or work stoppages, or other litigation of every kind and character in any way incident to, in connection with, or arising out of any alleged violation or noncompliance by Contractor, or any individual or entity acting on behalf of or at the direction of Contractor, of the Safety Law, or safety citation, regardless of any alleged fault of Owner. Contractor shall provide Owner with written verification of compliance with Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., and, if required by law, provide written notice to Owner of the contact person responsible for Contractor's safety compliance.

7.3 Hazardous Materials. Contractor shall not permit any Hazardous Substances, defined below, to be brought onto or stored at any job site or used in the construction of the Work, except for commonly used construction materials, provided however, that all such material shall be handled in full compliance with all laws, ordinances and regulations. All notices required to be given with respect to such products shall be given by Contractor. Contractor shall not release or dispose, nor allow any other person to release or dispose, of Hazardous Substances or waste at any job site or into the soil, drains, surface or ground water, or air. "Hazardous Substance" means any substance or material which any state, federal or local governmental authority determines or designates as capable of posing a risk of injury to health, safety, property or the environment.

7.4 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, agents, subcontractors or suppliers at a job location, or performance of the Work by any person under the influence of alcohol or drugs. "Drugs" shall include any substance, whether or not illegal, which upon exposure, ingestion, inhalation, injection or by any other introduction, may impair one's ability to safely perform the Work.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. For the longer of ten years or the period of any applicable statute of limitation or repose, Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate entities, or successors and assigns, that all Work shall conform to the specifications of this Agreement (including but not limited to the standards referenced in Subsection 8.1), shall be free from any defects or deficiencies in workmanship or materials, shall comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, shall meet or exceed the FHA/VA minimum property standards, and shall comply with the Home Owners' Warranty, defined below and its applicable warranty standards (which Contractor has read and understands). All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects. Contractor shall be liable to make good or promptly repair all Work not complying with the standards set forth in this Section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Subsection 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, any initial home purchaser of property subject to the Work: (i) for a period of ten (10) years all structural elements, including but not limited to roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; and (iii) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (a) any statutory warranty or (b) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner, including but not limited to the Residential Warranty Corporation Program (a "Home Owners' Warranty"). Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Home Owners Warranty that is longer than the warranty periods stated above; provided, however, failure to give that notice will not affect the extension of the warranty period to the applicable warranty period under the Home Owners Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty or indemnity obligations hereunder, nor shall it affect Owner's right to require Contractor to perform warranty services thereafter.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish, transfer and assign all warranties, relevant product information, and guarantees by manufacturers on components of the Work, including any appliances or equipment, and shall furnish all certificates required by any third parties such as any municipality, the VA, or the FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and shall not limit or reduce any applicable statutes of limitation.

INITIALS: OWNER CONTRACTOR

8.5 Transfer of Title and Ownership to Work and Other Documents. Contractor warrants and hereby transfers title to all Work, including, but not limited to all materials, products, samples, as-built drawings and shop drawings, to Owner, either upon incorporation in the construction or upon receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. To the extent subject to copyright law, all Work shall be considered a "work made for hire." Upon request of Owner, Contractor shall also provide any other documents necessary to transfer any and all ownership rights to the Work, including, but not limited to any copyright rights, to Owner.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. TO THE EXTENT PERMITTED BY LAW, CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS OR SIMILAR CLAIMS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Work is located.

9.3 Lien Claim Indemnity. If any liens, affidavits of claim, stop payment notices, or its pendens arising out of the Work are filed or provided to Owner, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such liens, affidavits of claim, stop payment notices, or its pendens to be removed and released of record. In addition to its obligations under Section 10 of this Agreement, Contractor shall, to the fullest extent permitted by law, INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any such liens, affidavits of claim, stop payment notices, or its pendens, and further agrees immediately upon Owners' request to: (i) procure a bond to indemnify Owner and any purchaser of property including the Work, in an amount sufficient to discharge any and all liens, affidavits of claim, stop payment notices, or its pendens, or (ii) pay to Owner all monies, including any additional amount necessary to cover all attorneys' fees, expenses and court costs paid by Owner or any home purchaser in discharging the liens, affidavits of claim, stop payment notices, or its pendens whichever remedy Owner elects in its sole and absolute discretion. The provisions of this paragraph shall be in addition to any rights Owner may have under applicable law with respect to such liens, affidavits of claim, stop payment notices, or its pendens.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD OWNER AND OWNER'S PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THESE ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY "INDEMNITEE"), FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LAWSUITS OR OTHER LITIGATION, ACTIONS, CAUSES OF ACTION, OR OTHER LIABILITIES, OF EVERY KIND AND CHARACTER (INCLUDING ALL COSTS THEREOF, ATTORNEYS' FEES AND INTEREST), WHETHER ASSERTED BY A PURCHASER OR OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING BUT NOT LIMITED TO PERSONNEL FURNISHED BY CONTRACTOR, ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER), ON ACCOUNT OF BODILY OR PERSONAL INJURY, DEATH, OR DAMAGE TO OR LOSS OF TANGIBLE OR INTANGIBLE PROPERTY INCLUDING THE LOSS OF USE THEREOF IN ANY WAY OCCURRING, INCIDENT TO, ARISING OUT OF, OR IN CONNECTION WITH: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS, OR OTHER OBLIGATIONS OF CONTRACTOR SET FORTH IN THIS AGREEMENT; (2) THE WORK, AS DEFINED IN SECTION 1, INCLUDING BUT NOT LIMITED TO WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR OR BY CONTRACTOR'S AGENTS OR EMPLOYEES, OR BY ITS SUPPLIERS OR SUBCONTRACTORS OF ANY TIER, OR THEIR RESPECTIVE AGENTS OR EMPLOYEES; (3) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, SUPPLIERS OR SUBCONTRACTORS, REGARDLESS OF WHETHER CAUSED IN PART BY INDEMNITEE; OR (4) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF INDEMNITEE RELATED IN ANY WAY TO THE WORK. CONTRACTOR'S DUTY TO DEFEND IS A SEPARATE, DISTINCT, AND INDEPENDENT OBLIGATION FROM ITS DUTY TO INDEMNIFY AND IS TRIGGERED IMMEDIATELY WHEN ANY CLAIM, DEMAND, OR OTHER ASSERTION OF LIABILITY IS MADE AGAINST INDEMNITEE WHICH POTENTIALLY OR ARGUABLY IS SUBJECT TO CONTRACTOR'S DUTY TO INDEMNIFY, REGARDLESS OF CONTRACTOR'S ULTIMATE LIABILITY FOR INDEMNITY. CONTRACTOR MUST DEFEND INDEMNITEE EVEN WHERE THE ALLEGATIONS AGAINST INDEMNITEE ARE AMBIGUOUS OR INCOMPLETE WITH RESPECT TO THE ISSUE OF CONTRACTOR'S DUTY TO INDEMNIFY. ONCE THE DUTY TO DEFEND IS TRIGGERED, CONTRACTOR IS OBLIGATED TO DEFEND THE ENTIRE ACTION, LAWSUIT, ARBITRATION, OR OTHER LITIGATION, INCLUDING ANY CLAIMS THEREIN NOT SUBJECT TO INDEMNITY BY CONTRACTOR. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO INDEMNIFY INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY OR PROPERTY DAMAGE PROXIMATELY CAUSED BY OR RESULTING FROM THE SOLE NEGLIGENCE OR SOLE INTENTIONAL ACT OR OMISSION OF INDEMNITEE. CONTRACTOR AGREES THAT ITS OBLIGATIONS SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. PAYMENT FOR THE WORK IS NOT A CONDITION PRECEDENT TO CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. INDEMNITEE SHALL HAVE THE RIGHT, IF IT SO CHOOSES IN ITS ABSOLUTE DISCRETION, TO DEFEND ALL CLAIMS WHICH MAY BE ASSERTED, AND CONTRACTOR WILL REIMBURSE INDEMNITEE FOR ALL EXPENDITURES THAT OWNER MAY INCUR ON ACCOUNT OF THE CLAIM.

10.3 NO BAILMENT. CONTRACTOR AND CONTRACTOR'S EMPLOYEES, PERSONNEL, AGENTS, ALL SUBCONTRACTORS, AND SUPPLIERS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS, MATERIALS, AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS, MATERIALS, OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS, MATERIALS OR EQUIPMENT.

10.4 Subcontractors and Suppliers Indemnity Obligations. Contractor shall require each of its subcontractors to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms set forth in Section 13 of this Agreement. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the acts and omissions of any subcontractor or supplier who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed also to be the obligation of the subcontractors or suppliers to Owner, for which Contractor shall be fully responsible to Owner.

INITIALS: OWNER CONTRACTOR

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with products-completed operations coverage, which contains a per occurrence limit of no less than One Million Dollars (\$1,000,000.00), and an aggregate limit of no less than Two Million Dollars (\$2,000,000.00) protecting against bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products-completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type, nature, or volume of the Work or limit the type of structure or number of units on which the Work is to be performed. The CGL policy shall not contain a deductible or self-insured retention of more than \$25,000.00, and shall allow the satisfaction of any and all deductible or self-insured retention through payments made by any third party, including but not limited to Owner or any additional insured, co-insureds, co-insurers, or insureds other than the primary or first named insured. Contractor shall continuously maintain a CGL Policy covering products-completed operations for any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work.

11.2 Other Insurance. Contractor agrees to carry (a) Workers Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Workers Compensation obligations imposed by law; (b) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than One Million Dollars (\$1,000,000.00) and an aggregate of no less than One Million Dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (c) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person for bodily injury and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner, D.R. Horton, Inc., and all affiliates and subsidiaries of D.R. Horton, Inc., (collectively "Horton") as named, Additional Insureds, specifically identifying Horton, on the CGL Policy and policies required above covering both ongoing operations and completed operations (equivalent in scope to form CG 2010 1185 or, if unavailable, both forms CG 2010 1001 and CG 2037 1001). Coverage obtained by Contractor with Horton as an additional insured shall be primary, with any insurance of Horton being excess coverage. Insurance coverages required by this Agreement shall contain unqualified provisions to the effect that the policy shall: (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days prior written notice to Owner; (ii) be carried continuously from the date of commencement of the Work until expiration of any applicable warranty period, statute of limitation, or statute of repose, whichever is longer, for the filing or asserting of claims, lawsuits or other actions arising out of or relating to the Work; (iii) provide for a waiver of subrogation; (iv) indicate that coverage applies in the state where the Work is being performed; and (v) be with a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best with insurance companies acceptable to Owner in its sole and absolute discretion. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself, the Work, and its obligations under this Agreement. In the event that Contractor obtains insurance coverage that is broader than the minimums required by this Agreement, this Agreement shall be deemed to require the broader coverage, including but not limited to any greater limits.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, portions of policies (including but not limited to declarations pages and endorsements), or certified copies of the required policies, as requested by Owner.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER BY OWNER POLICY WITH RESPECT TO PARTICULAR TRADE CATEGORIES IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED) TO COMPENSATE OWNER REASONABLY FOR ANY ADDITIONAL COSTS OF ITS WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS AGREEMENT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work, Contractor warrants and guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Horton as an additional insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

11.7 Subrogation. Contractor hereby waives, releases and discharges all claims and/or rights of recovery by subrogation or otherwise (including but not limited to claims relating to deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, insolvency of any insurer, limitations or exclusions of coverage) against Owner or any indemnitee, and any of their consultants, subcontractors, agents, employees and representatives. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or if another contractor's work, or other property, is damaged by an act or omission of Contractor, its employees, agents, suppliers, or subcontractors, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct all or any portion of the Work designated by Owner, and replace or repair any other damaged work or property designated by Owner, at Contractor's expense, within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours of notice on a non-emergency basis; or (ii) correct all or any portion of the Work, and replace or repair all or any portion of the other damaged work or property. Owner may retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs to complete, repair, or replace, plus any related costs or damage including re-inspection fees, with any excess to be paid to Contractor. If such costs exceed the funds withheld, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and attorneys' fees incurred by Owner, and shall pay this amount to Owner immediately upon demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Subsection 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens

INITIALS: OWNER  CONTRACTOR 

are filed against the job location as a result of Contractor's acts or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order owed by Contractor under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary or adequate tools, material, or equipment for, or cleaned up after, the Work; or (viii) Contractor fails to comply with any other provision of this Agreement, or any agreement between Contractor and Owner's parent company, any subsidiary or affiliate. Without limiting the generality of the foregoing, Owner may set off from amounts owing to Contractor hereunder any amounts owing by Contractor to Owner's parent company, any subsidiary or affiliate, under any agreement between Contractor and any such entity.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement, and rights and remedies available under this Agreement, shall be independent and cumulative so that no one of them is exclusive, and each is in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. The assertion by any party of any right or remedy shall not preclude the assertion by such party of any other rights or the seeking of any other remedies allowed.

12.4 Right to Attorneys' Fees and Expenses. Contractor shall pay any and all attorneys' fees and other expenses incurred by Owner in enforcing Contractor's obligations under this Agreement.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking other relief.

13.3 Arbitration. If the parties are unable to resolve any Dispute by agreement, regardless of any other choice of law provision in any underlying contract or this Agreement, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq. ("FAA"). All demands for arbitration shall be made before the expiration of the applicable statutes of limitations or repose, except that any claim by Owner shall not accrue for purposes of any time limitation for claims until Owner has discovered the claim, or could have discovered it by reasonable diligence. The award rendered by the arbitrator(s) shall be final and binding. A petition to confirm, vacate, modify or correct an award may be filed in any court of competent jurisdiction, but the award may be vacated, modified or corrected only as permitted by the FAA.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator(s) mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes against Owner, is for \$1,000,000 or more, but only one arbitrator shall be appointed if the Dispute is for less than \$1,000,000. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of an arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint an arbitrator. The AAA/ABA Code of Ethics for Arbitrators in Commercial Disputes (effective March 1, 2004) is applicable to all arbitrations. Any mediation or arbitration shall be conducted in the county where the Work is performed.

13.5 Rules. To the extent not in conflict with the FAA, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner in its sole discretion may join Contractor in any litigation, mediation, or arbitration initiated by Owner, or against Owner by a third person, so that the rights of all parties (Owner, Contractor, subcontractor, or any third person) can be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner. If multiple lawsuits or arbitrations are commenced, Owner in its sole discretion may consolidate them into a single proceeding. Notwithstanding any other provision of this Section 13, if Owner determines in its sole discretion that a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect unilaterally to waive mediation or arbitration and to litigate the Dispute in court with Contractor.

14. TERMINATION.

14.1 Termination by Owner. This Agreement shall remain in full force and effect until terminated in writing by Owner by making notice to Contractor. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) days written notice to Owner before the effective date of any termination by Contractor, and shall perform fully under this Agreement during that notice period.

14.3 Survival. All obligations, duties and warranties by Contractor under this Agreement shall survive termination of this Agreement.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligations of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and each Contractor's employees, agents or subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement; (vi) Contractor is in compliance with all governmental requirements to which it is subject; and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

INITIALS: OWNER  CONTRACTOR 

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement shall be the entire agreement between Owner and Contractor related to the Work and shall be deemed to amend and supersede all prior Independent Contractor Agreements (other than any Master National Independent Contractor Agreement) or other prior understandings or written or oral agreements, specifically including but not limited to all prior pre-printed standard contractor/subcontractor agreements (including attached exhibits) entered into between Owner and Contractor for the provision of goods or services or both by Contractor relating to the subject matter herein. All current Pricing Schedules and Purchase Orders shall remain valid and binding for the Work and shall be deemed subject to the terms of this Agreement. Any future Pricing Schedules or Purchase Orders entered into hereafter shall also be deemed to be subject to the terms of this Agreement. Past and future Pricing Schedules and Purchase Orders shall control only for the purpose of establishing prices and quantities of sale only. Nothing in any subsequent agreement or document, unless a new Independent Contractor Agreement, shall alter the terms set forth in this Agreement. To the extent possible, this Agreement shall be deemed to supplement the terms of any other agreement or document, unless a new Independent Contractor Agreement. In the event of any conflict between this Agreement and other such documents, this Agreement shall be deemed to control and prevail. Except as otherwise provided in this Agreement, no amendment or supplement to this Agreement shall be valid or binding unless in writing and signed by both Owner and Contractor. Notwithstanding anything in this Subsection to the contrary, this Agreement shall not amend or supersede any Master National Independent Contractor Agreement, but shall supplement its terms. In the event of a conflict, to the extent permitted by law, the Master National Independent Contractor Agreement shall control.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights, responsibilities, and obligations under this Agreement are not assignable or transferable without the express written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion. Any attempted assignment shall be null and void. This restriction includes, without limitation, the delegation or subcontracting of any Work or any amounts which may become due to Contractor as a result of the Work. Contractor shall remain fully liable under this Agreement regardless of any consent by Owner to any assignment or delegation of duties by Contractor, including but not limited to any work by a subcontractor. Contractor shall ensure that any subcontractor receives a copy of this Agreement and agrees in writing to be fully responsible for all obligations of Contractor under this Agreement, including but not limited to the insurance and indemnity provisions. Contractor shall also ensure that Owner is an intended third party beneficiary of any subcontractor agreement by including a specific provision to that effect. Contractor shall be responsible for enforcing any warranties given by its subcontractors, suppliers or manufacturers. Nothing contained herein, however, shall create any contractual relationship between Owner and any subcontractor, nor create any obligation on the part of Owner to make payment of any sums to any subcontractor. Subject to the restrictions and prohibitions on assignment set forth in this Subsection, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns. Owner may freely assign this Agreement, in whole or in part.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No act or conduct other than a specific, written waiver of a right shall be deemed a waiver by Owner. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Immediately upon request by Owner, Contractor shall return any and all confidential material or proprietary property or documents to Owner.

18. NOTICES. All notices required or permitted pursuant to this Agreement or otherwise shall be in writing and shall be delivered as follows: to Contractor at Contractor's business address as shown on page one (1) of this Agreement; to Owner through Owner's official Registered Agent for service of legal process in the state where the Work is performed at that Registered Agent's registered office. Notices may be given by personal delivery, facsimile, commercial overnight delivery service, personal delivery or ordinary mail and shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by commercial overnight delivery service, and upon confirmation if sent by facsimile transmission or by personal delivery. Rejection, refusal to accept or the inability to deliver because of changed address shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or subsections.

Grading

SOUTH CAROLINA VERSION (REV. 22 JUNE 2015)

INITIALS: OWNER  CONTRACTOR 



SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR LONG HEATING & AIR CONDITIONING, INC "Contractor")
Sole Proprietorship ☐ Partnership ☒ Corporation ☐ L.L.C ☐ Other (ATTACH W-9)
Social Security No. or Tax ID No. 20-2104741
Name of Owner(s)/Officer(s) ANDY LONG
Division Name: COASTAL CAROLINA Area Name ALL SL5 Assigned Vendor No. 1343948-CL
Addresses for All Notices: 1200 WOODRUFF ROAD, SUITE C-25
City: GREENVILLE State: S.C Zip Code: 29607
Telephone: (864) 213-9899 Fax: (864) 987-0195 E-Mail Address: longheatingandair@yahoo.com
Insurance Carriers ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
This agreement (the "Agreement") is entered into on this 12 day of JUNE, 2009 between DR HORTON INC ("Owner") and Contractor

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of the Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement (the "Work") shall include all work performed and materials supplied by Contractor to Owner including but not limited to the labor, services and/or materials, equipment, transportation, or facilities necessary to complete the construction-related activities generally described in Exhibit A. The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing will not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to or in place of Contractor. Contractor will be awarded Work on a lot by lot basis. To the extent Exhibit A contains more than one type of construction-related activity, Contractor must clarify with Owner before the Work commences as to which construction-related activity it has been awarded for the lot in question.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, method and performance of the Work. Contractor shall not be considered an agent or employee of Owner for any purpose, nor shall any employees or permitted subcontractors of Contractor. Contractor shall not represent itself as the agent of Owner unless owner has specifically permitted Contractor to do so in writing. The results achieved shall satisfy the requirements of this Agreement. Contractor shall be responsible for the performance of its employees and permitted subcontractors, and all personnel used by Contractor in the performance of Work shall be qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further agrees to provide written notification to all of its present and future employees of Contractor's provision for Worker's Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work herein covered or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall pay and shall be solely responsible for all tax withholding, Social Security, state unemployment and all other withholding as required by law Contractor's employees, agents or permitted subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNLESS CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule, the superseded Pricing Schedule shall remain in effect for Purchase Orders issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing of the house incorporating the Work from Owner to a purchaser. Contractor hereby agrees that timely invoicing is an important and material term to this agreement, and timely invoicing is a part of Contractor's performance of all material terms of this contract. Contractor hereby waives payment for any Work where Contractor fails to invoice Owner in a timely manner in conformity to this agreement. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR

Executed this 12 day of JUNE, 2009

Owner:
By: Brian F. Sarnes
Name: Brian F. Sarnes
Title: Division President

Contractor:
By: Long Heating & Air Conditioning, Inc.
Name: Andy Long
Title: PRESIDENT

INITIALS: OWNER BS CONTRACTOR AL

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ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO SUBCONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN AND THAT OWNER DOES NOT AGREE TO PAY TO SUBCONTRACTOR INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF DELAYED PAYMENTS.

4.2 Payment to Subcontractors. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, if applicable for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed from Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Owner may, at any time, in its discretion make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed by Owner to Contractor, notwithstanding the fact that the third parties may not endorse the checks. In any instance where Owner receives written notice from one of Contractor's sub-contractors, whereby the subcontractor claims a failure to be paid for the Work, Owner reserves the right to pay the subcontractor directly or to make payment payable to both the Contractor and its subcontractor.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the Contract Price shall waive and release all claims against Owner and the property under this Agreement, but shall not waive any claims of Owner arising out of Work later found to be defective and shall not release Contractor from liability for warranties and warranty service and/or defective Work. Contractor shall remedy any defects and pay for any damage resulting from any defects in or caused by the Work or as required by any other contracts between Owner and Contractor or by law or customary practice. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or assigns is an acceptance of the Work or materials not in compliance with this Agreement.

5. SCHEDULE OF WORK.

5.1 Time is of the Essence. Contractor acknowledges that TIME IS OF THE ESSENCE in the performance of all Work.

5.2 Construction Schedule. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.3 Commencement of the Work. Owner shall issue an authorization (either pursuant to a written purchase order, payment schedule, or work invoice ("Purchase Order") or verbal instructions from an authorized Owner representative) to commence the Work and Contractor shall not commence the Work at a job location until Contractor has received instructions to begin Work at a specific job location. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.4 Changes in Construction Schedule. Contractor agrees that Owner shall have the right to make changes to the schedule of Work at Owner's discretion and agrees to comply with such changes.

6. PERFORMANCE STANDARDS.

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner, in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FHA minimum property standards, VA requirements, all laws (statutory or common) and regulations, and any applicable building code requirements.

6.2 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized Owner's employee and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications as the plans and specifications affect the Work and materials incorporated in the Work, and that the plans and specifications are clear and unambiguous, and has accepted and agreed to be bound by all such requirements.

6.3 Government Requirements. Contractor will comply with all applicable federal, state, local, and county statutes, ordinances, regulations, codes, licensing requirements and standards, and the requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 as amended, as well as the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., or similar laws or regulations, and the rules, regulations, or orders of all public authorities relating to performance of the Work, including without limitation, the procurement and posting of all required permits and notices. In addition, Contractor will not discriminate in its hiring or employment and will follow all state and federal employment laws or regulations. Contractor shall perform background checks and use only appropriate employees to perform warranty or repair work after a house is occupied.

6.4 Indemnity. To the fullest extent allowed by law, Contractor will agree to indemnify, defend, and hold Owner harmless from all actions, claims, investigations or other acts to enforce such laws or regulations, and further agrees to indemnify Owner from the payment of any fine, penalty or damages imposed, levied, assessed, or found as a result of the Contractor's failure to comply with or adhere to the applicable laws and regulations, or from Contractor's failure to cause its employees or subcontractors to comply with such laws and regulations.

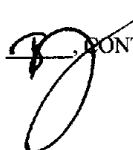
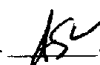
6.5 Observation and Testing by Owner and Repair by Contractor. Owner shall have the right to observe or test the Work at any time during or after construction, but that observation or testing is solely for the benefit of Owner's and is not for Contractor's benefit. Owner's failure to note defects in the Work during an inspection will not waive any of Contractor's obligations, representations or warranties related to the Work. Notwithstanding anything contained in this Agreement to the contrary, all Work shall be performed and any defects shall be corrected timely and in accordance with this Agreement to the satisfaction of Owner.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work, and shall report in writing to Owner any defects prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractor's work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses and approvals necessary for or applicable to the performance of the Work.

6.8 Change Orders. The Contractor shall furnish the materials for and to make all changes requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed,

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(ii) governing storage of materials on the job location, (iii) regulating trash pick-up and waste collection at the job location; and (iv) work site safety requirements

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste materials or rubbish caused by its operations and shall remove all of Contractor's materials, and if materials are furnished by Owner, Contractor shall move all usable materials provided by Owner to a location designated by Owner. Contractor shall sweep out any waste material from inside the home under construction upon completion of its operation. All refuse shall be placed in receptacles provided or at locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up activities and collect a one hundred dollar (\$100.00) fine from Contractor for each incident. The cost of such clean-up and the aforementioned fine shall be deducted from any sums owed by Owner to Contractor, or shall be immediately payable by Contractor upon demand therefore by Owner.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Owner reserves the right to set minimum standards or rules relating to Work on its site. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OWNERS MINIMUM REQUIREMENTS. THE OWNER ASSUMES NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe condition or practice observed on the Work Site. Further, Contractor shall immediately notify Owner of any accidents or injuries on the Work Site. Contractor shall have an ongoing safety program and conduct inspections to determine that safe working conditions and equipment exist and safe practices are observed. Contractor shall prohibit and prevent the presence of children under age eighteen (18) from the Work Site.

7.1 Safety Laws and Indemnity Agreement. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards, statutes, and industry best practices concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations. Contractor shall provide Owner with written verification of its compliance with all applicable safety and health standards and regulations, including but not limited to OSHA's Hazard Communication Standard for the Construction Industry, 29 C.F.R. §1926.59 et seq., and provide written notice to Owner of the contact person responsible for Contractor's compliance with all safety and health standards and regulations. To the fullest extent allowed by law, Contractor agrees to indemnify, defend, and hold Owner harmless from all actions prosecuted to enforce and the payment of any fine or penalty imposed under such safety laws and regulations and shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work.

7.2 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, permitted subcontractors or suppliers at a job location or performance of the Work by any person under the influence of alcohol or drugs.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate corporations, and successors and assigns, that all labor performed and materials furnished by Contractor shall conform to the specifications of this Agreement, shall be free from any defects or deficiencies in workmanship or materials, and will comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, will meet or exceed the FHA/VA minimum property standards, and will comply with the Residential Warranty Corporation ("RWC") Program and the applicable limited warranty standards, which Contractor has read and understands and to which Contractor agrees to be bound. All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects for purposes of Contractor's obligations under this Contract. Contractor shall make good and promptly repair all Work not complying with the standards set forth in this section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Paragraph 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, the initial homeowner of the property on that is the subject of the Work: (i) for a period of ten (10) years all structural elements, including, but not limited to, roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; (d) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (i) any statutory warranty or (ii) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner (a "Homeowners Warranty"). Contractor expressly agrees to be bound by any such Homeowners Warranty and to the extension of warranty period hereunder. Furthermore, notwithstanding the foregoing, Contractor agrees that all express and implied warranties shall remain in full force and effect for so long as Owner is obligated to warrant the Work pursuant to applicable law. Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Homeowners Warranty that is longer than the Warranty Periods stated above, provided, however, failure to give that notice will not affect the extension of the Warranty Period to the applicable warranty period under the Homeowner's Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty obligations, Contractor's indemnity obligations, or the ability of Owner to request Contractor to perform warranty services in the future.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish all warranties and/or guarantees by manufacturers on appliances and equipment, and shall furnish all certificates required by any municipality and/or VA and/or FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and are not in limitation of periods of applicable statutes of limitation.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Project is located.

9.3 Lien Claim Indemnity. If any liens are filed against Owner relating to portions of the Work for which Owner has paid Contractor, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien or affidavit to be removed.

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and released of record Contractor agrees to INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any liens relating to portions of the Work for which Owner has paid Contractor, and further agrees to Owners' request to any or all of the following: (i) procure a bond to indemnify Owner and any home purchaser from Owner, in an amount sufficient to discharge that lien, or (ii) refund to Owner all monies, including any additional amount necessary to cover all of Owner's or home purchaser's attorneys' fees and court costs paid in discharging the lien, whichever remedy Owner elects in its sole and absolute discretion, or (iii) provide sworn testimony that payment has already been made to Contractor for the work for which the alleged lien applies.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY AGREES TO HOLD HARMLESS, INDEMNIFY, PROTECT AND DEFEND OWNER, ITS PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THE AFOREMENTIONED ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "INDEMNITEE"), FROM AND AGAINST ANY AND ALL DEMANDS, CLAIMS, ACTIONS, CAUSES OF ACTION, PROCEEDINGS, LAWSUITS, SETTLEMENTS, JUDGMENTS, FINES, PENALTIES, LOSSES, ATTORNEYS FEES, LITIGATION COSTS, INTEREST, AND EXPENSES OF ANY KIND (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "LOSSES") FOR DAMAGES FROM BODILY OR PERSONAL INJURY, DEATH, THE DESTRUCTION OR LOSS OF PROPERTY (INCLUDING LOSS OF USE), OR ANY OTHER KIND OF DAMAGES OR HARM, ARISING OUT OF, OR RESULTING FROM, OR RELATED IN ANY WAY TO THE WORK PERFORMED AND/OR THE MATERIALS SUPPLIED UNDER THIS CONTRACT, REGARDLESS OF WHETHER OR NOT CAUSED IN PART BY INDEMNITEE. SUCH LOSSES SPECIFICALLY INCLUDE, BUT ARE IN NO WAY LIMITED TO LOSSES ARISING OUT OF OR ATTRIBUTABLE TO: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS OR OBLIGATIONS OF CONTRACTOR SET FORTH HEREIN; (2) THE WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR, CONTRACTOR'S AGENTS OR EMPLOYEES, SUPPLIERS OR SUBCONTRACTORS AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, AND/OR ALL OTHER ENTITIES OVER WHOM THE CONTRACTOR MAY EXERCISE CONTROL (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "CONTRACTOR'S AGENTS"); (3) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF CONTRACTOR AND/OR CONTRACTOR'S AGENTS; OR (4) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE INDEMNITEE RELATED IN ANY WAY TO THE WORK. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE INDEMNITY FOR LOSSES CAUSED SOLELY BY FAULT OR NEGLIGENCE OF THE INDEMNITEE. THE LOSSES DESCRIBED HEREIN SHALL INCLUDE, BUT ARE NOT LIMITED TO, DEMANDS, CLAIMS, OR ACTIONS ASSERTED BY (1) ANY PRESENT OR FUTURE OWNER OF THE HOUSE INCORPORATING THE WORK; AND (2) ANY OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY CONTRACTOR AND/OR CONTRACTOR'S AGENTS). THE INDEMNIFICATION OBLIGATION UNDER THIS CONTRACT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. THE INDEMNITY PROVISIONS CONTAINED HEREIN ARE INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY LAW.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ANY AND ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. IT IS THE EXPRESS INTENTION OF THE PARTIES THAT CONTRACTOR'S INDEMNITY OBLIGATIONS HEREIN WILL SURVIVE THE TERMINATION OF CONTRACTOR OR THIS AGREEMENT. INDEMNITEE SHALL HAVE THE RIGHT, AT ITS DISCRETION AND CHOOSING, TO DEFEND ANY AND ALL CLAIMS WHICH MAY BE ASSERTED AGAINST IT, AND CONTRACTOR AGREES TO REIMBURSE INDEMNITEE FOR ANY AND ALL EXPENDITURES WHICH INDEMNITEE MAY MAKE OR INCUR ON ACCOUNT OF ANY SUCH CLAIM.

10.3 CONTRACTOR AND CONTRACTOR'S AGENTS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS OR EQUIPMENT.

10.4 Subcontractor's and Supplier's Indemnity Obligations. Contractor shall require each of its subcontractor to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required in this section and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms as Section 13. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the actions of any subcontractor engaged by Contractor, whether in written agreement or otherwise, or who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed to be the obligation of the subcontractors to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with completed operations coverage which contains a per occurrence limit of no less than one million dollars (\$1,000,000.00), and an aggregate limit of no less than two million dollars (\$2,000,000.00) protecting against liability for bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations, (ii) products and completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit), (iii) independent subcontractors, (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL Policy shall not contain a deductible or self insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering completed operations for any applicable statute of repose for commencing lawsuits associated with the Work.

11.2 Other Insurance. Contractor agrees to carry (i) Worker's Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Worker's Compensation obligations imposed by law; (ii) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than one million dollars (\$1,000,000.00) and an aggregate of no less than one million dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (iii) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person (Bodily Injury) and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both on-going operations and completed operations (equivalent to form CG20101185 or form CG2037). Coverage obtained by Contractor naming Owner as an Additional Insured shall be primary with any insurance of Owner being excess coverage. That insurance coverage will be carried continuously during the term of this Agreement and thereafter as required by this Agreement with insurance companies acceptable to Owner in its sole and absolute discretion. That insurance shall provide for a waiver of subrogation. All insurance shall be with

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a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies. Each Certificate of Insurance or policy shall contain an unqualified clause to the effect that the policy shall (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days' prior written notice to Owner, (ii) be carried continuously from the date of commencement of the Work until expiration of the period of the Contractor's warranty provided in this Agreement, (iii) specifically identify Owner as an Additional Insured, and (iv) indicate that coverage applies in the state where the Work is being performed. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself and the Work required to be performed under this Agreement.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER IN ITS SOLE AND ABSOLUTE DISCRETION) IN EFFECT AT THE TIME WORK IS PERFORMED TO COMPENSATE OWNER FOR ANY ADDITIONAL COSTS OF ITS WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS, CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS CONTRACT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work to the extent permitted under this Agreement, Contractor guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an Additional Insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or another contractor's work is damaged by an act for which Contractor, or its employees, agents or subcontractors, are responsible, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct such Work, replace or repair any defective material, or repair any damage. Contractor shall make all repairs and correct such within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours notice on a non-emergency basis, or (ii) retain a third party or undertake to perform those duties, and retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld resulting in a deficiency, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and reasonable attorneys' fees, incurred by Owner, and shall pay to Owner this amount within thirty (30) days of demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Paragraph 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or permitted subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties, (ii) claims or liens are filed against the job location as a result of Contractor's actions or omissions, (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement, Exhibit A of this Agreement, or the specifications, (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order that is Contractor's obligation under this Agreement, (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work, (vii) Contractor has not provided necessary tools, material, or equipment for, or cleaned up after, the Work, (viii) Contractor fails to comply with any other provision of this Agreement.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement and rights and remedies available under this Agreement shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. Owner shall have a right to collect from Contractor its reasonable attorneys' fees and expenses incurred in enforcing Contractor's obligations.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These Disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking equitable relief from and arbitrator or a court of appropriate jurisdiction.

13.3 Arbitration. If mediation fails, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq., regardless of any other choice of law provision in any underlying contract or this Agreement. All demands for arbitration shall be made before the expiration of the applicable statutes of limitations and repose. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in any court of competent jurisdiction.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrators mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes, is over \$200,000, but only one arbitrator shall be appointed if the Dispute is 200,000 or less. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of a mediator or arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint a mediator or arbitrator. The AAA's Code of Arbitrator Ethics (revised March 1, 2004) is applicable to all arbitrations.

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13.5 Rules. To the extent not in conflict with the Federal Arbitration Act, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner may join Contractor in any litigation, mediation, or arbitration initiated against Owner by a third person so that the rights of all parties (Owner, Contractor, Subcontractor, or any third person) shall be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner where necessary to facilitate resolution in a single forum. If multiple lawsuits or arbitrations are commenced, they shall all be consolidated into a single proceeding. Notwithstanding any other provision of this section, if a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect to unilaterally waive mediation or arbitration and litigate the Dispute with Contractor.

14. TERMINATION.

14.1 Termination by Owner for Cause of Convenience. This Agreement shall remain in full force and effect until terminated in writing by mailing notice to the other Party. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) Days' written notice before the effective date of termination, and shall perform fully under this Agreement during that notice period. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.3 Survival. All obligations, duties and warranties for Work performed under this Agreement shall survive termination.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) a binding obligations of Contractor, enforceable in accordance with its terms, (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority, (v) Contractor has, and each Contractor's employees, agents or permitted subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement, (vi) Contractor is in compliance with all governmental requirements to which it is subject, and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement, and with respect to prices and quantities only, the Price Schedule and all written Purchase Orders shall be the entire agreement between Owner and Contractor related to the Work, and there are no other agreements, oral or written, made by or relied upon by Owner and Contractor. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended or supplemented except in writing signed by both Owner and Contractor.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights and obligations are not assignable or transferable without the express written consent of Owner, who may consent can be withheld in Owner's sole and absolute discretion. Subject to the restrictions and prohibitions on assignment set forth in this section, the terms of the Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Contractor shall provide and transfer ownership to any and all samples and/or shop drawings requested by Owner.

18. NOTICES. All notices required pursuant to this Agreement or otherwise shall be in writing and shall be delivered to the respective business address of Owner and Contractor. However, Contractor's business address shall be as noted on page one (1) of this Agreement. Notices shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by overnight delivery service, and upon confirmation if sent by facsimile transmission.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or articles.

SOUTH CAROLINA REVISED 7/23/2007

INITIALS: OWNER B, CONTRACTOR ASL

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DR HORTON
Norman Boulder

SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR Mamale Landscaping, LLC ("Contractor")
 Sole Proprietorship Partnership Corporation ☒ L.L.C. Other (ATTACH W-9)
 Social Security No. or Tax ID No. 56-222 7876
 Name of Owner(s)/Officer(s) Damon manale
 Division Name _____ Area Name _____ Assigned Vendor No. _____
 Address for All Notices PO Box 62951
 City North Charleston State SC Zip Code 29419
 Telephone () 704 361 9682 Fax () 704 596 5353 E-Mail Address eric @mamale landscaping . com
 Insurance Carriers ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS
 This agreement (the "Agreement") is entered into on this 28 day of January 2010, between DR Horton Inc.
 (Owner) and Contractor

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of the Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement (the "Work") shall include all work performed and materials supplied by Contractor to Owner including but not limited to the labor services and/or materials, equipment transportation or facilities necessary to complete the construction-related activities generally described in Exhibit A. The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing will not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to or in place of Contractor. Contractor will be awarded Work on a lot by lot basis. To the extent Exhibit A contains more than one type of construction-related activity, Contractor must clarify with Owner before the Work commences as to which construction-related activity it has been awarded for the lot in question.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, method and performance of the Work. Contractor shall not be considered an agent or employee of Owner for any purpose, nor shall any employees or permitted subcontractors of Contractor. Contractor shall not represent itself as the agent of Owner unless owner has specifically permitted Contractor to do so in writing. The results achieved shall satisfy the requirements of this Agreement. Contractor shall be responsible for the performance of its employees and permitted subcontractors, and all personnel used by Contractor in the performance of Work shall be qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further agrees to provide written notification to all of its present and future employees of Contractor's provision for Worker's Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work herein covered or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall pay and shall be solely responsible for all tax withholding: Social Security, state unemployment and all other withholding as required by law. Contractor's employees, agents or permitted subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes (or acts with a Resale Certificate or Exemption Certificate). If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNLESS CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule, the superseded Pricing Schedule shall remain in effect for Purchase Orders issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing of the house incorporating the Work from Owner to a purchaser. Contractor hereby agrees that timely invoicing is an important and material term to this agreement, and timely invoicing is a part of Contractor's performance of all material terms of this contract. Contractor hereby waives payment for any Work where Contractor fails to invoice Owner in a timely manner in conformity to this agreement. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR

Executed this 28 day of January, 2010

Owner:
 By DR Horton Contractor:
 Name Damon B. Jefferson Name Damon manale
 Title Purchasing Title Owner
 Division President

INITIALS, OWNER [Signature], CONTRACTOR [Signature]

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ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO SUBCONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN AND THAT OWNER DOES NOT AGREE TO PAY TO SUBCONTRACTOR INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF DELAYED PAYMENTS.

4.2 Payment to Subcontractors. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed from Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties, and these joint payments shall satisfy amounts owed by Owner to Contractor notwithstanding the fact that the third parties may not endorse the checks. In any instance where Owner receives written notice from one of Contractor's sub-contractors, whereby the subcontractor claims a failure to be paid for the Work, Owner reserves the right to pay the subcontractor directly or to make payment payable to both the Contractor and its subcontractor.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the Contract Price shall waive and release all claims against Owner and the property under this Agreement, but shall not waive any claims of Owner arising out of Work later found to be defective and shall not release Contractor from liability for warranties and warranty service and/or defective Work. Contractor shall remedy any defects and pay for any damage resulting from any defects in or caused by the Work or as required by any other contracts between Owner and Contractor or by law or customary practice. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or assigns is an acceptance of the Work or materials not in compliance with this Agreement.

5. SCHEDULE OF WORK.

5.1 Time is of the Essence. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work.

5.2 Construction Schedule. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.3 Commencement of the Work. Owner shall issue an authorization (either pursuant to a written purchase order, payment schedule, or work invoice ("Purchase Order") or verbal instructions from an authorized Owner representative) to commence the Work and Contractor shall not commence the Work at a job location until Contractor has received instructions to begin Work at a specific job location. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.4 Changes in Construction Schedule. Contractor agrees that Owner shall have the right to make changes to the schedule of Work at Owner's discretion and agrees to comply with such changes.

6. PERFORMANCE STANDARDS.

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FHA minimum property standards. VA requirements, all laws (statutory or common) and regulations, and any applicable building code requirements.

6.2 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized Owner's employee and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications and the plans and specifications affect the Work and materials incorporated in the Work, and that the plans and specifications are clear and unambiguous, and has accepted and agreed to be bound by all such requirements.

6.3 Government Requirements. Contractor will comply with all applicable federal, state, local, and county statutes, ordinances, regulations, codes, licensing requirements and standards, and the requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 as amended, as well as the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq. or similar laws or regulations, and the rules, regulations, or orders of all public authorities relating to performance of the Work, including without limitation, the procurement and posting of all required permits and notices. In addition, Contractor will not discriminate in its hiring or employment and will follow all state and federal employment laws or regulations. Contractor shall perform background checks and use only appropriate employees to perform warranty or repair work after a house is occupied.

6.4 Indemnity. To the fullest extent allowed by law, Contractor will agree to indemnify, defend, and hold Owner harmless from all actions, claims, investigations or other acts to enforce such laws or regulations, and further agrees to indemnify Owner from the payment of any fine, penalty or damages imposed, levied, assessed, or found as a result of the Contractor's failure to comply with or adhere to the applicable laws and regulations, or from Contractor's failure to cause its employees or subcontractors to comply with such laws and regulations.

6.5 Observation and Testing by Owner and Repair by Contractor. Owner shall have the right to observe or test the Work at any time during or after construction, but that observation or testing is solely for the benefit of Owner's and is not for Contractor's benefit. Owner's failure to note defects in the Work during an inspection will not waive any of Contractor's obligations, representations or warranties related to the Work. Notwithstanding anything contained in this Agreement to the contrary, all Work shall be performed and any defects shall be corrected timely and in accordance with this Agreement to the satisfaction of Owner.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work, and shall report in writing to Owner any defects prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractor's work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses and approvals necessary for or applicable to the performance of the Work.

6.8 Change Orders. The Contractor shall furnish the materials for and to make all changes requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed,

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(ii) governing storage of materials on the job location, (iii) regulating trash pick-up and waste collection at the job location, and (iv) work site safety requirements

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste materials or rubbish caused by its operations and shall remove all of Contractor's materials, and if materials are furnished by Owner, Contractor shall move all usable materials provided by Owner to a location designated by Owner. Contractor shall sweep out any waste material from inside the home under construction upon completion of its operation. All refuse shall be placed in receptacles provided or at locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up activities and collect a one hundred dollar (\$100.00) fine from Contractor for each incident. The cost of such clean-up and the aforementioned fine shall be deducted from any sums owed by Owner to Contractor, or shall be immediately payable by Contractor upon demand therefore by Owner.

7. SAFETY

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Owner reserves the right to set minimum standards or rules relating to Work on its site. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OWNER'S MINIMUM REQUIREMENTS. THE OWNER ASSUMES NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe condition or practice observed on the Work Site. Further, Contractor shall immediately notify Owner of any accidents or injuries on the Work Site. Contractor shall have an ongoing safety program and conduct inspections to determine that safe working conditions and equipment exist and safe practices are observed. Contractor shall prohibit and prevent the presence of children under age eighteen (18) from the Work Site.

7.1 Safety Laws and Indemnity Agreement. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards, statutes, and industry best practices concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations. Contractor shall provide Owner with written verification of its compliance with all applicable safety and health standards and regulations, including but not limited to OSHA's Hazard Communication Standard for the Construction Industry, 29 C.F.R. §1926.59 et seq. and provide written notice to Owner of the contact person responsible for Contractor's compliance with all safety and health standards and regulations. To the fullest extent allowed by law, Contractor agrees to indemnify, defend and hold Owner harmless from all actions prosecuted to enforce and the payment of any fine or penalty imposed under such safety laws and regulations and shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work.

7.2 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, permitted subcontractors or suppliers at a job location or performance of the Work by any person under the influence of alcohol or drugs.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate corporations, and successors and assigns, that all labor performed and materials furnished by Contractor shall conform to the specifications of this Agreement, shall be free from any defects or deficiencies in workmanship or materials, and will comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, will meet or exceed the FHA/VA minimum property standards and will comply with the Residential Warranty Corporation ("RWC") Program and the applicable limited warranty standards, which Contractor has read and understands and to which Contractor agrees to be bound. All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects for purposes of Contractor's obligations under this Contract. Contractor shall make good and promptly repair all Work not complying with the standards set forth in this section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Paragraph 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, the initial homeowner of the property on that is the subject of the Work: (i) for a period of ten (10) years all structural elements, including, but not limited to: roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home; and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; (d) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element or other portion of the Work under (i) any statutory warranty or (ii) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner (a "Homeowners Warranty"). Contractor expressly agrees to be bound by any such Homeowners Warranty and to the extension of warranty period hereunder. Furthermore, notwithstanding the foregoing, Contractor agrees that all express and implied warranties shall remain in full force and effect for so long as Owner is obligated to warrant the Work pursuant to applicable law. Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Homeowners Warranty that is longer than the Warranty Periods stated above; provided, however, failure to give that notice will not affect the extension of the Warranty Period to the applicable warranty period under the Homeowner's Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty obligations, Contractor's indemnity obligations, or the ability of Owner to request Contractor to perform warranty services in the future.

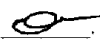
8.4 Transfer of Manufacturers Warranties. Contractor shall furnish all warranties and/or guarantees by manufacturers on appliances and equipment, and shall furnish all certificates required by any municipality and/or VA and/or FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and are not in limitation of periods of applicable statutes of limitation.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Project is located.

9.3 Lien Claim Indemnity. If any liens are filed against Owner relating to portions of the Work for which Owner has paid Contractor, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien or affidavit to be removed.

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and released of record. Contractor agrees to INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any liens relating to portions of the Work for which Owner has paid Contractor, and further agrees at Owner's request to any or all of the following: (i) procure a bond to indemnify Owner and any home purchaser from Owner in an amount sufficient to discharge that lien; or (ii) refund to Owner all monies, including any additional amount necessary to cover all of Owner's or home purchaser's attorneys' fees and court costs paid in discharging the lien, whichever remedy Owner elects in its sole and absolute discretion; or (iii) provide sworn testimony that payment has already been made to Contractor for the work for which the alleged lien applies.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY AGREES TO HOLD HARMLESS, INDEMNIFY, PROTECT AND DEFEND OWNER, ITS PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THE AFOREMENTIONED ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "INDEMNITEE"), FROM AND AGAINST ANY AND ALL DEMANDS, CLAIMS, ACTIONS, CAUSES OF ACTION, PROCEEDINGS, LAWSUITS, SETTLEMENTS, JUDGMENTS, FINES, PENALTIES, LOSSES, ATTORNEYS FEES, LITIGATION COSTS, INTEREST, AND EXPENSES OF ANY KIND (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "LOSSES") FOR DAMAGES FROM BODILY OR PERSONAL INJURY, DEATH, THE DESTRUCTION OR LOSS OF PROPERTY (INCLUDING LOSS OF USE), OR ANY OTHER KIND OF DAMAGES OR HARM, ARISING OUT OF, OR RESULTING FROM, OR RELATED IN ANY WAY TO THE WORK PERFORMED AND/OR THE MATERIALS SUPPLIED UNDER THIS CONTRACT, REGARDLESS OF WHETHER OR NOT CAUSED IN PART BY INDEMNITEE. SUCH LOSSES SPECIFICALLY INCLUDE, BUT ARE IN NO WAY LIMITED TO LOSSES ARISING OUT OF OR ATTRIBUTABLE TO: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS OR OBLIGATIONS OF CONTRACTOR SET FORTH HEREIN; (2) THE WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR, CONTRACTOR'S AGENTS OR EMPLOYEES, SUPPLIERS OR SUBCONTRACTORS AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, AND/OR ALL OTHER ENTITIES OVER WHOM THE CONTRACTOR MAY EXERCISE CONTROL (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "CONTRACTOR'S AGENTS"); (3) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF CONTRACTOR AND/OR CONTRACTOR'S AGENTS; OR (4) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE INDEMNITEE RELATED IN ANY WAY TO THE WORK. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE INDEMNITY FOR LOSSES CAUSED SOLELY BY FAULT OR NEGLIGENCE OF THE INDEMNITEE. THE LOSSES DESCRIBED HEREIN SHALL INCLUDE, BUT ARE NOT LIMITED TO, DEMANDS, CLAIMS, OR ACTIONS ASSERTED BY (1) ANY PRESENT OR FUTURE OWNER OF THE HOUSE INCORPORATING THE WORK, AND (2) ANY OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY CONTRACTOR AND/OR CONTRACTOR'S AGENTS). THE INDEMNIFICATION OBLIGATION UNDER THIS CONTRACT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. THE INDEMNITY PROVISIONS CONTAINED HEREIN ARE INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY LAW.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ANY AND ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. IT IS THE EXPRESS INTENTION OF THE PARTIES THAT CONTRACTOR'S INDEMNITY OBLIGATIONS HEREIN WILL SURVIVE THE TERMINATION OF CONTRACTOR OR THIS AGREEMENT. INDEMNITEE SHALL HAVE THE RIGHT, AT ITS DISCRETION AND CHOOSING, TO DEFEND ANY AND ALL CLAIMS WHICH MAY BE ASSERTED AGAINST IT, AND CONTRACTOR AGREES TO REIMBURSE INDEMNITEE FOR ANY AND ALL EXPENDITURES WHICH INDEMNITEE MAY MAKE OR INCUR ON ACCOUNT OF ANY SUCH CLAIM.

10.3 CONTRACTOR AND CONTRACTOR'S AGENTS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS OR EQUIPMENT.

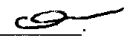
10.4 Subcontractor's and Supplier's Indemnity Obligations. Contractor shall require each of its subcontractor to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required in this section and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms as Section 13. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the actions of any subcontractor engaged by Contractor, whether in written agreement or otherwise, or who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed to be the obligation of the subcontractors to Owner for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with completed operations coverage which contains a per occurrence limit of no less than one million dollars (\$1,000,000.00) and an aggregate limit of no less than two million dollars (\$2,000,000.00) protecting against liability for bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations, (ii) products and completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit), (iii) independent subcontractors, (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement, and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of the Work or limit the type of structure on which the Work is to be performed. The CGL Policy shall not contain a deductible or self insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering completed operations for any applicable statute of repose for commencing lawsuits associated with the Work.

11.2 Other Insurance. Contractor agrees to carry (i) Worker's Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel employees or agents and Contractor shall satisfy all Worker's Compensation obligations imposed by law, (ii) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than one million dollars (\$1,000,000.00) and an aggregate of no less than one million dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment, and (iii) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person (Bodily Injury) and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both on-going operations and completed operations (equivalent to form CG20101185 or form CG2037). Coverage obtained by Contractor naming Owner as an Additional Insured shall be primary with any insurance of Owner being excess coverage. That insurance coverage will be carried continuously during the term of this Agreement and thereafter as required by this Agreement with insurance companies acceptable to Owner in its sole and absolute discretion. That insurance shall provide for a waiver of subrogation. All insurance shall be with

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a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A M Best

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance or certified copies of the required policies. Each Certificate of Insurance or policy shall contain an unqualified clause to the effect that the policy shall (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days' prior written notice to Owner, (ii) be carried continuously from the date of commencement of the Work until expiration of the period of the Contractor's warranty provided in this Agreement, (iii) specifically identify Owner as an Additional Insured and (iv) indicate that coverage applies in the state where the Work is being performed. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself and the Work required to be performed under this Agreement.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER IN ITS SOLE AND ABSOLUTE DISCRETION) IN EFFECT AT THE TIME WORK IS PERFORMED TO COMPENSATE OWNER FOR ANY ADDITIONAL COSTS OF ITS WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS, CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS CONTRACT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work to the extent permitted under this Agreement, Contractor guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an Additional Insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

12. REMEDIES

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or another contractor's work is damaged by an act for which Contractor, or its employees, agents or subcontractors, are responsible, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct such Work, replace or repair any defective material, or repair any damage. Contractor shall make all repairs and correct such within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours notice on a non-emergency basis, or (ii) retain a third party or undertake to perform those duties, and retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld resulting in a deficiency, Contractor shall be fully responsible for the deficiency together with any damages and costs, including costs of court and reasonable attorneys' fees, incurred by Owner, and shall pay to Owner this amount within thirty (30) days of demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Paragraph 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or permitted subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties, (ii) claims or liens are filed against the job location as a result of Contractor's actions or omissions, (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily, or that the Work cannot or may not be completed in accordance with the terms of this Agreement, Exhibit A of this Agreement or the specifications, (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order that is Contractor's obligation under this Agreement, (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance, (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work, (vii) Contractor has not provided necessary tools, material or equipment for, or cleaned up after the Work, (viii) Contractor fails to comply with any other provision of this Agreement.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement and rights and remedies available under this Agreement shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. Owner shall have a right to collect from Contractor its reasonable attorneys' fees and expenses incurred in enforcing Contractor's obligations.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These Disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking equitable relief from an arbitrator or a court of appropriate jurisdiction.

13.3 Arbitration. If mediation fails, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq., regardless of any other choice of law provision in any underlying contract or this Agreement. All demands for arbitration shall be made before the expiration of the applicable statutes of limitations and repose. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in any court of competent jurisdiction.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrators mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes, is over \$200,000, but only one arbitrator shall be appointed if the Dispute is 200,000 or less. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of a mediator or arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint a mediator or arbitrator. The AAA's Code of Arbitration Ethics (revised March 1, 2004) is applicable to all arbitrations.

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13.5 Rules. To the extent not in conflict with the Federal Arbitration Act, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner may join Contractor in any litigation, mediation, or arbitration initiated against Owner by a third person so that the rights of all parties (Owner, Contractor, Subcontractor, or any third person) shall be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner where necessary to facilitate resolution in a single forum. If multiple lawsuits or arbitrations are commenced, they shall all be consolidated into a single proceeding. Notwithstanding any other provision of this section, if a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect to unilaterally waive mediation or arbitration and litigate the Dispute with Contractor.

14. TERMINATION.

14.1 Termination by Owner for Cause of Convenience. This Agreement shall remain in full force and effect until terminated in writing by mailing notice to the other Party. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) Days' written notice before the effective date of termination, and shall perform fully under this Agreement during that notice period. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.3 Survival. All obligations, duties and warranties for Work performed under this Agreement shall survive termination.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms, (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority, (v) Contractor has, and each Contractor's employees, agents or permitted subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement, (vi) Contractor is in compliance with all governmental requirements to which it is subject, and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement, and with respect to prices and quantities only, the Price Schedule and all written Purchase Orders shall be the entire agreement between Owner and Contractor related to the Work, and there are no other agreements, oral or written, made by or relied upon by Owner and Contractor. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended or supplemented except in writing signed by both Owner and Contractor.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights and obligations are not assignable or transferable without the express written consent of Owner, who may consent can be withheld in Owner's sole and absolute discretion. Subject to the restrictions and prohibitions on assignment set forth in this section, the terms of the Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Contractor shall provide and transfer ownership to any and all samples and/or shop drawings requested by Owner.

18. NOTICES. All notices required pursuant to this Agreement or otherwise shall be in writing and shall be delivered to the respective business address of Owner and Contractor. However, Contractor's business address shall be as noted on page one (1) of this Agreement. Notices shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by overnight delivery service, and upon confirmation if sent by facsimile transmission.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or articles.

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D.R. Horton Scope of Work for Landscape Companies

New Subdivision Assignments

- Landscape company must submit a complete and comprehensive bid for each subdivision. The bid shall be inclusive of all materials, labor and equipment to insure there are no incidental extras. The landscape company shall not install any landscaping in the subdivision prior to Horton's acceptance of the bid.
- Horton will notify the landscape company of new subdivision assignments.

Requirements of Landscape Company

General Requirements:

- Landscape company must return telephone calls from Horton employees within twenty four hours.
- A manager or owner of the landscape company must walk the subdivision twice a month to evaluate the performance and service of its employees.
- A crew chief for the landscape company must check in with the on site builder whenever on site. Crew chief must be able to communicate effectively with the builder.
- Landscape company must park in designated areas only, and never in front of models.
- Landscape company must be professionally dressed and groomed, including uniforms identifying employees, at all times when in subdivision (shirts and shoes required).
- Landscape company must comply with subdivision design guidelines.
- Landscape company must comply with Independent Contractor Agreement and insurance requirements.
- Landscape company must comply with all subdivision rules and regulations (music playing from trucks or boom boxes is prohibited, Port a Potties must be utilized, trash must be properly disposed of, no eating in spec houses or utilizing appliances in the spec houses, use of the amenities is prohibited)
- Landscape company is responsible for removal from the subdivision, disposal and clean up of all materials, including install spoils, skids, buckets, string, scrap sods and soils. Landscape company shall remove from the subdivision all rocks and excess dirt.

Install Requirements:

- Horton will deliver a copy of the final plat identifying areas to be maintained prior to the commencement of the work.
- Landscape company is responsible for identifying all property lines, natural and undisturbed areas, and easements. Landscape company is further responsible for inspection of proper drainage patterns and swale locations. Landscape company shall locate and inspect the grade height of all concrete flat work, foundation drains, sewer clean outs, water meters, underground utilities, catch basins, headwalls and drop inlets. The landscape company shall notify the builder of any damage to the aforementioned items. If the builder is not notified of the damage prior to the landscape company's start of work, the landscape company will be responsible.
- Landscape company is responsible for insuring that the drainage comports with the master drainage plan. Each lot shall be designed to control the run off on the individual lot. Run off shall not cross any property line without a recorded drainage easement. The landscape company shall be responsible for any maintenance or corrective cost incurred due to failure to comply with drainage requirements.
- Landscape company shall grade all lots for optimum function and aesthetic appeal and comply with all applicable codes. All water must not stand more than 24 hours in any location or 48 hours in a swale.
- Landscape company must check the final grade of swales for proper drainage and insure six to ten foot fall from the house prior to the installation of materials. If landscaper accepts the grade and the property later holds water or fails to pass inspection, the landscaper is responsible for repairing the drainage at its cost. Landscape company shall repair one time at its cost any area that settles such as trenches, back fill at foundations and retaining walls, wash outs and seeded areas that fail to germinate.
- Landscape company shall adhere to Horton landscape and plant specifications. Landscape company shall not substitute any plant materials or make plant changes without the prior written consent of Horton. Landscape company shall be responsible for all cost incurred in removal and replacement of any materials installed without prior approval.
- All trees, shrubs, flowers and grasses shall be planted in compliance with accepted horticultural standards. All plants shall be placed in the location most suitable for their natural environment and growth potential. The landscape company shall be responsible for the replacement of any plant planted in an environment that it will not thrive.
- All plants, shrubs, trees and sod shall be healthy, free of defects, disease and inspect infestation and well developed. All plants shall be potted or balled and be correct size for container, not root bound. All trees shall be planted in a hole 3 times the diameter of the root ball. The soil shall be gently but firmly packed around the root ball. The tree shall be vertical, with the root ball 3" about the finished grade, supported on 3 sides with coated wire, taunt and staked to the ground. The staking should be loosened and removed as necessary to prevent choking.
- The subcontractor shall supply sod pieces per specifications. Sod species shall not be mixed. The sod shall be green, with damp soils, cut in a smooth consistent depth free of holes, voids and weeds. The sod shall be laid out parallel to the street tucked tight with no over lapped edges. Each successive row shall be off set. The sod shall be rolled smooth at the completion of the landscape installation. The sod shall be laid within 24 to 36 hours after cutting during the summer and no more than 48 hours in the winter. The use of over seeded sod is strictly forbidden.

- The landscape company shall furnish all grass seed, fertilizer and wheat and pine straw. The landscape company shall re-seed and straw in the spring or fall areas that failed to germinate during the summer or dormant season. All plant beds shall have a minimum of 6" deep ground cover as specified.
- The landscape company shall replace all splash blocks, broom sweep all surrounding concrete surfaces, and shall supply each home with 2 50' garden hoses and 2 sprinklers.
- Landscape company must water new installs twice daily for two weeks.
- Installs must be warranted for one year from date of install.
- Installs must occur within Horton's stated time frame.
- Install must include wiring for low voltage landscaping lights.
- Install must include all necessary irrigation.
- Install plantings shall:
 - Maximize the impact for the dollar
 - Be appropriately sized to the bed and fill the bed
 - Be varied in height, color and texture and tiered (minimum of two different heights, textures and colors in every planting)
 - Be deer and animal resistant to the extent possible

Maintenance Requirements (revised 2/11/09):

- Common areas, model homes, spec homes and entrances must be mown, edged and blown a minimum of **sixteen** times a year (as follows):
 - January – **0 visits**
 - February - **1 visit**
 - March – **1 visit**
 - April – **2 visits**
 - May – **2 visits**
 - June – **2 visits**
 - July – **2 visits**
 - August – **2 visits**
 - September – **2 visits**
 - October – **1 visit**
 - November – **1 visit**
 - December -**0 visits**
- Landscaper agrees to include a minimum of six additional visits (mow, edge, blow) for the model homes, spec homes and entrances – to be used in the discretion of Horton builder or manager.
- Landscaper agrees to mow, edge and blow properties belonging to homeowners at Horton's request for the sum of \$30.00. It is not anticipated that this will be a common occurrence, but landscaper agrees to assist Horton with exercising self help on homes as needed.

Common areas, entrances, model homes and spec homes must be fertilized four times a year as follows:

o Bermuda Sod:	February – March	5-5-20 with pre-emergent with .375 (rate: 5lbs/1000 square feet)
	April – May	32-4-8 with .375 (rate: 4lbs/1000 square feet)
	June – July	32-4-8 with .375 (rate: 4lbs/1000 square feet)
	Sept – Oct	32-4-8 with .375 (rate: 4lbs/1000 square feet)
	Oct – Nov	5-5-20 with pre-emergent with .375 (rate: 5lbs/1000 square feet)
o Centipede:	February – March	12-4-8 (rate: 5lbs/1000 square feet)
	June – July	12-4-8 (rate: 5lbs/1000 square feet)
o Fescue:	February – March	15-0-5 with pre-emergent (rate: 4lbs/1000 square feet)
	April – May	Preventive treatment with fungicide
	June – July	5-10-30 with 10% iron (rate: 3-5lbs/1000 square feet)
	Sept – Oct	18-24-12 with 2% iron Overseed with turf type tall fescue (rate: 4lbs/1000 square feet)
	Oct – Nov	32-4-8 (rate: 6lbs/1000 square feet)

- Weeds shall be treated and hand picked a minimum of once a month.
- Common areas must receive pine straw twice a year (November, April).
- Entrances, model homes and spec homes must receive pine straw four times a year (November, February, May, August)
- Model homes, spec homes and entrance shrubs and trees must be pruned and shaped twice a year (cut back in the winter and shaped during the growing season).

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- In addition, the shape of all shrubs and trees must be maintained during the growing season. However, pruning shall not interfere with new growth.
- Landscape company is responsible for replacing all dead or missing materials on spec homes, model homes and entrances immediately. Authorization is required to replace dead and missing materials in common areas.
- Entrances, model homes and spec homes must receive fall and spring color
 - Plantings shall maximize the impact for the dollar
 - Plantings shall be appropriately sized to the bed and fill the bed
 - Plantings shall be varied in height, color and texture and tiered (minimum of two different heights, textures and colors in every planting)
 - Plantings shall be season appropriate
 - Plantings shall be deer and animal resistant to the extent possible
- Irrigation systems must be winterized (bled out) after the November pre-emergent treatment. The irrigation systems must be turned on, tested for leaks and checked for proper alignment in February before the pre-emergent treatment. The landscape company is responsible for replacing or repairing any sprinkler heads, drainage structures or other items damaged by landscape equipment.

Horton expects its partners to act professionally and to provide excellent service at all times. Customers should be contacting the Association management company with landscaping concerns, not the landscaping company.

Landscape Company Name and Address:

Marale Landscaping, LLC
PO Box 62951 North Charleston, SC 29419

Agreed and Accepted by:


Its: Owner
Date: 9-28-2010



SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR D & T Construction Inc. ("Contractor")
 Sole Proprietorship ☐ Partnership ☒ Corporation ☐ L.L.C. ☐ Other (ATTACH W-9)
 Social Security No. or Tax ID No. # 56-2166242
 Name of Owner(s)/Officer(s) KYUNG N. LEE
 Division Name: _____ Area Name: _____ Assigned Vendor No: _____
 Address for All Notices: 5835 Heartwood Court
 City HARRISBURG State NC Zip Code 28075
 Telephone 804 455-1422 Fax 804 455-1423 E-Mail Address pk-jh@yahoo.com
 Insurance Carriers ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
 This agreement (the "Agreement") is entered into on this 12th day of March, 2010, between
D. R. NORBON INC. ("Owner") and Contractor

1. **SCOPE OF WORK.** This Agreement is entered on a blanket basis. The terms of the Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement (the "Work") shall include all work performed and materials supplied by Contractor to Owner including but not limited to the labor, services and/or materials, equipment, transportation, or facilities necessary to complete the construction-related activities generally described in Exhibit A. The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing will not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to or in place of Contractor. Contractor will be awarded Work on a lot by lot basis. To the extent Exhibit A contains more than one type of construction-related activity, Contractor must clarify with Owner before the Work commences as to which construction-related activity it has been awarded for the lot in question.

2. **INDEPENDENT CONTRACTOR STATUS.** Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, method and performance of the Work. Contractor shall not be considered an agent or employee of Owner for any purpose, nor shall any employees or permitted subcontractors of Contractor. Contractor shall not represent itself as the agent of Owner unless owner has specifically permitted Contractor to do so in writing. The results achieved shall satisfy the requirements of this Agreement. Contractor shall be responsible for the performance of its employees and permitted subcontractors, and all personnel used by Contractor in the performance of Work shall be qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further agrees to provide written notification to all of its present and future employees of Contractor's provision for Worker's Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work herein covered or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. **CONTRACT PRICE.**

3.1 **Pricing Schedule.** The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 **Taxes.** Contractor shall pay and shall be solely responsible for all tax withholding, Social Security, state unemployment and all other withholding as required by law. Contractor's employees, agents or permitted subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 **Price Increases.** NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNLESS CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule, the superseded Pricing Schedule shall remain in effect for Purchase Orders issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. **PAYMENT.**

4.1 **Invoices.** Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing of the house incorporating the Work from Owner to a purchaser. Contractor hereby agrees that timely invoicing is an important and material term to this agreement, and timely invoicing is a part of Contractor's performance of all material terms of this contract. Contractor hereby waives payment for any Work where Contractor fails to invoice Owner in a timely manner in conformity to this agreement. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR

Executed this 12th day of March, 2010

Owner:	Contractor:
By <u>DHI</u>	By <u>Kyung Lee</u>
Name <u>EDMOND G. JEANFREAU, JR.</u>	Name <u>Kyung Lee</u>
Title <u>PURCHASING</u>	Title <u>Owner</u>
Division President	

INITIALS: OWNER EdJ, CONTRACTOR KL

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 ELECTRONICALLY FILED - 2023 Sep 11 3:14 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0401942

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ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO SUBCONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN AND THAT OWNER DOES NOT AGREE TO PAY TO SUBCONTRACTOR INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF DELAYED PAYMENTS.

4.2 Payment to Subcontractors. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed from Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties, and these joint payments shall satisfy amounts owed by Owner to Contractor, notwithstanding the fact that the third parties may not endorse the checks. In any instance where Owner receives written notice from one of Contractor's sub-contractors, whereby the subcontractor claims a failure to be paid for the Work, Owner reserves the right to pay the subcontractor directly or to make payment payable to both the Contractor and its subcontractor.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the Contract Price shall waive and release all claims against Owner and the property under this Agreement, but shall not waive any claims of Owner arising out of Work later found to be defective and shall not release Contractor from liability for warranties and warranty service and/or defective Work. Contractor shall remedy any defects and pay for any damage resulting from any defects in or caused by the Work or as required by any other contracts between Owner and Contractor or by law or customary practice. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or assigns is an acceptance of the Work or materials not in compliance with this Agreement.

5. SCHEDULE OF WORK.

5.1 Time is of the Essence. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work.

5.2 Construction Schedule. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.3 Commencement of the Work. Owner shall issue an authorization (either pursuant to a written purchase order, payment schedule, or work invoice ("Purchase Order") or verbal instructions from an authorized Owner representative) to commence the Work and Contractor shall not commence the Work at a job location until Contractor has received instructions to begin Work at a specific job location. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.4 Changes in Construction Schedule. Contractor agrees that Owner shall have the right to make changes to the schedule of Work at Owner's discretion and agrees to comply with such changes.

6. PERFORMANCE STANDARDS.

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner, in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FHA minimum property standards, VA requirements, all laws (statutory or common) and regulations, and any applicable building code requirements.

6.2 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized Owner's employee and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications as the plans and specifications affect the Work and materials incorporated in the Work, and that the plans and specifications are clear and unambiguous, and has accepted and agreed to be bound by all such requirements.

6.3 Government Requirements. Contractor will comply with all applicable federal, state, local, and county statutes, ordinances, regulations, codes, licensing requirements and standards, and the requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 as amended, as well as the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., or similar laws or regulations, and the rules, regulations, or orders of all public authorities relating to performance of the Work, including without limitation, the procurement and posting of all required permits and notices. In addition, Contractor will not discriminate in its hiring or employment and will follow all state and federal employment laws or regulations. Contractor shall perform background checks and use only appropriate employees to perform warranty or repair work after a house is occupied.

6.4 Indemnity. To the fullest extent allowed by law, Contractor will agree to indemnify, defend, and hold Owner harmless from all actions, claims, investigations or other acts to enforce such laws or regulations, and further agrees to indemnify Owner from the payment of any fine, penalty or damages imposed, levied, assessed, or found as a result of the Contractor's failure to comply with or adhere to the applicable laws and regulations, or from Contractor's failure to cause its employees or subcontractors to comply with such laws and regulations.

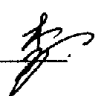
6.5 Observation and Testing by Owner and Repair by Contractor. Owner shall have the right to observe or test the Work at any time during or after construction, but that observation or testing is solely for the benefit of Owner's and is not for Contractor's benefit. Owner's failure to note defects in the Work during an inspection will not waive any of Contractor's obligations, representations or warranties related to the Work. Notwithstanding anything contained in this Agreement to the contrary, all Work shall be performed and any defects shall be corrected timely and in accordance with this Agreement to the satisfaction of Owner.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work, and shall report in writing to Owner any defects prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractor's work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses and approvals necessary for or applicable to the performance of the Work.

6.8 Change Orders. The Contractor shall furnish the materials for and to make all changes requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed;

INITIALS: OWNER  CONTRACTOR 

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(ii) governing storage of materials on the job location, (iii) regulating trash pick-up and waste collection at the job location, and (iv) work site safety requirements.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste materials or rubbish caused by its operations and shall remove all of Contractor's materials, and if materials are furnished by Owner, Contractor shall move all usable materials provided by Owner to a location designated by Owner. Contractor shall sweep out any waste material from inside the home under construction upon completion of its operation. All refuse shall be placed in receptacles provided or at locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up activities and collect a one hundred dollar (\$100.00) fine from Contractor for each incident. The cost of such clean-up and the aforementioned fine shall be deducted from any sums owed by Owner to Contractor, or shall be immediately payable by Contractor upon demand therefore by Owner.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Owner reserves the right to set minimum standards or rules relating to Work on its site. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OWNERS MINIMUM REQUIREMENTS. THE OWNER ASSUMES NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe condition or practice observed on the Work Site. Further, Contractor shall immediately notify Owner of any accidents or injuries on the Work Site. Contractor shall have an ongoing safety program and conduct inspections to determine that safe working conditions and equipment exist and safe practices are observed. Contractor shall prohibit and prevent the presence of children under age eighteen (18) from the Work Site.

7.1 Safety Laws and Indemnity Agreement. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards, statutes, and industry best practices concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations. Contractor shall provide Owner with written verification of its compliance with all applicable safety and health standards and regulations, including but not limited to OSHA's Hazard Communication Standard for the Construction Industry, 29 C.F.R. §1926.59 et seq., and provide written notice to Owner of the contact person responsible for Contractor's compliance with all safety and health standards and regulations. To the fullest extent allowed by law, Contractor agrees to indemnify, defend, and hold Owner harmless from all actions prosecuted to enforce and the payment of any fine or penalty imposed under such safety laws and regulations and shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work.

7.2 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, permitted subcontractors or suppliers at a job location or performance of the Work by any person under the influence of alcohol or drugs.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate corporations, and successors and assigns, that all labor performed and materials furnished by Contractor shall conform to the specifications of this Agreement, shall be free from any defects or deficiencies in workmanship or materials, and will comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, will meet or exceed the FHA/VA minimum property standards, and will comply with the Residential Warranty Corporation ("RWC") Program and the applicable limited warranty standards, which Contractor has read and understands and to which Contractor agrees to be bound. All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects for purposes of Contractor's obligations under this Contract. Contractor shall make good and promptly repair all Work not complying with the standards set forth in this section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Paragraph 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, the initial homeowner of the property on that is the subject of the Work: (i) for a period of ten (10) years all structural elements, including, but not limited to, roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems, (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor, (d) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (i) any statutory warranty or (ii) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner (a "Homeowners Warranty"). Contractor expressly agrees to be bound by any such Homeowners Warranty and to the extension of warranty period hereunder. Furthermore, notwithstanding the foregoing, Contractor agrees that all express and implied warranties shall remain in full force and effect for so long as Owner is obligated to warrant the Work pursuant to applicable law. Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Homeowners Warranty that is longer than the Warranty Periods stated above, provided, however, failure to give that notice will not affect the extension of the Warranty Period to the applicable warranty period under the Homeowner's Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty obligations, Contractor's indemnity obligations, or the ability of Owner to request Contractor to perform warranty services in the future.

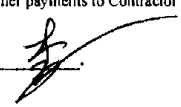
8.4 Transfer of Manufacturers Warranties. Contractor shall furnish all warranties and/or guarantees by manufacturers on appliances and equipment, and shall furnish all certificates required by any municipality and/or VA and/or FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and are not in limitation of periods of applicable statutes of limitation.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Project is located.

9.3 Lien Claim Indemnity. If any liens are filed against Owner relating to portions of the Work for which Owner has paid Contractor, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien or affidavit to be removed.

INITIALS: OWNER  CONTRACTOR 

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and released of record. Contractor agrees to INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any liens relating to portions of the Work for which Owner has paid Contractor, and further agrees at Owners' request to any or all of the following: (i) procure a bond to indemnify Owner and any home purchaser from Owner, in an amount sufficient to discharge that lien, or (ii) refund to Owner all monies, including any additional amount necessary to cover all of Owner's or home purchaser's attorneys' fees and court costs paid in discharging the lien, whichever remedy Owner elects in its sole and absolute discretion, or (iii) provide sworn testimony that payment has already been made to Contractor for the work for which the alleged lien applies.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY AGREES TO HOLD HARMLESS, INDEMNIFY, PROTECT AND DEFEND OWNER, ITS PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THE AFOREMENTIONED ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "INDEMNITEE"), FROM AND AGAINST ANY AND ALL DEMANDS, CLAIMS, ACTIONS, CAUSES OF ACTION, PROCEEDINGS, LAWSUITS, SETTLEMENTS, JUDGMENTS, FINES, PENALTIES, LOSSES, ATTORNEYS FEES, LITIGATION COSTS, INTEREST, AND EXPENSES OF ANY KIND (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "LOSSES") FOR DAMAGES FROM BODILY OR PERSONAL INJURY, DEATH, THE DESTRUCTION OR LOSS OF PROPERTY (INCLUDING LOSS OF USE), OR ANY OTHER KIND OF DAMAGES OR HARM, ARISING OUT OF, OR RESULTING FROM, OR RELATED IN ANY WAY TO THE WORK PERFORMED AND/OR THE MATERIALS SUPPLIED UNDER THIS CONTRACT, REGARDLESS OF WHETHER OR NOT CAUSED IN PART BY INDEMNITEE. SUCH LOSSES SPECIFICALLY INCLUDE, BUT ARE IN NO WAY LIMITED TO LOSSES ARISING OUT OF OR ATTRIBUTABLE TO: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS OR OBLIGATIONS OF CONTRACTOR SET FORTH HEREIN; (2) THE WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR, CONTRACTOR'S AGENTS OR EMPLOYEES, SUPPLIERS OR SUBCONTRACTORS AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, AND/OR ALL OTHER ENTITIES OVER WHOM THE CONTRACTOR MAY EXERCISE CONTROL (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "CONTRACTOR'S AGENTS"); (3) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF CONTRACTOR AND/OR CONTRACTOR'S AGENTS; OR (4) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE INDEMNITEE RELATED IN ANY WAY TO THE WORK. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE INDEMNITY FOR LOSSES CAUSED SOLELY BY FAULT OR NEGLIGENCE OF THE INDEMNITEE. THE LOSSES DESCRIBED HEREIN SHALL INCLUDE, BUT ARE NOT LIMITED TO, DEMANDS, CLAIMS, OR ACTIONS ASSERTED BY (1) ANY PRESENT OR FUTURE OWNER OF THE HOUSE INCORPORATING THE WORK; AND (2) ANY OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY CONTRACTOR AND/OR CONTRACTOR'S AGENTS). THE INDEMNIFICATION OBLIGATION UNDER THIS CONTRACT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. THE INDEMNITY PROVISIONS CONTAINED HEREIN ARE INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY LAW.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ANY AND ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. IT IS THE EXPRESS INTENTION OF THE PARTIES THAT CONTRACTOR'S INDEMNITY OBLIGATIONS HEREIN WILL SURVIVE THE TERMINATION OF CONTRACTOR OR THIS AGREEMENT. INDEMNITEE SHALL HAVE THE RIGHT, AT ITS DISCRETION AND CHOOSING, TO DEFEND ANY AND ALL CLAIMS WHICH MAY BE ASSERTED AGAINST IT, AND CONTRACTOR AGREES TO REIMBURSE INDEMNITEE FOR ANY AND ALL EXPENDITURES WHICH INDEMNITEE MAY MAKE OR INCUR ON ACCOUNT OF ANY SUCH CLAIM.

10.3 CONTRACTOR AND CONTRACTOR'S AGENTS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS OR EQUIPMENT.

10.4 Subcontractor's and Supplier's Indemnity Obligations. Contractor shall require each of its subcontractor to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required in this section and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms as Section 13. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the actions of any subcontractor engaged by Contractor, whether in written agreement or otherwise, or who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed to be the obligation of the subcontractors to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with completed operations coverage which contains a per occurrence limit of no less than one million dollars (\$1,000,000.00), and an aggregate limit of no less than two million dollars (\$2,000,000.00) protecting against liability for bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations, (ii) products and completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit), (iii) independent subcontractors, (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement, and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL Policy shall not contain a deductible or self insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering completed operations for any applicable statute of repose for commencing lawsuits associated with the Work.

11.2 Other Insurance. Contractor agrees to carry (i) Worker's Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Worker's Compensation obligations imposed by law, (ii) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than one million dollars (\$1,000,000.00) and an aggregate of no less than one million dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment, and (iii) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person (Bodily Injury) and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both on-going operations and completed operations (equivalent to form CG20101185 or form CG2037). Coverage obtained by Contractor naming Owner as an Additional Insured shall be primary with any insurance of Owner being excess coverage. That insurance coverage will be carried continuously during the term of this Agreement and thereafter as required by this Agreement with insurance companies acceptable to Owner in its sole and absolute discretion. That insurance shall provide for a waiver of subrogation. All insurance shall be with

INITIALS: OWNER , CONTRACTOR 

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a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies. Each Certificate of Insurance or policy shall contain an unqualified clause to the effect that the policy shall (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days' prior written notice to Owner, (ii) be carried continuously from the date of commencement of the Work until expiration of the period of the Contractor's warranty provided in this Agreement, (iii) specifically identify Owner as an Additional Insured, and (iv) indicate that coverage applies in the state where the Work is being performed. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself and the Work required to be performed under this Agreement.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER IN ITS SOLE AND ABSOLUTE DISCRETION) IN EFFECT AT THE TIME WORK IS PERFORMED TO COMPENSATE OWNER FOR ANY ADDITIONAL COSTS OF ITS WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS, CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS CONTRACT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work to the extent permitted under this Agreement, Contractor guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an Additional Insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or another contractor's work is damaged by an act for which Contractor, or its employees, agents or subcontractors, are responsible, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct such Work, replace or repair any defective material, or repair any damage. Contractor shall make all repairs and correct such within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours notice on a non-emergency basis, or (ii) retain a third party or undertake to perform those duties, and retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld resulting in a deficiency, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and reasonable attorneys' fees, incurred by Owner, and shall pay to Owner this amount within thirty (30) days of demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Paragraph 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or permitted subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's actions or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement, Exhibit A of this Agreement, or the specifications; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order that is Contractor's obligation under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary tools, material, or equipment for, or cleaned up after, the Work; (viii) Contractor fails to comply with any other provision of this Agreement.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement and rights and remedies available under this Agreement shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. Owner shall have a right to collect from Contractor its reasonable attorneys' fees and expenses incurred in enforcing Contractor's obligations.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These Disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking equitable relief from and arbitrator or a court of appropriate jurisdiction.

13.3 Arbitration. If mediation fails, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq., regardless of any other choice of law provision in any underlying contract or this Agreement. All demands for arbitration shall be made before the expiration of the applicable statutes of limitations and repose. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in any court of competent jurisdiction.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrators mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes, is over \$200,000, but only one arbitrator shall be appointed if the Dispute is 200,000 or less. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of a mediator or arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint a mediator or arbitrator. The AAA's Code of Arbitrator Ethics (revised March 1, 2004) is applicable to all arbitrations.

INITIALS: OWNER  CONTRACTOR 

KDC 013339

13.5 Rules. To the extent not in conflict with the Federal Arbitration Act, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner may join Contractor in any litigation, mediation, or arbitration initiated against Owner by a third person so that the rights of all parties (Owner, Contractor, Subcontractor, or any third person) shall be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner where necessary to facilitate resolution in a single forum. If multiple lawsuits or arbitrations are commenced, they shall all be consolidated into a single proceeding. Notwithstanding any other provision of this section, if a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect to unilaterally waive mediation or arbitration and litigate the Dispute with Contractor.

14. TERMINATION.

14.1 Termination by Owner for Cause of Convenience. This Agreement shall remain in full force and effect until terminated in writing by mailing notice to the other Party. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) Days' written notice before the effective date of termination, and shall perform fully under this Agreement during that notice period. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.3 Survival. All obligations, duties and warranties for Work performed under this Agreement shall survive termination.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) a binding obligations of Contractor, enforceable in accordance with its terms, (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority, (v) Contractor has, and each Contractor's employees, agents or permitted subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement, (vi) Contractor is in compliance with all governmental requirements to which it is subject, and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement, and with respect to prices and quantities only, the Price Schedule and all written Purchase Orders shall be the entire agreement between Owner and Contractor related to the Work, and there are no other agreements, oral or written, made by or relied upon by Owner and Contractor. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended or supplemented except in writing signed by both Owner and Contractor.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights and obligations are not assignable or transferable without the express written consent of Owner, who may consent can be withheld in Owner's sole and absolute discretion. Subject to the restrictions and prohibitions on assignment set forth in this section, the terms of the Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

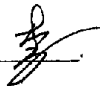
16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Contractor shall provide and transfer ownership to any and all samples and/or shop drawings requested by Owner.

18. NOTICES. All notices required pursuant to this Agreement or otherwise shall be in writing and shall be delivered to the respective business address of Owner and Contractor. However, Contractor's business address shall be as noted on page one (1) of this Agreement. Notices shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by overnight delivery service, and upon confirmation if sent by facsimile transmission.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or articles.

SOUTH CAROLINA REVISED 7/23/2007

INITIALS: OWNER  CONTRACTOR 

KDC 013340

PERFORMANCE REQUIREMENTS & SPECIFICATIONS

DESCRIPTION: VINYL SIDING AND TURNKEY INSTALLATION

PERFORMANCE REQUIREMENTS

Material shall remain in place without undue shrinkage or movement for a period of two (2) years. Finish surface will be free of checks, gars, knots cracks, raised grains or splits.

Hard hats and appropriate safety equipment are to be worn at all times while on D.R. Horton's property. The contractor shall ensure that each crew leader has attended the appropriate OSHA approved "Competent Person" training course

NON- PERFORMANCE REMEDY

The contractor will repair and/or replace any material that does not meet the performance requirement. Final determination on any remedial action will be made by D.R. Horton.

SPECIFICATIONS & SCOPE OF WORK

1. House package to be per D.R. Horton take off and approved vendor quotation.
2. Deliveries will be to the house/lot designated by the Builder. Access to the lot is at graveled drive only. Supplemental orders will be placed in the garage and/or open area of silt fence.
3. Damage to house, lot, street (including erosion controls) and dirt transferred to the streets is the supplier's responsibility to correct. Failure to correct will result in contractor correcting at supplier's expense
4. Damage material noted at time of delivery or after, will be removed within 24 hours at supplier's expense.
5. No product substitutions or product revisions are to take place. Any proposed substitutions or revisions are to be presented and approved by D.R. Horton management prior to implementation.
6. Supplier's representative to attend all subdivision trade meetings as scheduled by Builder.
7. Supplier's representative to receive Builders weekly schedule by field visiting subdivisions on Friday.
8. Supplier's representative to confirm shipping date prior to shipping.
9. Sufficient manpower will be allocated to assist driver in proper and safe delivery of product to house.
10. All labor and equipment must conform to OSHA SAFETY REQUIREMENTS including SAFETY SHOES AND HARD HATS.
11. Material will be selected and shipped per D.R. Horton designated grades. Non-conformance to quality standards is at the sole discretion of D.R. Horton representative. Cornice carpenters will reject material with crowns, bellies, knots, gars, splits, mildew, delaminating, or any other apparent defect affecting the actual quality of the home as well as appearance of the frame. Supplier will without delay, replace material within 24 hours at no charge. Supplier will pick up and/or dispose of defective material at no charge.
12. Short length material impacting carpentry efficiency and quality of the product as defined by the Builder will be rejected and replaced at no charge.

Contractor agrees to comply with all applicable building codes, ordinances and OSHA regulations.

ACKNOWLEDGMENT

Performance Requirements and Specifications is hereby made a part of and incorporated into the Contractor Agreement.

Contractor.

P&T Construction Inc

By: [Signature]

Date: 3/12/10

Builder.

D.R. Horton, Inc.

By: EDMOND G. JEANFREAU, JR

Date: 3/13/10

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

Natalie Zitek, individually, and on behalf of
all others similarly situated,

Plaintiff,

v.

D.R. Horton, Inc., Jane Doe #1-10; and, John
Doe #1-50,

Defendants.

D.R. Horton, Inc.,

Third-Party Plaintiff,

v.

AJ Landscaping & Grading, LLC a/k/a A J
Landscaping & Grading, LLC; AllPro
Textures, LLC; Alpha Omega Construction
Group, Inc.; American Concrete and Precast,
Inc.; a/k/a ACP Concrete, Inc.; A&J Framing,
Inc.; Alpha E.M.C.; A-Z, Inc.; Atlanta Floor
Designs Center; A Grade Above Others,
LLC; Brand-Vaughan Lumber Co, Inc.; BKF
Builders, Inc.; Builders Designhouse, LLC;
BMC East LLC d/b/a Coleman Floor, LLC;
Builders Firstsource Southeast Group, LLC,
a/k/a Builders Firstsource, Inc.; Bravo
Carpenters, Inc.; Caryl Mechanics II, Inc.,
a/k/a Caryl Mechanicals, Inc.; Cannaday
Siding & Gutter, Inc.; Cortes Painting, LLC;
CBU Enterprises, Inc.; CPI Security Systems,
Inc.; DOM Group, LLC; Ferguson
Enterprises, Inc.; Five Star Construction Inc.;
Five Star Foundations, LLC; JLS, Inc., a/k/a
JLS, Inc. II; Get Floored, LLC; GBS Building
Supply – US LBM, LLC, f/k/a GBS Building
Supply, Inc.; General Shale Brick Inc.;
Greener Pastures, Inc., a/k/a Green Pastures
of Aiken, LLC; IBS Asset, LLC d/b/a Blue
Ridge Building Products; Installed Building
Products, LLC, a/k/a Installed Building

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT

Case No.: 2019-CP-04-01942

**JLS MASONRY INC'S NOTICE OF
MOTION, MOTION, AND
MEMORANDUM IN SUPPORT
THEREOF FOR JUDGMENT NOT
WITHSTANDING THE VERDICT
AND/OR NEW TRIAL AS TO ALL
CLAIMS ASSERTED BY THIRD-PARTY
PLAINTIFF D.R. HOTON, INC.**

Products II LLC; JLS Masonry, Inc.; Kings Landscaping, LLC; Landshapers, LLC; Lade-Danlar, Inc.; Lansing Building Products, Inc.; Long Heating & Air Conditioning, Inc.; L&M Electric, Inc; Manale Landscaping, LLC; MJ Cowboys, LLC; M&L General Construction, LLC, a/k/a M&L General Construction, Inc.; M&L Reyna Construction, LLC; M&M Foundations, LLC; Nazareth Builders, LLC; NB Contractors, LLC; Poinsett Development, LLC; Poinsett Homes, LLC; P&T Construction, Inc., a/k/a P & T Construction, Inc.; P & L Enterprises, LLC; Probuild Company, LLC a/k/a Probuild Holdings, Inc.; Rite Rug Company, Inc., a/k/a, Rite Rug Co.; Rodney Howard Grading Inc., a/k/a Rodney Howard Grading Co.; Sandlapper Concrete, LLC; Sodfather Inc., Landscape Contractors; Stock Building Supply, LLC; Topbuild Home Services, Inc., a/k/a Gale Contractors Service; Tucker Materials, Inc, a/k/a Gypsum; Silver Line Building Products Corp.; Dupree Plumbing Co., Inc.; UTM Enterprises, Inc; and Willow Tree Landscaping, Inc., and Silver Line Building Products Corporation

Third-Party Defendants.

PLEASE TAKE NOTICE that JLS Masonry, Inc. (hereinafter referred to as “JLS”), by and through counsel, hereby moves before this Court, as soon as Counsel may be heard, at such place and time and in such manner as the Court may appoint, for an Order granting JLS’s above reference motions as to all claims asserted by Third-Party Plaintiff D.R. Horton, Inc. (hereinafter referred to as “DRH”).

PROCEDURAL HISTORY

The case was tried to verdict beginning on Tuesday, September 5, 2023, at the Anderson County courthouse. The Court set four weeks for this trial to complete. On or about Thursday, September 14th, Plaintiff rested its case and immediately following DRH settled Plaintiffs' claims against it in exchange for a confidential settlement amount and a full assignment of DRH’s third-

party claims to Plaintiffs. Following settlements by other subcontractor third-party defendants, JLS became the sole remaining third-party defendant. JLS put up its case on Friday, September 15th, and so did Plaintiff, standing in the shoes of DRH. The trial concluded the same day. The jury awarded a verdict against DRH in favor of Plaintiff for \$15,000,000.00. The jury then found against JLS in favor of DRH for \$4,000,000.00 for DRH's Breach of Implied Warranty claim only. The verdict form contained two other claims, contractual indemnity, and equitable indemnity. During deliberations, the jury asked the court to define indemnification, which the Court did without objection. The jury did not find liability against JLS for either indemnity claim. The Court gave the parties ten (10) days for post-trial motions. JLS timely filed its post-trial motions.

The grounds for this Motion are:

1. DRH's claim for Implied Warranty against JLS is solely conditioned on its potential liability for damages to Plaintiff, Natalie Zitek et al., making its claims disguised claims for indemnity, which should have been dismissed pursuant to *Stoneledge at Lake Keowee Owners' Ass'n. Inc. v. Clear View Construction, Inc.*, 413 S.C. 615, 776 S.E.2d 426 (Ct. App. 2015) and *Stoneledge at Lake Keowee Owners' Ass'n. Inc. v. Builders First Source-Se. Grp.*, 413 S.C. 630, 776 S.E.2d 434 (Ct. App. 2015). Therefore, JLS asks for judgment notwithstanding the verdict and/or a new trial based on the same.
2. DRH's contractual indemnity provision fails to clearly and unequivocally show the parties intended JLS to indemnify DRH for its concurrent negligence. There are at least five competing clauses in the indemnification paragraphs. The contract requires that JLS indemnify DRH for:
 - a. "**all** actions, claims, investigations or other acts to enforce such laws or regulations," ¶ 6.4 JLS Contract attached as exhibit A.
 - b. "any and all demands, claims, actions, causes of action ... arising out of, or resulting from, or related in any way to the work performed and/or the materials supplied under this contract, regardless of **whether or not caused in part** by [DRH]." ¶ 10.1 JLS Contract attached as exhibit A.

- c. “any negligent, grossly negligent, and/or **intentional act** and/or omission of [DRH] related in any way to the work.” ¶ 10.1 JLS Contract attached as exhibit A.
- d. “Notwithstanding the foregoing, nothing herein shall require indemnity for the losses caused **solely** by the fault or negligence of [DRH].” ¶ 10.1 JLS Contract attached as exhibit A.
- e. “[DRH] shall have the right, at its discretion and choosing, to defend **any and all claims** which may be asserted against, and contractor agrees to reimburse [DRH] for any and all expenditures which indemnitee may make or incur on account of **any** such claim.” ¶ 10.2 JLS Contract attached as exhibit A.

It is difficult, if not impossible, for even those trained in the legal field to reconcile the above five provisions. They are anything but clear and unequivocal: two of the provisions appear to be unlimited in breadth and scope; the other three are narrower in scope and are in direct conflict with the first two. The confusion created by these provisions is what the Court addressed *Concord & Cumberland Horizontal Prop. Regime v. Concord & Cumberland, LLC*, 424 S.C. 639, 819 S.E.2d 166 (Ct. App. 2018), reh’g denied (Oct. 19, 2018). The indemnity provision is anything but clear and unequivocal under the *Concord and Cumberland* standard, and such claims should not be enforced by this Court. Therefore, JLS asks for judgment notwithstanding the verdict and/or a new trial based on the same

- 3. In addition, the two provisions above that are unlimited in breadth and scope are against public policy and unenforceable pursuant to the Anti-Indemnity Statute, S.C. Code Ann. § 32-2-10 (2007). Therefore, JLS asks for judgment notwithstanding the verdict and/or a new trial based on the same.
- 4. The contractual indemnity language in the JLS Contract is word for word identical to the contractual indemnity provision in the Galloway-Bell contractual indemnity provision. See JLS contract attached as exhibit A, and Galloway-Bell contract attached as exhibit B. Both provisions demand indemnity for DRH’s attorney’s fees. Galloway-Bell was dismissed completely from the case at summary judgment because, after years of litigation, it was determined that Galloway-Bell did not have liability. This Court threw out all claims against Galloway-Bell, not just the liability claims, but any claims DRH may have had against Galloway-Bell, including those for attorney’s fees. DRH argued that it incurred attorney’s fees from the time the claims were pending against Galloway-Bell until the time Galloway-Bell was dismissed. By dismissing Galloway-Bell from the case entirely, and not preserving the claims for attorney’s fees, the Court necessarily invalidated the contractual indemnity provision, the exact same indemnity provision in the JLS contract. Therefore, JLS asks for judgment notwithstanding the verdict and/or a new trial based on the same.

5. DRH's claims are barred by the statute of limitations. The statute of limitations begins to run when a cause of action reasonably ought to have been discovered. The statute runs from the date the injured party either knows or should have known by the exercise of reasonable diligence that a cause of action arises from the wrongful conduct. *Dean v. Ruscon*, 321 S.C. 360, 366, 468 S.E.2d 645, 648 (1996); *see also* S.C. Code Ann. § 15-3-530. Natalie Zitek, the class representative, testified she has had multiple and repeated repairs performed at her house, including stripping large portions of brick off the house and re-applying it. These multiple and repeated repairs to crushing and cracking bricks starting as early as 2014, more than three years before DRH brought suit against JLS. Accordingly, claims resulting from work at the Zitek home are barred by the statute of limitations. Therefore, JLS asks for judgment notwithstanding the verdict and/or a new trial based on the same

6. DRH's claims are barred by the statute of repose. *See* S.C. Code Ann. § 15-3-640; *Lawrence v. General Panel Corp.*, 425 S.C. 398, 405, 822 S.E.2d 800, 803; *see also Ocean Winds Corp. v. Lane Drywall and Plastering*, 347 S.C. 416, 419, 556 S.E.2d 377, (2001). The statute of repose period for substantial completion dates after July 1, 2005, is eight years. Therefore, any claims against JLS for work completed more than eight years before they were served with DRH's complaint are barred. There is no affidavit of service on file. JLS filed its answer on March 9, 2022. Therefore, any claims against JLS for houses they completed their work on before March 9, 2014, are barred by the statute of repose. *See* S.C. Code Ann. § 15-3-640; *Lawrence*, 425 S.C. at 405, 822 S.E.2d at 803. The DRH vendor spend sheet (see Exhibit C) was stipulated into evidence by Plaintiff, DRH, and JLS (all parties in the case). The parties also stipulated that the information contained therein was true and accurate. According to this sheet, JLS' completion of work (based on the final payment date) on 86 homes was completed before March 9, 2014, and is therefore barred under the statute of repose. *See* exhibit D, our summary chart. Therefore, JLS asks for judgment notwithstanding the verdict and/or a new trial based on the same or in the alternative that the verdict against JLS be reduced by 85% thereby reducing the verdict from \$4,000,000 to \$594,059.41¹.

7. DRH's claims fail as a matter of law because JLS is not responsible for the consequences of defects in the plans and specifications. *United States v. Spearin*, 248 U.S. 132 (1918). Testimony elicited at trial shows only that JLS followed the plans and specifications as set forth by DRH. DRH, as the general contractor, provided all plans, specifications, oversight, and ultimately approved the work performed by JLS. DRH supplemented the plans to the subcontractors with verbal instructions via their superintendents, and DRH has the ultimate responsibility and say so for the project. Testimony showed that the subcontractors were only paid if their work complied with the requests of DRH. JLS performed its work according

¹ The parties stipulated at Trial that JLS performed the brick and stone work on 46% of the homes. There are 220 homes in the class action. 46% of 220 is 101 homes. If 86 homes are removed from 101, that is equivalent to removing 85% of the homes.

to the plans and specifications provided by DRH. Therefore, JLS asks for judgment notwithstanding the verdict and/or a new trial based on the same

8. The evidence presented at trial does not support the verdict. Neither Plaintiffs' expert nor any other experts, could identify the homes JLS worked on and/or any deficiencies thereon. Dr. Whitlock, the Plaintiffs' primary forensic engineer, could not identify how many homes were all brick, partial brick, or no brick. He could not identify which homes were one story or two or which had basements or not.

Dr. Whitlock broke the class into three categories of homes: basic, moderate, and complex. These homes have different configurations, different scopes of repairs, and different costs of repairs. Dr. Whitlock testified that he did not know which of the JLS homes were in which category. Significantly, JLS worked on more basic homes than the other two combined. A pro-rata split of all brick damages is inappropriate, inaccurate, and not supported by the evidence. Of the roughly 100 homes that JLS worked on, Dr. Whitlock could not allocate damages to the individual homes because he did not know how much it cost to repair each of the homes. Dr. Whitlock only testified that JLS owed 46% of the brick and stone damages. This failed to meet DRH's burden of proof against JLS. DRH's burden of proof required it to prove each home that JLS worked at, the damages sustained at each home, and the amount paid by DRH for the specific home to recover against JLS—For example, DRH does not meet its burden of proof by saying, "I saw it on 104 Sturbridge therefore, the same defects must exist at 1 Chatham Court." The issue of damages was not sufficiently defined as it relates to JLS and therefore, JLS's motion for a directed verdict should have been granted. JLS is entitled to judgment notwithstanding the verdict. Therefore, JLS asks for judgment notwithstanding the verdict and/or a new trial based on the same

9. JLS should be granted a judgment notwithstanding the verdict on the concrete claims because there is no testimony that any cracks exceed the industry standards or that any of the cracks were caused by any defect in the installation of the concrete itself. Further, Plaintiffs' criticism of the concrete cracks is that they are allowing radon into the homes. The only testimony on this issue is that the radon was supposed to be handled by a sheet of vinyl installed under the concrete, but not by the concrete installer. The concrete was not intended to stop the radon from flowing into the homes. Accordingly, no genuine issue of material fact existed as to the concrete claims and the concrete claims should have been dismissed. Therefore, JLS is entitled to a judgment notwithstanding the verdict and/or a new trial based on the same
10. DRH lacks standing to bring a breach of an implied warranty claim against JLS. DRH, as the non-homeowner general contractor, can only maintain a derivative indemnity claim against JLS. As a general rule, for a party to have standing to bring suit, they must allege (and ultimately prove) that he/she has a genuine stake in the outcome of the case because he/she has personally suffered (or will imminently suffer): (1) a concrete and particularized injury; (2) that is traceable to

the allegedly unlawful actions of the opposing party; and (3) that **is redressable by a favorable judicial decision**. In this case, even if DRH proved JLS had some liability to DRH, and even if DRH obtains a verdict against JLS, and collects the money, DRH cannot fix the issues complained about. DRH does not own the homes and cannot force the homeowners to make the fix. DRH does not have standing to bring a claim against JLS for Breach of Warranty. Its claims is for indemnity and the jury specifically contemplated that claim and refused to find against JLS on the indementy claims. Notwithstanding, DRH's claim for Breach of Implied Warranty must fail as a matter of law.

Therefore, JLS is entitled to a judgment notwithstanding the verdict and/or a new trial based on the same.

11. JLS hereby renews its motion to de-certify the class. This court treated the claims of DRH against JLS as a de-facto class action lawsuit against the subcontractors. JLS was not a member of the class. The certification of the class was specifically ruled to be only against DRH. Further, JLS was not even in the lawsuit when the class was certified against DRH. Therefore, JLS renews its motion to de-certify the class and asks for judgment notwithstanding the verdict and/or a new trial based on the same.

In addition, any class against JLS, should one exist, should be decertified because the class representative and numerous other homes have different SOR/SOL defenses that cannot be adequately raised against a class. Accordingly, JLS is entitled to a new trial absolute and/or new trial nisi remittitur because the class was not certified as to JLS but the trial proceeded as if JLS was subject to class certification and Plaintiff was not required to, and did not, prove their damages on an individual homeowner basis against JLS.

12. The settlement amount between Plaintiff and DRH should have been disclosed to the jury. *See Poston v. Barnes*, 294 S.C. 261, 265, 363 S.E.2d 888, (1987). The full agreement, including the amounts paid by DRH to Plaintiff, as well as the specific terms of the agreement, including the covenant not to execute, should have been disclosed to the jury and entered into evidence. *Id.* Without the disclosure of the same, DRH was a sham defendant and the jury did not have the information it needed to render an equitable verdict. *See Id.* Therefore, JLS asks for judgment notwithstanding the verdict and/or a new trial based on the same.
13. Plaintiffs' expert, Dr. Whitlock, directly contradicted this Court's order to not base his concrete criticisms on plans that were not in effect at the time of construction. Therefore, JLS asks for judgment notwithstanding the verdict and/or a new trial based on the same

Therefore, JLS respectfully requests this Honorable Court issue an Order pursuant to Rule 50 of the South Carolina Rules of Civil Procedure granting judgment notwithstanding the verdict

and/or a new trial as to DRH's claims against JLS. This motion is to be supported by a memorandum of law, appendices, exhibits, all testimony and trial exhibits, discovery responses, deposition transcripts, and all applicable law.

Respectfully submitted,

JLS JNOV
Case No: 2019-CP-04-1942

ROSS & CRISTALDI, LLC

s/ Jeff Ross

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***Attorneys for JLS Masonry, Inc., a/k/a JLS, Inc.
II***

Mt. Pleasant, South Carolina

September 22, 2023

D-R HORTON PLUMBING
Anderson's Building

SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR JES MASONRY, INC ("Contractor")
 Sole Proprietorship ☐ Partnership ☒ Corporation ☐ L.L.C. ☐ Other (ATTACH W-9)
 Social Security No. or Tax ID No. 56-2131549
 Name of Owner(s)/Officer(s): JOSE LUIS SANCHEZ
 Division Name _____ Area Name _____ Assigned Vendor No. 1195192
 Address for All Notices PO Box 78410
 City CHARLOTTE State NC Zip Code 28271
 Telephone 844 624-7474 Fax 844 248-7469 E-Mail Address jlmasonryinc@hotmail.com
 Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
 This agreement (the "Agreement") is entered into on this 11 day of FEB, 2010, between D R Horton Inc.
JES MASONRY, INC ("Owner") and Contractor

1. SCOPE OF WORK This Agreement is entered on a blanket basis. The terms of the Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement (the "Work") shall include all work performed and materials supplied by Contractor to Owner including but not limited to the labor, services and/or materials, equipment, transportation, or facilities necessary to complete the construction-related activities generally described in Exhibit A. The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing will not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform this Work or similar work at any job location in addition to or in place of Contractor. Contractor will be awarded Work on a lot by lot basis. To the extent Exhibit A contains more than one type of construction-related activity, Contractor must clarify with Owner before the Work commences as to which construction-related activity it has been awarded for the lot in question.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, method and performance of the Work. Contractor shall not be considered an agent or employee of Owner for any purpose, nor shall any employees or permitted subcontractors of Contractor. Contractor shall not represent itself as the agent of Owner unless owner has specifically permitted Contractor to do so in writing. The results achieved shall satisfy the requirements of this Agreement. Contractor shall be responsible for the performance of its employees and permitted subcontractors, and all personnel used by Contractor in the performance of Work shall be qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further agrees to provide written notification to all of its present and future employees of Contractor's provision for Worker's Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work herein covered or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall pay and shall be solely responsible for all tax withholding, Social Security, state unemployment and all other withholding, as required by law Contractor's employees, agents or permitted subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNLESS CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule, the superseded Pricing Schedule shall remain in effect for Purchase Orders issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing of the house incorporating the Work from Owner to a purchaser. Contractor hereby agrees that timely invoicing is an important and material term to this agreement, and timely invoicing is a part of Contractor's performance of all material terms of this contract. Contractor hereby waives payment for any Work where Contractor fails to invoice Owner in a timely manner in conformity to this agreement. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR

Executed this 11 day of FEBRUARY, 2010

Owner: D-R Horton, Inc Contractor: CLQD.T
 By: EDMOND G. JEANPREAU, JR. By: CHRISTOPHER DE LA TORRE
 Title: PURCHASE Title: GENERAL MANAGER
 Division President

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Greenville=1392314



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ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO SUBCONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE HEREIN AND THAT OWNER DOES NOT AGREE TO PAY TO SUBCONTRACTOR INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF DELAYED PAYMENTS

4.2 Payment to Subcontractors. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Order, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed from Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties, and these joint payments shall satisfy amounts owed by Owner to Contractor, notwithstanding the fact that the third parties may not endorse the checks. In any instance where Owner receives written notice from one of Contractor's sub-contractors, whereby the subcontractor claims a failure to be paid for the Work, Owner reserves the right to pay the subcontractor directly or to make payment payable to both the Contractor and its subcontractor.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the Contract Price shall waive and release all claims against Owner and the property under this Agreement, but shall not waive any claims of Owner arising out of Work later found to be defective and shall not release Contractor from liability for warranties and warranty service and/or defective Work. Contractor shall remedy any defects and pay for any damage resulting from any defects in or caused by the Work or as required by any other contracts between Owner and Contractor or by law or customary practice. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or assigns is an acceptance of the Work or materials not in compliance with this Agreement.

5. SCHEDULE OF WORK

5.1 Time is of the Essence. Contractor acknowledges that TIME IS OF THE ESSENCE in the performance of all Work.

5.2 Construction Schedule. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.3 Commencement of the Work. Owner shall issue an authorization (either pursuant to a written purchase order, payment schedule, or work invoice ("Purchase Order") or verbal instructions from an authorized Owner representative) to commence the Work and Contractor shall not commence the Work at a job location until Contractor has received instructions to begin Work at a specific job location. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.4 Changes in Construction Schedule. Contractor agrees that Owner shall have the right to make changes to the schedule of Work at Owner's discretion and agrees to comply with such changes.

6. PERFORMANCE STANDARDS

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner, in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FIA minimum property standards, VA requirements, all laws (statutory or common) and regulations, and any applicable building code requirements.

6.2 Contractor's Acknowledgments Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized Owner's employee and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications and the plans and specifications affect the Work and materials incorporated in the Work, and that the plans and specifications are clear and unambiguous, and has accepted and agreed to be bound by all such requirements.

6.3 Government Requirements. Contractor will comply with all applicable federal, state, local, and county statutes, ordinances, regulations, codes, licensing requirements and standards, and the requirements of the Williams-Stanger Occupational Safety and Health Act of 1970 as amended, as well as the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., or similar laws or regulations, and the rules, regulations, or orders of all public authorities relating to performance of the Work, including without limitation, the procurement and posting of all required permits and notices. In addition, Contractor will not discriminate in its hiring or employment and will follow all state and federal employment laws or regulations. Contractor shall perform background checks and use only appropriate employees to perform warranty or repair work after a house is occupied.

6.4 Indemnity. To the fullest extent allowed by law, Contractor will agree to indemnify, defend, and hold Owner harmless from all actions, claims, investigations or other suits to enforce such laws or regulations, and further agree to reimburse Owner from the payment of any fine, penalty or damages imposed, levied, assessed, or found as a result of the Contractor's failure to comply with or adhere to the applicable laws and regulations, or from Contractor's failure to cause its employees or subcontractors to comply with such laws and regulations.

6.5 Observation and Testing by Owner and Repair by Contractor. Owner shall have the right to observe or test the Work at any time during or after construction, but that observation or testing is solely for the benefit of Owner's and is not for Contractor's benefit. Owner's failure to note defects in the Work during an inspection will not waive any of Contractor's obligations, representations or warranties related to the Work. Notwithstanding anything contained in this Agreement to the contrary, all Work shall be performed and any defects shall be corrected timely and in accordance with this Agreement to the satisfaction of Owner.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work, and shall report in writing to Owner any defects prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractor's work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses and approvals necessary for or applicable to the performance of the Work.

6.8 Change Orders. The Contractor shall furnish the materials for and to make all changes requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed,

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(ii) governing storage of materials on the job location, (iii) regulating trash pick-up and waste collection at the job location, and (iv) work site safety requirements.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste materials or rubbish caused by its operations and shall remove all of Contractor's materials, and if materials are furnished by Owner, Contractor shall move all usable materials provided by Owner to a location designated by Owner. Contractor shall sweep out any waste material from inside the home under construction upon completion of its operation. All refuse shall be placed in receptacles provided or at locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up activities and collect a one hundred dollar (\$100.00) fine from Contractor for each incident. The cost of such clean up and the aforementioned fine shall be deducted from any sums owed by Owner to Contractor, or shall be immediately payable by Contractor upon demand thereof by Owner.

7. SAFETY

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Owner reserves the right to set minimum standards or rules relating to Work on its site. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE COMPLETION AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OWNERS MINIMUM REQUIREMENTS. THE OWNER ASSUMES NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner of any accidents or injuries on the Work Site. Contractor shall have an ongoing safety program and conduct inspections to determine that safe working conditions and equipment exist and safe practices are observed. Contractor shall prohibit and prevent the presence of children under age eighteen (18) from the Work Site.

7.2 Safety Laws and Indemnity Agreement. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards, statutes, and industry best practices concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations. Contractor shall provide Owner with written verification of its compliance with all applicable safety and health standards and regulations, including but not limited to OSHA's Hazard Communication Standard for the Construction Industry, 29 C.F.R. §1926.59 et seq., and provide written notice to Owner of the contact person responsible for Contractor's compliance with all safety and health standards and regulations. To the fullest extent allowed by law, Contractor agrees to indemnify, defend, and hold Owner harmless from all actions prosecuted to enforce and the payment of any fine or penalty imposed under such safety laws and regulations and shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work.

7.3 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, permitted subcontractors or suppliers at a job location or performance of the Work by any person under the influence of alcohol or drugs.

8. CONTRACTOR'S WARRANTIES

8.1 Against Defective Work. Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate corporations, and successors and assigns, that all labor performed and materials furnished by Contractor shall conform to the specifications of this Agreement, shall be free from any defects or deficiencies in workmanship or materials, and will comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, will meet or exceed the FHIA/VA minimum property standards, and will comply with the Residential Warranty Corporation ("RWC") Program and the applicable limited warranty standards, which Contractor has read and understands and to which Contractor agrees to be bound. All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects for purposes of Contractor's obligations under this Contract. Contractor shall make good and promptly repair all Work not complying with the standards set forth in this section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Paragraph 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, the initial homeowner of the property on that is the subject of the Work: (i) for a period of ten (10) years all structural elements, including, but not limited to, roof framing, members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers; (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home; and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by vent pipes located within the home; and (d) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other part on the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (i) any statutory warranty or (ii) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner (a "Homeowners Warranty"). Contractor expressly agrees to be bound by any such Homeowners Warranty and to the extension of warranty period hereunder. Furthermore, notwithstanding the foregoing, Contractor agrees that all express and implied warranties shall remain in full force and effect so long as Owner is obligated to warrant the Work pursuant to applicable law. Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Homeowners Warranty that is longer than the Warranty Periods stated above; provided, however, failure to give that notice will not affect the extension of the Warranty Period to the applicable warranty period under the Homeowner's Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty obligations, Contractor's indemnity obligations, or the ability of Owner to request Contractor to perform warranty services in the future.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish all warranties and/or guarantees by manufacturers on appliances and equipment, and shall furnish all certificates required by any municipality and/or VA and/or FHIA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and are not in limitation of periods of applicable statutes of limitation.

9. LIENS AND RETAINAGE

9.1 Contractor's Lien Waiver. CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Project is located.

9.3 Lien Claim Indemnity. If any lien is filed against Owner relating to portions of the Work for which Owner has paid Contractor, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor cures such lien or affidavit to be removed.

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and released of record. Contractor agrees to INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any lien relating to portions of the Work for which Owner has paid Contractor, and further agrees at Owner's request to any or all of the following: (i) procure a bond to indemnify Owner and any home purchaser from Owner, in an amount sufficient to discharge that lien, or (ii) refund to Owner all moneys, including any additional amount necessary to cover all of Owner's or home purchaser's attorneys' fees and court costs paid in discharging the lien, whichever remedy Owner elects in its sole and absolute discretion, or (iii) provide sworn testimony that payment has already been made in Contract for the work for which the alleged lien applies.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY AGREES TO HOLD HARMLESS, INDEMNIFY, PROTECT AND DEFEND OWNER, ITS PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THE AFOREMENTIONED ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "INDEMNITEE"), FROM AND AGAINST ANY AND ALL DEMANDS, CLAIMS, ACTIONS, CAUSES OF ACTION, PROCEEDINGS, LAWSUITS, SETTLEMENTS, JUDGMENTS, FINES, PENALTIES, LOSSES, ATTORNEYS FEES, LITIGATION COSTS, INTEREST, AND EXPENSES OF ANY KIND (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "LOSSES") FOR DAMAGES FROM BODILY OR PERSONAL INJURY, DEATH, THE DESTRUCTION OR LOSS OF PROPERTY (INCLUDING LOSS OF USE), OR ANY OTHER KIND OF DAMAGES OR HARM, ARISING OUT OF, OR RESULTING FROM, OR RELATED IN ANY WAY TO THE WORK PERFORMED AND/OR THE MATERIALS SUPPLIED UNDER THIS CONTRACT, REGARDLESS OF WHETHER OR NOT CAUSED IN PART BY INDEMNITEE. SUCH LOSSES SPECIFICALLY INCLUDE, BUT ARE IN NO WAY LIMITED TO LOSSES ARISING OUT OF OR ATTRIBUTABLE TO: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS OR OBLIGATIONS OF CONTRACTOR SET FORTH HEREIN; (2) THE WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR, CONTRACTOR'S AGENTS OR EMPLOYEES, SUPPLIERS OR SUBCONTRACTORS AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, AND/OR ALL OTHER ENTITIES OVER WHOM THE CONTRACTOR MAY EXERCISE CONTROL (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "CONTRACTOR'S AGENTS"); (3) ANY NEGLIGENCE, GROSSLY NEGLIGENCE, AND/OR INTENTIONAL ACT AND/OR OMISSION OF CONTRACTOR AND/OR CONTRACTOR'S AGENTS; OR (4) ANY NEGLIGENCE, GROSSLY NEGLIGENCE, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE INDEMNITEE RELATED IN ANY WAY TO THE WORK. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE INDEMNITY FOR LOSSES CAUSED SOLELY BY FAULT OR NEGLIGENCE OF THE INDEMNITEE. THE LOSSES DESCRIBED HEREIN SHALL INCLUDE, BUT ARE NOT LIMITED TO, DEMANDS, CLAIMS, OR ACTIONS ASSERTED BY (1) ANY PRESENT OR FUTURE OWNER OF THE HOUSE INCORPORATING THE WORK; AND (2) ANY OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY CONTRACTOR AND/OR CONTRACTOR'S AGENTS). THE INDEMNIFICATION OBLIGATION UNDER THIS CONTRACT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYER BENEFIT ACTS. THE INDEMNITY PROVISIONS CONTAINED HEREIN ARE INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY LAW.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ANY AND ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. IT IS THE EXPRESS INTENTION OF THE PARTIES THAT CONTRACTOR'S INDEMNITY OBLIGATIONS HEREIN WILL SURVIVE THE TERMINATION OF CONTRACTOR OR THIS AGREEMENT. INDEMNITEE SHALL HAVE THE RIGHT, AT ITS DISCRETION AND CHOOSING, TO DEFEND ANY AND ALL CLAIMS WHICH MAY BE ASSERTED AGAINST IT, AND CONTRACTOR AGREES TO REIMBURSE INDEMNITEE FOR ANY AND ALL EXPENDITURES WHICH INDEMNITEE MAY MAKE OR INCUR ON ACCOUNT OF ANY SUCH CLAIM.

10.3 CONTRACTOR AND CONTRACTOR'S AGENTS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS OR EQUIPMENT.

10.4 Subcontractor's and Supplier's Indemnity Obligations. Contractor shall require each of its subcontractor to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required in this section and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms as Section 15. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the actions of any subcontractor engaged by Contractor, whether in written agreement or otherwise, or who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed to be the obligation of the subcontractors to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with completed operations coverage which contains a per occurrence limit of no less than one million dollars (\$1,000,000.00), and an aggregate limit of no less than two million dollars (\$2,000,000.00) protecting against liability for bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises operations; (ii) products and completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (e.g., water) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL Policy shall not contain a deductible or self insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering completed operations for any applicable statute of repose for commencing lawsuits associated with the Work.

11.2 Other Insurance. Contractor agrees to carry (i) Worker's Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Worker's Compensation obligations imposed by law; (ii) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than one million dollars (\$1,000,000.00) and an aggregate of no less than one million dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (iii) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person (Bodily Injury) and \$100,000 property damage per occurrence specifying "all autos" coverage on all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both on-going operations and completed operations (equivalent to form CG20101185 or form CG2017). Coverage obtained by Contractor naming Owner as an Additional Insured shall be primary with any insurance of Owner being excess coverage. That insurance coverage will be named continuously during the term of this Agreement and thereafter as required by this Agreement with insurance companies acceptable to Owner in its sole and absolute discretion. The insurance shall provide for a waiver of subrogation. All insurance shall be with

INITIALS: OWNER ELH, CONTRACTOR 7LS

a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies. Each Certificate of Insurance or policy shall contain an unqualified clause to the effect that the policy shall (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days' prior written notice to Owner, (ii) be carried continuously from the date of commencement of the Work until expiration of the period of the Contractor's warranty provided in this Agreement, (iii) specifically identify Owner as an Additional Insured, and (iv) indicate that coverage applies in the state where the Work is being performed. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself and the Work required to be performed under this Agreement.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT ESTABLISHED BY OWNER IN ITS SOLE AND ABSOLUTE DISCRETION IN EFFECT AT THE TIME WORK IS PERFORMED TO COMPENSATE OWNER FOR ANY ADDITIONAL COSTS OF ITS WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS, CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS CONTRACT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work to the extent permitted under this Agreement, Contractor guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an Additional Insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or another contractor's work is damaged by an act for which Contractor, or its employees, agents or subcontractors, are responsible, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct such Work, replace or repair any defective material, or repair any damage. Contractor shall make all repairs and correct such within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours notice on a non-emergency basis; or (ii) retain a third party to undertake to perform those duties, and require any sums otherwise due Contractor under any Purchase Order or invoice and apply those sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld resulting in a deficiency, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and reasonable attorney's fees, incurred by Owner, and shall pay to Owner this amount within thirty (30) days of demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Paragraph 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or permitted subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's actions or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement, Exhibit A of this Agreement, or the specifications; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order that is Contractor's obligation under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary tools, material, or equipment for, or cleaned up after, the Work; (viii) Contractor fails to comply with any other provisions of this Agreement.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement and rights and remedies available under this Agreement shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. Owner shall have a right to collect from Contractor its reasonable attorney's fees and expenses incurred in enforcing Contractor's obligations.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These Disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described up to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking equitable relief from and arbitrator or a court of appropriate jurisdiction.

13.3 Arbitration. If mediation fails, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq., regardless of any other choice of law provision in any underlying contract or this Agreement. All demands for arbitration shall be made before the expiration of the applicable statute of limitations and repose. The award rendered by the arbitrator(s) shall be final, and judgments may be entered upon it in any court of competent jurisdiction.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrator mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes, is over \$200,000, but only one arbitrator shall be appointed if the Dispute is \$200,000 or less. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of a mediator or arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint a mediator or arbitrator. The AAA's Code of Arbitrator Ethics (revised March 1, 2004) is applicable to all arbitrations.

INITIALS: OWNER  CONTRACTOR 

13.5 Rules. To the extent not in conflict with the Federal Arbitration Act, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner may join Contractor to any litigation, mediation, or arbitration initiated against Owner by a third person so that the rights of all parties (Owner, Contractor, Subcontractor, or any third person) shall be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner where necessary to facilitate resolution in a single forum. If multiple lawsuits or arbitrations are commenced, they shall all be consolidated into a single proceeding. Notwithstanding any other provision of this section, if a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect to unilaterally waive mediation or arbitration and litigate the Dispute with Contractor.

14. TERMINATION

14.1 Termination by Owner for Cause or Convenience. This Agreement shall remain in full force and effect until terminated in writing by mailing notice to the other Party. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) Days' written notice before the effective date of termination, and shall perform fully under this Agreement during that notice period. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.3 Survival. All obligations, duties and warranties for Work performed under this Agreement shall survive termination.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement; (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement; (iii) this Agreement is or will be (when executed) a binding obligation of Contractor, enforceable in accordance with its terms; (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority; (v) Contractor has, and each Contractor's employees, agents or permitted subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement; (vi) Contractor is in compliance with all governmental requirements to which it is subject; and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS

16.1 Entire Agreement. This Agreement, and with respect to prices and quantities only, the Price Schedule and all written Purchase Orders shall be the entire agreement between Owner and Contractor related to the Work, and there are no other agreements, oral or written, made by or relied upon by Owner and Contractor. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended or supplemented except in writing signed by both Owner and Contractor.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractor's rights and obligations are not assignable or transferable without the express written consent of Owner, who may consent or not in Owner's sole and absolute discretion. Subject to the restrictions and prohibitions on assignment set forth in this section, the terms of this Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina.

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of this information to any third party. Contractor shall provide and transfer ownership to any and all samples and/or shop drawings requested by Owner.

18. NOTICES. All notices required pursuant to this Agreement or otherwise shall be in writing and shall be delivered to the respective business address of Owner and Contractor. However, Contractor's business address shall be as noted on page one (1) of this Agreement. Notices shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail, when sent registered or certified mail, return receipt requested, the following day if sent handily by overnight delivery service, and upon confirmation if sent by facsimile transmission.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or articles.

SOUTH CAROLINA REVISED 7/3/2007

INITIALS OWNER

[Signature]

CONTRACTOR

[Signature]

PERFORMANCE REQUIREMENTS AND SPECIFICATIONS

Exhibit "A"

DESCRIPTION: MASONRY

PERFORMANCE REQUIREMENTS

All masonry shall be installed in a uniform manner. All walls will be plumb and level. Mortar joints shall not be larger than 1/2". Mortar cracks are not to exceed 1/8". Weep holes are to be properly installed per Masonry Institute specifications. All necessary flashing will be properly installed to prevent leaks. An unobstructed gap of 1" shall separate the masonry from the framed wall. All areas of workmanship will remain defect free and maintain their structural integrity for a minimum of ten (10) years.

Hard hats and appropriate safety equipment are to be worn at all times while on D.R. Horton's property. The contractor shall ensure that each crew leader has attended the appropriate OSHA approved "Competent Person" training course.

NON-PERFORMANCE REMEDY

The subcontractor will repair and/or replace any defects resulting from work not meeting the performance requirements. All repairs include labor and material. D.R. Horton, Inc. will make the final determination on any remedial action.

SPECIFICATIONS AND SCOPE OF WORK

1. The Subcontractor shall furnish all necessary labor, tools, equipment, scaffolding, and incidentals to install masonry per plans and specifications.
2. Leave one (1) inch air space between brick and sheathing.
3. Laid in running bond, anchored with ties minimum 22 gauge, 7/8" wide, corrugated, corrosion resistant, imbedded at least two (2) inches in mortar and nailed with #8 nails.
4. Install ties two (2) feet O.C. horizontally and every fifth course vertically.
5. Mortar joints tooled and brushed, not to exceed 1/2". Type of joint to be concave or rounded (or from written specification change by Builder).
6. Mortar mix to be uniform in color and selected by D.R. Horton, Inc. (Buff is standard).
7. Brick sills below windows and doors on brick elevations per drawings with pitch of 1/4" for run off.
8. Brick mason is responsible to replace any faulty brickwork, and will properly blend random mixtures to achieve uniformity per manufacturer's specs.
9. Mortar mixture shall adhere to Portland Cement Association specifications per applicable job.
10. All brick walls are to be plumb and level and mortar joints over 1/2" will not be accepted.
11. Provide protection so that mortar does not get on any other building products. Damage to any other products caused by mortar spillage will be the responsibility of the mason contractor.
12. No brick wall will be laid when the temperature is thirty-two (32) degrees Fahrenheit or lower.
13. Brick mason will install all lintels and flashing per CABO specifications. See Builder for specifications (Bolted with carriage bolts).
14. Mason to hard rake excess mortar @ base of brick.
15. Subcontractor is to place all debris caused by his operation in designated areas.

Contractor agrees to comply with all applicable building codes, ordinances and OSHA regulations.

ACKNOWLEDGMENT

These specifications are a part of the subcontract identified above. D.R. Horton, Inc. reserves the right to modify or amend any of the above general specifications at any time, and will notify the subcontractor as soon as any change is initiated.

Contractor:

JCS MASONRY, INC.
By: C. D. L. Jr.
Date: 02/17/10

Builder:

D.R. Horton, Inc.
By: EDMOND G. JEANFREAU JR.
Date: 02/23/10

PERFORMANCE REQUIREMENTS AND SPECIFICATIONS

Exhibit "A"

DESCRIPTION FRAMING LABOR

PERFORMANCE REQUIREMENTS

The framing structure and components shall be assembled according to plans, specifications, and details provided with the plans and are plumb, level, and square. Bearing connections shall be tight and bearing members (posts) continuous from the top of its bearing point to the bottom of the foundation. Frame assembly must meet the applicable codes for the area and use approved fasteners and connectors. Equipment used to transport framing members shall not adversely affect the design characteristics of the framing members. Floors shall not squeak nor have noticeable crowns, ridges, or dips. Exterior trim member shall be tight, free of gaps, uniform in appearance, and be properly flashed or sealed. Structural elements are warranted for ten (10) years. Non-structural elements are warranted for one (1) year. All subcontractors must wear hard hats on the job site at all times.

Hard hats and appropriate safety equipment are to be worn at all times while on D.R. Horton property. Each crew leader must have scaffolding, fall protection and PPE "Competent Person" training.

NON-PERFORMANCE REMEDY

The Contractor shall repair any defective workmanship, shrinkage gaps greater than 3/8", or areas not plumb or square (1/4" in 32") prior to the home being occupied. Stress caused by normal settlement or movement in the structure is not the responsibility of the Contractor. Exterior trim that is loose, shows gaps, or deteriorates because of inappropriate sealing or flashing, shall be repaired or replaced during the one year(1) of occupancy. Final determination for remedial action shall be made by D.R. Horton, Inc.

SPECIFICATIONS AND SCOPE OF WORK

1. All walls, openings, and floors to be framed level, square, and plumb.
2. Contractor is to check all foundations prior to framing for correct measurements, square, and level (all basement studs will be cut if necessary to level the first floor). This includes slab and poured walls.
3. All exterior plates on slab or poured walls to be caulked, glued, or sill sealer used.
4. Furr-downs, fire blocking, barge rafters, and punch-out to be done before beginning another unit.
5. Stairs to be set as per D.R. Horton specifications, nailing every stud with 2" slims with even margins nailed at underside of stairs through carriage. Provide OSHA approved fall protection devices at all appropriate areas.
6. All windows installed square and level with even margins, to be shimmed and caulked as required by manufacturer's specifications.
7. All fire stops, water heater platforms and blocking for sheetrock, closet shelves, ext. soffit blocking for flood lights, and cabinets are contractor's responsibility and must be completed before starting another unit.
8. All overhangs for soffits to be of uniform distance.
9. All jobsites are to be broom swept daily to remove all construction debris caused by his operation with usable material stacked in garage and trash placed in the designated areas.
10. All insulated sheathing to be nailed properly with 1 1/4" button cap nails. All blown off or weather damaged sheathing will be the responsibility of the contractor to replace.
11. Framing punch out must be completed within 24 hours.
12. All load bearing walls to be 16" o.c. and non-load bearing 24" o.c. (See Builder)
13. All door jacks to be cut out of lineal (not studs) - 14' stock.
14. All joist hangers installed same time as floor system.
15. Contractor is responsible for damage or misused material.
16. Stairs damaged by weather are the responsibility of the contractor.
17. H-spacer ply clips will be used on all roofs decking (when trusses are 24" center to center).
18. All sub-flooring is to be glued using an appropriate caulk gun and nailed, per code.
19. All framing to be in accordance with the attached D.R. Horton, Inc. framing checklist.
20. Final payment is to be made upon completion of the signed-off framing inspection.
21. Permit boards, driveway barricades and walk boards (adequate to reach street) to be built by framing contractor.
22. Framers to follow engineered truss plan.

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Initial

23. All gable ends to have horizontal cat walk bracing installed per truss manufacturers specs

SPECIFICATIONS AND SCOPE OF WORK

24. All floor and roof trusses to be braced in accordance to manufacturers specs.
 25. All ext. doors, normally front and rear French or sliding to be installed, square, and level with even margin shimmed and sealed with silicone sealant or its equivalent, on top, two sides, and bottom.
 26. All framing to pass County Inspection prior to final labor payment to contractor. All county required changes remain the responsibility of the contractor at no additional cost to builder.
 27. All framing to be done using "ladder" type framing.
 28. All fall protection to be secured to floor independent of wall framing.

Contractor agrees to comply with all applicable building codes, ordinances and OSHA regulations.

ACKNOWLEDGMENT

These specifications are a part of contract identified above. D R. Horton, Inc. reserves the right to amend or modify any of the above general specifications at any time, and will notify the contractor as soon as any change is initiated.

Contractor:

C. L. D. L. T.
 By: GENERAL MANAGER

Date: 02/17/10

Builder:

D R Horton, Inc.

By: EDMOND G. JEANPREAU, JR

Date: 2/23/10

EXHIBIT B



SOUTH CAROLINA INDEPENDENT CONTRACTOR AGREEMENT

NAME OF CONTRACTOR Galloway Bell Inc. ("Contractor")
 Sole Proprietorship ☐ Partnership ☐ Corporation ☒ L.L.C. ☐ Other (ATTACH W-9)
 Social Security No. or Tax ID No.: 57-0545429
 Name of Owner(s)/Officer(s): Rut Galloway Cally Galloway Jeff Bell
 Division Name: _____ Area Name: _____ Assigned Vendor No.: _____
 Address for All Notices: 3334 Hwy 153
 City: Piedmont State: SC Zip Code: 29673
 Telephone: 864 269 6120 Fax: 864 269 7853 E-Mail Address: shutsan@gallowaybell.com
 Insurance Carriers: ATTACH INSURANCE CERTIFICATES, OR THERE WILL AUTOMATICALLY BE WITHHOLDING AND DEDUCTIONS.
 This agreement (the "Agreement") is entered into on this 17 day of Dec, 2012, between
D.R. HORTON INC ("Owner") and Contractor.

1. SCOPE OF WORK. This Agreement is entered on a blanket basis. The terms of the Agreement shall govern all current and future work of Contractor for Owner. The work to be performed under this Agreement (the "Work") shall include all work performed and materials supplied by Contractor to Owner including but not limited to the labor, services and/or materials, equipment, transportation, or facilities necessary to complete the construction-related activities generally described in Exhibit A. The applicable quantities and pricing for the Work shall be reflected in the price sheet, proposal, bid, or purchase order issued by Owner, or in other documentation most recently accepted and approved in writing by Owner (the "Pricing Schedule"). The Pricing Schedule or any other writing will not modify any of the terms of this Agreement unless executed in the form of an amendment to this Agreement. Owner is not obligated to award any work on specific property to Contractor regardless of the Pricing Schedule, does not guarantee any quantity of work to Contractor, and may at its sole option retain others to perform the Work or similar work at any job location in addition to or in place of Contractor. Contractor will be awarded Work on a lot by lot basis. To the extent Exhibit A contains more than one type of construction-related activity, Contractor must clarify with Owner before the Work commences as to which construction-related activity it has been awarded for the lot in question.

2. INDEPENDENT CONTRACTOR STATUS. Contractor, in performing the Work, shall do so as an independent contractor and shall have the sole right and obligation to control the manner, method and performance of the Work. Contractor shall not be considered an agent or employee of Owner for any purpose, nor shall any employees or permitted subcontractors of Contractor. Contractor shall not represent itself as the agent of Owner unless owner has specifically permitted Contractor to do so in writing. The results achieved shall satisfy the requirements of this Agreement. Contractor shall be responsible for the performance of its employees and permitted subcontractors, and all personnel used by Contractor in the performance of Work shall be qualified and competent to perform their assigned tasks and have all necessary licenses. Contractor further agrees to provide written notification to all of its present and future employees of Contractor's provision for Worker's Compensation Insurance. Any provisions in this Agreement which may appear to give Owner the right to direct Contractor as to the details of doing the Work herein covered or to exercise a measure of control over the Work shall be deemed to mean that Contractor shall follow the desires of Owner in the results of the Work only.

3. CONTRACT PRICE.

3.1 Pricing Schedule. The Pricing Schedule shall be applicable to all Work performed under this Agreement. The Pricing Schedule shall reflect the maximum total payment due to Contractor.

3.2 Taxes. Contractor shall pay and shall be solely responsible for all tax withholding, Social Security, state unemployment and all other withholding as required by law Contractor's employees, agents or permitted subcontractors. In addition, Contractor shall pay all applicable sales or use taxes on labor provided and materials furnished or otherwise required by law in connection with the Work, unless Owner furnishes Contractor with a Resale Certificate or Exemption Certificate. If Contractor performs under a fixed-price contract (one price for materials and incorporated skill and labor), the contract price includes all sales and use taxes.

3.3 Price Increases. NO PRICE INCREASE SHALL BE BINDING UPON OWNER UNLESS CONTRACTOR GIVES OWNER ONE HUNDRED TWENTY (120) DAYS WRITTEN NOTICE BEFORE ANY PRICE INCREASE IS IMPLEMENTED. Notwithstanding anything contained on any new Pricing Schedule, the superseded Pricing Schedule shall remain in effect for Purchase Orders issued after the date of any new Pricing Schedule until the expiration of the notice period.

4. PAYMENT.

4.1 Invoices. Contractor shall invoice Owner no later than the earlier of (i) ninety (90) days after completion of the Work or (ii) thirty (30) days from the date of closing of the house incorporating the Work from Owner to a purchaser. Contractor hereby agrees that timely invoicing is an important and material term to this agreement, and timely invoicing is a part of Contractor's performance of all material terms of this contract. Contractor hereby waives payment for any Work where Contractor fails to invoice Owner in a timely manner in conformity to this agreement. Owner shall timely pay Contractor for completed Work, provided that Contractor has performed in accordance with and has fully complied with all terms and conditions of this Agreement. If the Work is to be performed in stages, payments may be made for each stage at Owner's option. All Work described on a Purchase Order shall be considered separate and distinct from Work described on any other Purchase Order.

CONTRACTOR SPECIFICALLY WAIVES THE RIGHTS AND REMEDIES SET FORTH AT S.C. CODE ANN. §§ 29-6-30 AND 29-6-50 CONCERNING THE TIMING OF PAYMENTS AND INTEREST ON DELAYED PAYMENTS. CONTRACTOR

Executed this 29 day of March, 2013.

Owner: D.R. HORTON HOMES INC. Contractor: Cally
 By: EDWARD G. JEANFLEAU, JR. By: Cally Galloway
 Name: PURCHASING Name: Cally Galloway
 Title: Division President Title:

INITIALS: OWNER EJG, CONTRACTOR Cally

ACKNOWLEDGES THAT THE TERMS OF THIS AGREEMENT CONTROL AS TO THE TIMING OF PAYMENTS AND THAT NO PROVISION FOR INTEREST DUE TO SUBCONTRACTOR IN THE CASE OF DELAYED PAYMENTS IS MADE. HEREIN AND THAT OWNER DOES NOT AGREE TO PAY TO SUBCONTRACTOR INTEREST ON ANY TERMS WHATSOEVER IN THE CASE OF DELAYED PAYMENTS.

4.2 Payment to Subcontractors. No payments shall be due under this Agreement until Contractor's invoice (or Purchase Orders, if applicable) for the Work has been submitted to Owner for payment. This action shall constitute a representation and confirmation by Contractor that all Work (or a specified portion of the Work) to be performed on a specific job location has been completed satisfactorily and that all material suppliers, laborers and subcontractors have been paid in full. In exchange for progress payments, Owner may require a partial release (to the extent of all payments made) of all liens for materials furnished and labor performed from Contractor, its employees and agents and all third parties furnishing labor or materials in connection with the Work so performed, and an affidavit that no person has a right to any lien for materials or labor. Owner may, at any time, in its discretion, make checks payable jointly to Contractor and one or more third parties; and these joint payments shall satisfy amounts owed by Owner to Contractor, notwithstanding the fact that the third parties may not endorse the checks. In any instance where Owner receives written notice from one of Contractor's sub-contractors, whereby the subcontractor claims a failure to be paid for the Work, Owner reserves the right to pay the subcontractor directly or to make payment payable to both the Contractor and its subcontractor.

4.3 Acceptance of Work. Acceptance by Contractor of the final payment of the Contract Price shall waive and release all claims against Owner and the property under this Agreement, but shall not waive any claims of Owner arising out of Work later found to be defective and shall not release Contractor from liability for warranties and warranty service and/or defective Work. Contractor shall remedy any defects and pay for any damage resulting from any defects in or caused by the Work or as required by any other contracts between Owner and Contractor or by law or customary practice. No certificate issued, nor payment made to Contractor, nor partial or entire use or occupancy of the Work by Owner or its agents or assigns is an acceptance of the Work or materials not in compliance with this Agreement.

5. SCHEDULE OF WORK.

5.1 Time is of the Essence. Contractor acknowledges that **TIME IS OF THE ESSENCE** in the performance of all Work.

5.2 Construction Schedule. Owner may alter the time, order and priority for performance of all components of the Work and all matters relative to the timely and orderly conduct of the Work without increase in price or liability of any kind to Contractor or others. Contractor shall coordinate with Owner all Work scheduled and cooperate with other contractors.

5.3 Commencement of the Work. Owner shall issue an authorization (either pursuant to a written purchase order, payment schedule, or work invoice ("Purchase Order") or verbal instructions from an authorized Owner representative) to commence the Work and Contractor shall not commence the Work at a job location until Contractor has received instructions to begin Work at a specific job location. Contractor shall commence the Work no later than three (3) days after notice to proceed from Owner, and if such Work is interrupted at the direction of Owner, Contractor shall resume such Work within two (2) working days of Owner's direction to resume.

5.4 Changes in Construction Schedule. Contractor agrees that Owner shall have the right to make changes to the schedule of Work at Owner's discretion and agrees to comply with such changes.

6. PERFORMANCE STANDARDS.

6.1 Applicable Standards. Contractor shall perform all Work in a good and workmanlike manner, in accordance with the plans and specifications of Owner, according to industry standard practices, and warrants that the Work will meet or exceed FHA minimum property standards, VA requirements, all laws (statutory or common) and regulations, and any applicable building code requirements.

6.2 Contractors' Acknowledgements Regarding Work. Contractor's commencement of the Work shall be deemed as Contractor's agreement to complete the Work by the completion date specified by an authorized Owner's employee and shall be deemed as Contractor's acknowledgment that Contractor has inspected the job location, is thoroughly familiar with the plans and specifications as the plans and specifications affect the Work and materials incorporated in the Work, and that the plans and specifications are clear and unambiguous, and has accepted and agreed to be bound by all such requirements.

6.3 Government Requirements. Contractor will comply with all applicable federal, state, local, and county statutes, ordinances, regulations, codes, licensing requirements and standards, and the requirements of the Williams-Steiger Occupational Safety and Health Act of 1970 as amended, as well as the training and record-keeping requirements of the Hazard Communication Standard, 29 C.F.R. §1926.59 et seq., or similar laws or regulations, and the rules, regulations, or orders of all public authorities relating to performance of the Work, including without limitation, the procurement and posting of all required permits and notices. In addition, Contractor will not discriminate in its hiring or employment and will follow all state and federal employment laws or regulations. Contractor shall perform background checks and use only appropriate employees to perform warranty or repair work after a house is occupied.

6.4 Indemnity. To the fullest extent allowed by law, Contractor will agree to indemnify, defend, and hold Owner harmless from **all actions, claims, investigations or other acts to enforce such laws or regulations**, and further agrees to indemnify Owner from the payment of any fine, penalty or damages imposed, levied, assessed, or found as a result of the Contractor's failure to comply with or adhere to the applicable laws and regulations, or from Contractor's failure to cause its employees or subcontractors to comply with such laws and regulations.

6.5 Observation and Testing by Owner and Repair by Contractor. Owner shall have the right to observe or test the Work at any time during or after construction, but that observation or testing is solely for the benefit of Owner's and is not for Contractor's benefit. Owner's failure to note defects in the Work during an inspection will not waive any of Contractor's obligations, representations or warranties related to the Work. Notwithstanding anything contained in this Agreement to the contrary, all Work shall be performed and any defects shall be corrected timely and in accordance with this Agreement to the satisfaction of Owner.

6.6 Work of Others. Contractor shall be responsible for inspecting any work of another contractor that may affect Contractor's own Work, and shall report in writing to Owner any defects prior to commencement of any Work, or Contractor shall be deemed to have accepted all other contractor's work for inclusion into Contractor's Work.

6.7 Licenses, Permits, and Approvals. Contractor shall secure and maintain all permits, licenses and approvals necessary for or applicable to the performance of the Work.

6.8 Change Orders. The Contractor shall furnish the materials for and to make all changes requested by Owner, without nullifying this Agreement, at a reasonable addition to, or reduction from, the Pricing Schedule. Owner and Contractor agree that no additional charge or increased price shall be charged by Contractor for any change or alteration unless set forth in a written variance agreement or change order ("Change Order") or Purchase Order signed by Owner and Contractor before the commencement of such changes.

6.9 Subdivision Rules. Contractor shall comply fully with all rules, regulations, and restrictive covenants governing the subdivision in which the Work is performed, including without limitation, rules, regulations and restrictions (i) establishing hours and/or days that Work may be performed;

INITIALS: OWNER klh; CONTRACTOR lwj.

(ii) governing storage of materials on the job location; (iii) regulating trash pick-up and waste collection at the job location; and (iv) work site safety requirements.

6.10 Clean-up. Contractor shall at all times keep the job site free from accumulation of waste materials or rubbish caused by its operations and shall remove all of Contractor's materials, and if materials are furnished by Owner, Contractor shall move all usable materials provided by Owner to a location designated by Owner. Contractor shall sweep out any waste material from inside the home under construction upon completion of its operation. All refuse shall be placed in receptacles provided or at locations designated by Owner. Contractor's failure to comply with this provision shall authorize Owner to undertake any necessary clean-up activities and collect a one hundred dollar (\$100.00) fine from Contractor for each incident. The cost of such clean-up and the aforementioned fine shall be deducted from any sums owed by Owner to Contractor, or shall be immediately payable by Contractor upon demand therefore by Owner.

7. SAFETY.

7.1 Contractor Responsibility for Safety. Contractor shall, at its own expense, be solely responsible for protecting its employees, subcontractors, material suppliers and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Work or the construction site on which the Work is being performed (the "Work Site"), and ensuring full compliance with all government safety and OSHA rules and regulations. Owner reserves the right to set minimum standards or rules relating to Work on its site. UNDER NO CIRCUMSTANCES SHALL THE ACTIONS OF OWNER IN REQUIRING IMPLEMENTATION OF A SAFETY PROGRAM BE CONSTRUED AS OWNER HAVING CONTROL OVER CONTRACTOR'S SAFETY PROGRAM. CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE CONTENT AND IMPLEMENTATION OF ITS SAFETY PROGRAM WHICH SHALL MEET OWNERS MINIMUM REQUIREMENTS. THE OWNER ASSUMES NO RESPONSIBILITY OR LIABILITY FOR THE PHYSICAL CONDITION OR SAFETY OF THE WORK SITE. Contractor shall immediately notify Owner's construction supervisors of any unsafe condition or practice observed on the Work Site. Further, Contractor shall immediately notify Owner of any accidents or injuries on the Work Site. Contractor shall have an ongoing safety program and conduct inspections to determine that safe working conditions and equipment exist and safe practices are observed. Contractor shall prohibit and prevent the presence of children under age eighteen (18) from the Work Site.

7.1 Safety Laws and Indemnity Agreement. Contractor shall fully comply with all laws, orders, citations, rules, regulations, standards, statutes, and industry best practices concerning occupational health and safety, accident prevention, safety equipment and practices, including but not limited to federal and state OSHA regulations. Contractor shall provide Owner with written verification of its compliance with all applicable safety and health standards and regulations, including but not limited to OSHA's Hazard Communication Standard for the Construction Industry, 29 C.F.R. §1926.59 et seq., and provide written notice to Owner of the contact person responsible for Contractor's compliance with all safety and health standards and regulations. To the fullest extent allowed by law, Contractor agrees to indemnify, defend, and hold Owner harmless from all actions prosecuted to enforce and the payment of any fine or penalty imposed under such safety laws and regulations and shall immediately pay all fines or penalties assessed upon Contractor or Owner relating to the Work.

7.2 No Alcohol or Drugs. Contractor shall prohibit and prevent the presence or use of alcohol or drugs by its employees, permitted subcontractors or suppliers at a job location or performance of the Work by any person under the influence of alcohol or drugs.

8. CONTRACTOR'S WARRANTIES.

8.1 Against Defective Work. Contractor unconditionally warrants to Owner, its parent, subsidiary or affiliate corporations, and successors and assigns, that all labor performed and materials furnished by Contractor shall conform to the specifications of this Agreement, shall be free from any defects or deficiencies in workmanship or materials, and will comply with the requirements of all applicable governing authorities, laws, regulations and ordinances, will meet or exceed the FHA/VA minimum property standards, and will comply with the Residential Warranty Corporation ("RWC") Program and the applicable limited warranty standards, which Contractor has read and understands and to which Contractor agrees to be bound. All Work not conforming to these requirements shall be considered to be defective. All material shall be new and of best quality within the scope of the Pricing Schedule and free from defects for purposes of Contractor's obligations under this Contract. Contractor shall make good and promptly repair all Work not complying with the standards set forth in this section at its own expense.

8.2 Home Owners Warranty. In addition to the warranty in Paragraph 8.1, Contractor warrants that the Work shall remain free of defects for the following warranty periods beginning on the earlier of the date of occupancy by, or transfer of title from Owner to, the initial homeowner of the property on that is the subject of the Work: (i) for a period of ten (10) years all structural elements, including, but not limited to, roof framing members (rafters and trusses), floor framing members (joists and trusses), bearing walls, columns, lintels (other than lintels supporting veneers), girders, load-bearing beams, and foundation and footing systems; (ii) for a period of two (2) years all: (a) heating/ventilating/air conditioning duct work, refrigerant lines, steam and water pipes, registers, convectors and dampers, (b) plumbing pipes (supply and waste) and their fittings, as well as gas supply lines and vent pipes located within the home, and (c) electrical wiring, electrical boxes and connections up to the public utility connections, installed by Contractor; (d) all other elements for a period of one (1) year but in no event shall a warranty period or coverage for the system, element or other portion of the Work be less than the applicable warranty period or coverage for such system, element, or other portion of the Work under (i) any statutory warranty or (ii) residential warranty program from any residential warranty company for the residential warranty policy to be provided by Owner to any Homeowner (a "Homeowners Warranty"). Contractor expressly agrees to be bound by any such Homeowners Warranty and to the extension of warranty period hereunder. Furthermore, notwithstanding the foregoing, Contractor agrees that all express and implied warranties shall remain in full force and effect for so long as Owner is obligated to warrant the Work pursuant to applicable law. Owner shall use its best efforts to provide Contractor with notice of any warranty period under any Homeowners Warranty that is longer than the Warranty Periods stated above; provided, however, failure to give that notice will not affect the extension of the Warranty Period to the applicable warranty period under the Homeowner's Warranty.

8.3 Repair by Owner Does Not Waive Warranty. The performance/fulfillment of any warranty repair responsibilities by Owner or any other third party will not affect, minimize, or in any way obviate Contractor's warranty obligations, Contractor's indemnity obligations, or the ability of Owner to request Contractor to perform warranty services in the future.

8.4 Transfer of Manufacturers Warranties. Contractor shall furnish all warranties and/or guarantees by manufacturers on appliances and equipment, and shall furnish all certificates required by any municipality and/or VA and/or FHA. These warranties, guarantees, and certificates are in addition to all other warranties or obligations of Contractor provided by law or otherwise and are not in limitation of periods of applicable statutes of limitation.

9. LIENS AND RETAINAGE.

9.1 Contractor's Lien Waiver. CONTRACTOR, FOR ITSELF, ITS EMPLOYEES, SUBCONTRACTORS AND SUPPLIERS, HEREBY WAIVES ITS STATUTORY, CONSTITUTIONAL AND COMMON LAW RIGHTS TO ASSERT LIENS AGAINST OWNER OR ITS PROPERTY.

9.2 Retainage. At all times during the performance of this Agreement and for thirty (30) days afterwards, Owner shall be entitled to hold, for all Work in progress, the greater of ten percent (10%) or any allowable retainage and any statutory sums in accordance with the laws of the state in which the Project is located.

9.3 Lien Claim Indemnity. If any liens are filed against Owner relating to portions of the Work for which Owner has paid Contractor, Contractor agrees that Owner shall be entitled to withhold all further payments to Contractor until Contractor causes such lien or affidavit to be removed.

INITIALS: OWNER EBJ, CONTRACTOR EWY

and released of record. Contractor agrees to INDEMNIFY, DEFEND, and HOLD OWNER HARMLESS from any loss, expense, including legal fees and disbursements, damage or injury caused or occasioned, directly or indirectly, by any liens relating to portions of the Work for which Owner has paid Contractor, and further agrees at Owners' request to any or all of the following: (i) procure a bond to indemnify Owner and any home purchaser from Owner, in an amount sufficient to discharge that lien, or (ii) refund to Owner all monies, including any additional amount necessary to cover all of Owner's or home purchaser's attorneys' fees and court costs paid in discharging the lien, whichever remedy Owner elects in its sole and absolute discretion, or (iii) provide sworn testimony that payment has already been made to Contractor for the work for which the alleged lien applies.

10. CONTRACTOR'S INDEMNITY.

10.1 GENERALLY. TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY AGREES TO HOLD HARMLESS, INDEMNIFY, PROTECT AND DEFEND OWNER, ITS PARENT CORPORATION, SUBSIDIARIES, AFFILIATES, SUCCESSORS AND ASSIGNS, AND EACH OF THE AFOREMENTIONED ENTITIES' RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS AND INSURERS (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "INDEMNITEE"), FROM AND AGAINST **ANY AND ALL DEMANDS, CLAIMS, ACTIONS, CAUSES OF ACTION, PROCEEDINGS, LAWSUITS, SETTLEMENTS, JUDGMENTS, FINES, PENALTIES, LOSSES, ATTORNEYS FEES, LITIGATION COSTS, INTEREST, AND EXPENSES OF ANY KIND (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "LOSSES")** FOR DAMAGES FROM BODILY OR PERSONAL INJURY, DEATH, THE DESTRUCTION OR LOSS OF PROPERTY (INCLUDING LOSS OF USE), OR ANY OTHER KIND OF DAMAGES OR HARM, **ARISING OUT OF, OR RESULTING FROM, OR RELATED IN ANY WAY TO THE WORK PERFORMED AND/ OR THE MATERIALS SUPPLIED UNDER THIS CONTRACT, REGARDLESS OF WHETHER OR NOT CAUSED IN PART BY INDEMNITEE.** SUCH LOSSES SPECIFICALLY INCLUDE, BUT ARE IN NO WAY LIMITED TO LOSSES ARISING OUT OF OR ATTRIBUTABLE TO: (1) A BREACH OF ANY WARRANTIES, REPRESENTATIONS, COVENANTS OR OBLIGATIONS OF CONTRACTOR SET FORTH HEREIN; (2) THE WORK PERFORMED OR TO BE PERFORMED OR MATERIAL SUPPLIED BY CONTRACTOR, CONTRACTOR'S AGENTS OR EMPLOYEES, SUPPLIERS OR SUBCONTRACTORS AND THEIR RESPECTIVE AGENTS AND EMPLOYEES, AND/OR ALL OTHER ENTITIES OVER WHOM THE CONTRACTOR MAY EXERCISE CONTROL (INDIVIDUALLY OR COLLECTIVELY HEREINAFTER, "CONTRACTOR'S AGENTS"); (3) ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF CONTRACTOR AND/OR CONTRACTOR'S AGENTS; OR (4) **ANY NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE INDEMNITEE RELATED IN ANY WAY TO THE WORK. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL REQUIRE INDEMNITY FOR LOSSES CAUSED SOLELY BY FAULT OR NEGLIGENCE OF THE INDEMNITEE.** THE LOSSES DESCRIBED HEREIN SHALL INCLUDE, BUT ARE NOT LIMITED TO, DEMANDS, CLAIMS, OR ACTIONS ASSERTED BY (1) ANY PRESENT OR FUTURE OWNER OF THE HOUSE INCORPORATING THE WORK; AND (2) ANY OWNER, CONTRACTOR, OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, PERSONNEL FURNISHED BY CONTRACTOR AND/OR CONTRACTOR'S AGENTS). THE INDEMNIFICATION OBLIGATION UNDER THIS CONTRACT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. THE INDEMNITY PROVISIONS CONTAINED HEREIN ARE INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY LAW.

10.2 INDEMNITY NOT EXCLUSIVE REMEDY. ANY PAYMENTS BY CONTRACTOR UNDER SECTION 10 TO OR ON BEHALF OF THE INDEMNITEE SHALL BE IN ADDITION TO ANY AND ALL OTHER LEGAL REMEDIES AVAILABLE TO THE INDEMNITEE AND SHALL NOT BE CONSIDERED THE INDEMNITEE'S EXCLUSIVE REMEDY. IT IS THE EXPRESS INTENTION OF THE PARTIES THAT CONTRACTOR'S INDEMNITY OBLIGATIONS HEREIN WILL SURVIVE THE TERMINATION OF CONTRACTOR OR THIS AGREEMENT. **INDEMNITEE SHALL HAVE THE RIGHT, AT ITS DISCRETION AND CHOOSING, TO DEFEND ANY AND ALL CLAIMS WHICH MAY BE ASSERTED AGAINST IT, AND CONTRACTOR AGREES TO REIMBURSE INDEMNITEE FOR ANY AND ALL EXPENDITURES WHICH INDEMNITEE MAY MAKE OR INCUR ON ACCOUNT OF ANY SUCH CLAIM.**

10.3 CONTRACTOR AND CONTRACTOR'S AGENTS SHALL BE SOLELY RESPONSIBLE FOR THEIR RESPECTIVE TOOLS AND EQUIPMENT, AND HEREBY WAIVE ANY RIGHT OF RECOVERY AGAINST THE INDEMNITEE WITH RESPECT TO: (1) ANY LOSS OF SUCH TOOLS OR EQUIPMENT, OR (2) ANY DAMAGE TO SUCH TOOLS OR EQUIPMENT.

10.4 Subcontractor's and Supplier's Indemnity Obligations. Contractor shall require each of its subcontractor to agree to indemnify Indemnitee to the same extent that Contractor is required to indemnify Indemnitee in this Agreement. Before a subcontractor begins its Work, Contractor shall obtain a signed agreement from that subcontractor indemnifying Indemnitee to the extent required in this section and provide that agreement and evidence of satisfactory insurance to Owner. In addition, to the extent permitted by law, Contractor shall require that each supplier or subcontractor indemnify Indemnitee from all losses arising from any materials or labor incorporated into the Work. Contractor shall require subcontractors and material suppliers to agree to submit to binding arbitration on the terms as Section 13. For all purposes, including the purposes of this Agreement, Contractor shall be fully responsible for all of the actions of any subcontractor engaged by Contractor, whether in written agreement or otherwise, or who performs any part of the Work, and all obligations of Contractor under this Agreement shall be deemed to be the obligation of the subcontractors to Owner, for which Contractor shall be fully responsible to Owner.

11. INSURANCE.

11.1 General Liability. Contractor agrees to carry a Broad Form Commercial General Liability Insurance on an Occurrence Form (the "CGL Policy"), with completed operations coverage which contains a per occurrence limit of no less than one million dollars (\$1,000,000.00), and an aggregate limit of no less than two million dollars (\$2,000,000.00) protecting against liability for bodily injury, broad form property damage, and personal injury claims arising from the exposures of: (i) premises-operations; (ii) products and completed operations including materials designed, furnished, and/or modified in any way by Contractor (with a separate aggregate limit at least equal to the general aggregate limit); (iii) independent subcontractors; (iv) contractual liability risk covering the indemnity obligations set forth in this Agreement; and (v) where applicable, property damage resulting from explosion, collapse, or underground (x, c, u) exposures. The CGL Policy shall not exclude from coverage the type of, or nature of, the Work or limit the type of structure on which the Work is to be performed. The CGL Policy shall not contain a deductible or self insured retention of more than \$25,000.00. Contractor shall continuously maintain a CGL Policy covering completed operations for any applicable statute of repose for commencing lawsuits associated with the Work.

11.2 Other Insurance. Contractor agrees to carry (i) Worker's Compensation Insurance that provides statutory benefits and coverage imposed by applicable state or federal law for Contractor's personnel, employees or agents and Contractor shall satisfy all Worker's Compensation obligations imposed by law; (ii) if Contractor's Work includes design services, Contractor Professional Liability Insurance or Professional Liability Insurance for Architects, Engineers, Surveyors, and other Professional Service Organizations, that provides a per claim limit of no less than one million dollars (\$1,000,000.00) and an aggregate of no less than one million dollars (\$1,000,000.00) protecting against faulty design and faulty professional judgment; and (iii) Commercial Automobile Liability Insurance coverage with limits of not less than \$500,000 per person (Bodily Injury) and \$500,000 property damage per occurrence specifying "all autos" coverage or "all owned, leased, hired or non-owned autos."

11.3 General Requirements Applicable to All Required Insurance. Contractor shall add Owner as an Additional Insured on the CGL Policy or policies required above covering both on-going operations and completed operations (equivalent to form CG20101185 or form CG2037). Coverage obtained by Contractor naming Owner as an Additional Insured shall be primary with any insurance of Owner being excess coverage. That insurance coverage will be carried continuously during the term of this Agreement and thereafter as required by this Agreement with insurance companies acceptable to Owner in its sole and absolute discretion. That insurance shall provide for a waiver of subrogation. All insurance shall be with

INITIALS: OWNER AB, CONTRACTOR CS

a carrier licensed to do business in the jurisdiction of the Work with a minimum financial strength rating of A and a financial size rating of VII as determined by A.M. Best.

11.4 Proof of Insured Status. Contractor shall provide evidence that all required insurance is in full force by furnishing Owner with a Certificate of Insurance, or certified copies of the required policies. Each Certificate of Insurance or policy shall contain an unqualified clause to the effect that the policy shall (i) not be subject to cancellation, non-renewal, adverse change, or reduction of amounts of coverage without thirty (30) days' prior written notice to Owner, (ii) be carried continuously from the date of commencement of the Work until expiration of the period of the Contractor's warranty provided in this Agreement, (iii) specifically identify Owner as an Additional Insured, and (iv) indicate that coverage applies in the state where the Work is being performed. The amounts and types of insurance required by this Agreement are the minimums required by Owner and shall not be substituted for an independent determination by Contractor of the amounts and other types of insurance that Contractor shall determine to be reasonably necessary to protect itself and the Work required to be performed under this Agreement.

11.5 Reduction of Price for Non-Compliance. NOTWITHSTANDING THE FOREGOING, IF THE CONTRACTOR FAILS TO PROVIDE OWNER WITH THE REQUIRED EVIDENCE OF INSURANCE, IN ADDITION TO ALL OTHER REMEDIES, OWNER, AT ITS SOLE OPTION, SHALL BE ENTITLED TO: (A) REDUCE THE AMOUNT DUE CONTRACTOR BY THE AMOUNT (ESTABLISHED BY OWNER IN ITS SOLE AND ABSOLUTE DISCRETION) IN EFFECT AT THE TIME WORK IS PERFORMED TO COMPENSATE OWNER FOR ANY ADDITIONAL COSTS OF ITS WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE PREMIUMS AND OWNER'S INCREASED RISKS AND ADMINISTRATIVE COSTS ASSOCIATED WITH DOING BUSINESS WITH UNINSURED CONTRACTORS, THEIR EMPLOYEES OR AGENTS. THIS WITHHOLDING IS NOT PAYMENT FOR INSURANCE AND OWNER IS IN NO WAY AN INSURER OF CONTRACTOR, AND/OR ITS EMPLOYEES OR SUBCONTRACTORS. CONTRACTOR REMAINS OBLIGATED TO PROVIDE INSURANCE FOR ITSELF AND ITS EMPLOYEES UNDER THIS CONTRACT AND THE AMOUNT WITHHELD MAY EXCEED THE ACTUAL COSTS INCURRED BY OWNER; OR (B) ACCEPT FROM CONTRACTOR A WAIVER OF INSURANCE TO THE EXTENT PERMITTED AND MADE IN ACCORDANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATUTES OR REGULATIONS.

11.6 Subcontractor and Supplier Insurance Obligations. If Contractor subcontracts any of the Work to the extent permitted under this Agreement, Contractor guarantees that each subcontractor shall carry the same insurance required to be carried by Contractor in this Section 11, and that each subcontractor shall name Owner as an Additional Insured on the required liability policy or policies to the same extent that Contractor is required to do so. Further, Contractor shall require subcontractors and material suppliers to provide to Owner evidence of satisfactory insurance in accordance with the terms of this Agreement.

12. REMEDIES.

12.1 Owner's Remedies. If Work performed by Contractor pursuant to this Agreement is defective or incomplete, or another contractor's work is damaged by an act for which Contractor, or its employees, agents or subcontractors, are responsible, Owner shall have the right to elect, at its sole discretion to: (i) notify Contractor, at which time Contractor shall promptly correct such Work, replace or repair any defective material, or repair any damage. Contractor shall make all repairs and correct such within twenty-four (24) hours of notice in an emergency (as determined by Owner in its sole discretion) and within forty-eight (48) hours notice on a non-emergency basis; or (ii) retain a third party or undertake to perform those duties, and retain any sums otherwise due Contractor under any Purchase Order or invoice and apply these sums against such costs of completion, any related costs or damage, including re-inspection fees, with any excess to be paid to Contractor. If the cost of the remedial work exceeds the funds withheld resulting in a deficiency, Contractor shall be fully responsible for the deficiency, together with any damages and costs, including costs of court and reasonable attorneys' fees, incurred by Owner, and shall pay to Owner this amount within thirty (30) days of demand.

12.2 Right to Withhold or Offset. In addition to the remedies in Paragraph 12.1, Owner may withhold payment otherwise due Contractor and offset that payment against any damages or expenses incurred by Owner, if: (i) Contractor does not make prompt and proper payments to its employees, agents, and/or permitted subcontractors, or fails to pay for any labor, materials or equipment furnished to Contractor by third parties; (ii) claims or liens are filed against the job location as a result of Contractor's actions or omissions; (iii) in Owner's discretion, Owner reasonably believes that Contractor's Work is not progressing satisfactorily or that the Work cannot or may not be completed in accordance with the terms of this Agreement, Exhibit A of this Agreement, or the specifications; (iv) Contractor fails to perform, or to pay the costs and expenses of warranty service, any indemnity claim, taxes or legal order that is Contractor's obligation under this Agreement; (v) Contractor fails to timely provide the evidence of insurance required pursuant to this Agreement and Owner has not expressly waived that insurance; (vi) Contractor fails to promptly pay any fines or penalties imposed against Owner or Contractor related directly or indirectly to the Work; (vii) Contractor has not provided necessary tools, material, or equipment for, or cleaned up after, the Work; (viii) Contractor fails to comply with any other provision of this Agreement.

12.3 Remedies Not Exclusive. The duties and obligations imposed by this Agreement and rights and remedies available under this Agreement shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law. Owner shall have a right to collect from Contractor its reasonable attorneys' fees and expenses incurred in enforcing Contractor's obligations.

13. ALTERNATIVE DISPUTE RESOLUTION.

13.1 Disputes. All disputes, whether existing now or arising in the future between them, related in any way to this Agreement, to Contractor's Work, or to any dispute that Owner or Contractor shall have with any third party related to the Work ("Disputes") shall be subject to Alternative Dispute Resolution. These Disputes shall include claims related to the construction or sale of any home or property incorporating the Work, including any claims asserting any alleged defects in the Work or any alleged representations and/or warranties, express or implied, relating to the property and/or the improvements. Contractor shall incorporate all of Section 13 in its agreements with subcontractors and suppliers, requiring them to participate in the dispute resolution process described in to the same extent Contractor is required to participate.

13.2 Mediation. If a Dispute cannot be settled through negotiation, Owner and Contractor may agree in good faith to settle the Dispute by mediation. Cost of mediation shall be shared equally by the parties. Notwithstanding the foregoing, a party need not resort to mediation before seeking equitable relief from and arbitrator or a court of appropriate jurisdiction.

13.3 Arbitration. If mediation fails, the Dispute shall be submitted to binding arbitration under the Federal Arbitration Act, 9 U.S.C. 1 et seq., regardless of any other choice of law provision in any underlying contract or this Agreement. All demands for arbitration shall be made before the expiration of the applicable statutes of limitations and repose. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in any court of competent jurisdiction.

13.4 Choice of Mediator and Arbitrator; Number of Arbitrators. Any mediation or arbitration shall be administered and conducted by a mediator or arbitrators mutually agreeable to the parties. Three neutral arbitrators shall be appointed if the Dispute, or the aggregate amount of all Disputes, is over \$200,000, but only one arbitrator shall be appointed if the Dispute is 200,000 or less. If the Dispute or Disputes is to be decided by three arbitrators, then each party shall select a neutral arbitrator within fourteen (14) calendar days of the demand for arbitration is served and the two party-appointed arbitrators shall select a third neutral arbitrator within fourteen (14) calendar days after the two party-appointed arbitrators are selected. If Owner and Contractor cannot agree on the selection of a mediator or arbitrator, or if either Owner or Contractor does not appoint an arbitrator or the two party-appointed arbitrators do not select a third arbitrator within the specified time periods, then either Owner or Contractor may file an action with the appropriate court with proper venue and jurisdiction over the dispute to appoint a mediator or arbitrator. The AAA's Code of Arbitrator Ethics (revised March 1, 2004) is applicable to all arbitrations.

INITIALS: OWNER ksj, CONTRACTOR lmy

13.5 Rules. To the extent not in conflict with the Federal Arbitration Act, any mediation and arbitration shall be conducted in accordance with Construction Industry Arbitration Rules and Mediation Procedures of the American Arbitration Association ("AAA") and shall follow settled law in rendering a decision, except that any mediation or arbitration shall be administered by the mediator or the arbitrator(s) and not by the AAA.

13.6 Consolidation and Joinder. Notwithstanding any provision in Section 13 to the contrary, Owner may join Contractor in any litigation, mediation, or arbitration initiated against Owner by a third person so that the rights of all parties (Owner, Contractor, Subcontractor, or any third person) shall be subject to resolution in a single forum in the same proceeding. Contractor shall be bound by any arbitration procedures and rules accepted by Owner where necessary to facilitate resolution in a single forum. If multiple lawsuits or arbitrations are commenced, they shall all be consolidated into a single proceeding. Notwithstanding any other provision of this section, if a subcontractor or material supplier of Contractor, or any other third party whose presence is required for a just adjudication of the Dispute, cannot be forced to mediate or arbitrate, Owner may elect to unilaterally waive mediation or arbitration and litigate the Dispute with Contractor.

14. TERMINATION.

14.1 Termination by Owner for Cause of Convenience. This Agreement shall remain in full force and effect until terminated in writing by mailing notice to the other Party. Owner may terminate this Agreement at any time, whether or not Contractor is in default or breach of the Agreement.

14.2 Termination by Contractor. Contractor shall provide one hundred twenty (120) Days' written notice before the effective date of termination, and shall perform fully under this Agreement during that notice period. If the Agreement is terminated by Owner, notwithstanding any other agreement to the contrary, the sole amount due to Contractor shall be that due for all authorized Work performed and materials supplied before termination, subject to deductions and charges authorized by this Agreement.

14.3 Survival. All obligations, duties and warranties for Work performed under this Agreement shall survive termination.

15. CONTRACTOR'S REPRESENTATIONS. Contractor represents to Owner that: (i) the person executing this Agreement on behalf of Contractor is duly authorized and has full power to execute and deliver this Agreement, (ii) all corporate, partnership, or other action requisite for the due execution of this Agreement has been duly and effectively taken or shall be taken before the execution and delivery of this Agreement, (iii) this Agreement is or will be (when executed) a binding obligations of Contractor, enforceable in accordance with its terms, (iv) this Agreement and Contractor's performance, does not and will not violate any provisions of Contractor's constituent or organizational documents, or any contract, agreement, or governmental requirement to which Contractor is subject, and the same do not require the consent or approval of any governmental authority, (v) Contractor has, and each Contractor's employees, agents or permitted subcontractors shall have, the requisite skills, expertise, experience, licenses, and knowledge to perform the Work in compliance with this Agreement, (vi) Contractor is in compliance with all governmental requirements to which it is subject, and (vii) Contractor has the financial ability and resources to perform the Work and all other obligations, duties, and covenants of Contractor under this Agreement.

16. GENERAL CONTRACT PROVISIONS.

16.1 Entire Agreement. This Agreement, and with respect to prices and quantities only, the Price Schedule and all written Purchase Orders shall be the entire agreement between Owner and Contractor related to the Work, and there are no other agreements, oral or written, made by or relied upon by Owner and Contractor. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended or supplemented except in writing signed by both Owner and Contractor.

16.2 Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of it shall not affect the validity or enforceability of any other provision or portion.

16.3 Assignability. Contractors' rights and obligations are not assignable or transferable without the express written consent of Owner, who may consent can be withheld in Owner's sole and absolute discretion. Subject to the restrictions and prohibitions on assignment set forth in this section, the terms of the Agreement shall be binding on Owner, Contractor, and their respective successors, representatives, heirs and assigns.

16.4 Conflicts with Purchase Orders or Other Agreements. If this Agreement conflicts with the terms of any Purchase Order or any other agreement or document pertaining to the Work, the terms of this Agreement shall control.

16.5 Waiver. No delay or failure by Owner to exercise any right under this Agreement, and no partial or single exercise of that right, will waive that or any other right except by written agreement executed by Owner.

16.6 Choice of Law. This Agreement shall be governed by the law of the State of South Carolina

17. CONFIDENTIALITY. Contractor shall treat all information obtained by Contractor relating to the project to which the Work relates and all information and documents provided to Contractor by or on behalf of Owner as confidential and proprietary information of Owner, and shall not disclose or permit the release of any of that information to any third party. Contractor shall provide and transfer ownership to any and all samples and/or shop drawings requested by Owner.

18. NOTICES. All notices required pursuant to this Agreement or otherwise shall be in writing and shall be delivered to the respective business address of Owner and Contractor. However, Contractor's business address shall be as noted on page one (1) of this Agreement. Notices shall be deemed to be received three (3) business days after deposit, postage prepaid, in the U.S. Mail when sent registered or certified mail, return receipt requested, the following day if sent timely by overnight delivery service, and upon confirmation if sent by facsimile transmission.

19. MISCELLANEOUS. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular. Any reference to gender shall include the masculine, feminine, and neuter. All captions and titles used in this Agreement are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of its paragraphs, sections or articles.

SOUTH CAROLINA REVISED 7/23/2007

INITIALS: OWNER feh, CONTRACTOR lwy

Exhibit A

Scope of Work

Insulation

Owner C. My

Contractor _____



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EXHIBIT C

Supplier Name	Document Type	Document No	Company Id	Invoice No	Pay Item	GLDate	Payment Type	Payment Number	Payment Date	Gross Amount	Payment Amount	Business Unit	Plan
709 - Greenville													
1129163 - MOSS, ANGELA													
	PV	223825	70951	EX102012	001	12/03/12	PK	468426	12/07/12	350.25	-350.25	70951 -	
	PV	231974	70951	EX040413	001	04/16/13	PT	52718	04/18/13	245.14	-245.14	70951 -	
1129163 - MOSS, ANGELA -									2 Invoices	595.39	-595.39		
1131969 - STAR BUILDERS INC (GRNVL)													
	PV	211516	70952	GL28511C	001	06/14/12	PT	29441	06/28/12	176.96	-176.96	70952 -	
	OV	211486	70952	201163 7	001	06/08/12	PT	28511	06/14/12	-16.25	16.25	70952 - JFNC00GT	
	OV	211485	70952	201149 41	001	06/08/12	PT	28511	06/14/12	-349.38	349.38	70952 - JFNC006P	
	OV	211485	70952	201149 41	003	06/08/12	PT	28511	06/14/12	349.38	-349.38	70952 - JFNC006P	
	OV	211485	70952	201149 41	005	06/08/12	PT	28511	06/14/12	-160.71	160.71	70952 - JFNC006P	
	OV	222460	70952	3717013 LOT 24	000	10/25/12	PT	37793	11/01/12	115	-115	70952 - 0024	
	OV	215065	70959	70959-00215065	004	07/01/14	PT	108146	07/02/14	22.75	-22.75	709590047 - 505 CARDIFF CT	FIEL
1392135 - S C DHEC -PERMITS													
	PV	226589	70951	CR122712	001	01/08/13	PK	479998	01/15/13	125	-125	70951 -	
	PV	226590	70951	CR122712A	001	01/08/13	PK	479999	01/15/13	2000	-2000	70951 -	
1392135 - S C DHEC -PERMITS -									2 Invoices	2125	-2125		
1392314 - JLS MASONRY INC													
	PV	218875	70951	WC31935H	001	09/14/12	PT	35766	10/04/12	954.31	-954.31	70951 -	
	PV	218874	70951	WC31210G	001	09/14/12	PT	35766	10/04/12	33.98	-33.98	70951 -	
	PV	218873	70951	WC30229G	001	09/14/12	PT	35766	10/04/12	2235.19	-2235.19	70951 -	
	PV	218872	70951	WC29431G	001	09/14/12	PT	35766	10/04/12	33.98	-33.98	70951 -	
	OV	215516	70951	70951-	002	08/06/12	PT	31935	08/09/12	-61.75	61.75	70951 -	
	OV	215518	70951	70951-00215518	002	08/06/12	PT	31935	08/09/12	-29.69	29.69	70951 - JSERS002	
	OV	215518	70951	70951-00215518	004	08/06/12	PT	31935	08/09/12	-1.78	1.78	70951 - JSERS002	
	OV	215520	70951	70951-00215520	002	08/06/12	PT	31935	08/09/12	-29.69	29.69	70951 - JSERS002	
	OV	215520	70951	70951-00215520	004	08/06/12	PT	31935	08/09/12	-1.78	1.78	70951 - JSERS002	

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	OV	212866	70951	200564 LOT 142	001	07/06/12	PT	30229	07/12/12	-90.76	90.76	70951 -	(
	OV	215517	70951	70951-00215517	002	08/06/12	PT	31935	08/09/12	-307.02	307.02	70951 - JSERS002	(
	OV	215519	70951	70951-	002	08/06/12	PT	31935	08/09/12	-61.75	61.75	70951 -	(
	OV	212839	70951	200538 142	001	07/06/12	PT	30229	07/12/12	-164.73	164.73	70951 -	(
	OV	213702	70951	70951-00213702	002	07/19/12	PT	31210	07/26/12	-32.06	32.06	70951 - JSERS002	(
	OV	213702	70951	70951-00213702	004	07/19/12	PT	31210	07/26/12	-1.92	1.92	70951 - JSERS002	(
	OV	212840	70951	200792 141	001	07/06/12	PT	30229	07/12/12	-164.73	164.73	70951 -	(
	OV	212867	70951	200817 LOT 141	001	07/06/12	PT	30229	07/12/12	-90.76	90.76	70951 -	(
	OV	213155	70951	70951-00213155	002	07/09/12	PT	30229	07/12/12	-493.18	493.18	70951 - JSERS002	(
	OV	212864	70951	200922 LOT 154	001	07/06/12	PT	30229	07/12/12	-493.18	493.18	70951 - JSERS002	(
	OV	215163	70951	200929 LOT 162	001	08/01/12	PT	31935	08/09/12	-61.75	61.75	70951 -	(
	OV	214919	70951	70951-00214919	002	07/30/12	PT	31935	08/09/12	-338.05	338.05	70951 - JSERS002	(
	OV	212179	70951	70951-00212179	002	06/27/12	PT	29431	06/28/12	-32.06	32.06	70951 - JSERS002	(
	OV	212179	70951	70951-00212179	004	06/27/12	PT	29431	06/28/12	-1.92	1.92	70951 - JSERS002	(
	OV	212829	70951	201099 152	001	07/06/12	PT	30229	07/12/12	-61.75	61.75	70951 -	(
	OV	213153	70951	70951-00213153	002	07/09/12	PT	30229	07/12/12	-338.05	338.05	70951 - JSERS002	(
	OV	212865	70951	201178 LOT 152	001	07/06/12	PT	30229	07/12/12	-338.05	338.05	70951 - JSERS002	(
	OV	214529	70951	3710680 LOT 143	001	07/27/12	PT	31935	08/09/12	-54.91	54.91	70951 - JSERS002	(
	OV	214530	70951	3710690 LOT 146	001	07/27/12	PT	31935	08/09/12	-1.52	1.52	70951 -	(
	OV	214531	70951	3710695 LOT 141	001	07/27/12	PT	31935	08/09/12	-4.62	4.62	70951 -	(
	PV	219212	70952	WC30229H	001	09/14/12	PT	35766	10/04/12	272.28	-272.28	70952 -	(
	PV	219213	70952	WC31210H	001	09/14/12	PT	35766	10/04/12	114	-114	70952 -	(
	PV	219214	70952	WC31935I	001	09/14/12	PT	35766	10/04/12	1922.92	-1922.92	70952 -	(
	OV	213261	70952	201316 LOT 21	001	07/06/12	PT	30229	07/12/12	-90.76	90.76	70952 -	(

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	OV	213263	70952	201445 LOT 28	001	07/06/12	PT	30229	07/12/12	-90.76	90.76	70952 -	(
	OV	213262	70952	201533 LOT 14	001	07/06/12	PT	30229	07/12/12	-90.76	90.76	70952 -	(
	OV	215011	70952	201595 LOT 11	001	08/01/12	PT	31935	08/09/12	-268.42	268.42	70952 -	(
	OV	215013	70952	201700 LOT 38	001	08/01/12	PT	31935	08/09/12	-500.65	500.65	70952 -	(
	OV	215012	70952	201742 LOT 38	001	08/01/12	PT	31935	08/09/12	-76	76	70952 - JHEA00WM	(
	OV	213999	70952	201896 9	001	07/19/12	PT	31210	07/26/12	-114	114	70952 -	(
	OV	215009	70952	201919 LOT 1	001	08/01/12	PT	31935	08/09/12	-53.44	53.44	70952 - JSERS002	(
	OV	215009	70952	201919 LOT 1	003	08/01/12	PT	31935	08/09/12	-3.21	3.21	70952 - JSERS002	(
	OV	215008	70952	201916 LOT 1	001	08/01/12	PT	31935	08/09/12	-61.75	61.75	70952 -	(
	OV	215523	70952	201996 LOT 1	001	08/07/12	PT	31935	08/09/12	-3.71	3.71	70952 - JCURS002	(
	OV	215523	70952	201996 LOT 1	003	08/07/12	PT	31935	08/09/12	-454.61	454.61	70952 - JSERS002	(
	OV	214516	70952	3710663 LOT 7	001	07/27/12	PT	31935	08/09/12	-13.19	13.19	70952 -	(
	OV	215007	70952	3710682 LOT 25	001	08/01/12	PT	31935	08/09/12	-39.88	39.88	70952 -	(
	OV	214512	70952	3710683 LOT 25	001	07/27/12	PT	31935	08/09/12	-10.68	10.68	70952 -	(
	OV	214513	70952	3710684 LOT 24	001	07/27/12	PT	31935	08/09/12	-81.07	81.07	70952 -	(
	OV	214514	70952	3710685 LOT 23	001	07/27/12	PT	31935	08/09/12	-71.44	71.44	70952 -	(
	OV	214515	70952	3710686 LOT 28	001	07/27/12	PT	31935	08/09/12	-4.62	4.62	70952 -	(
	OV	215006	70952	3710693 LOT 27	001	08/01/12	PT	31935	08/09/12	-38	38	70952 - JSERS002	(
	OV	214511	70952	3710694 LOT 38	001	07/27/12	PT	31935	08/09/12	-1.52	1.52	70952 -	(
	OV	215004	70952	3710696 LOT 25	001	08/01/12	PT	31935	08/09/12	-54.91	54.91	70952 -	(
	OV	215005	70952	3710697 LOT 24	001	08/01/12	PT	31935	08/09/12	-161.5	161.5	70952 -	(
	OV	214509	70952	3710702 LOT 23	001	07/27/12	PT	31935	08/09/12	-22.8	22.8	70952 -	(
	OV	214510	70952	3710765 LOT 37	001	07/27/12	PT	31935	08/09/12	-1.52	1.52	70952 -	(
	PV	211415	70953	WC31935J	001	09/14/12	PT	35766	10/04/12	579.5	-579.5	70953 -	(
	OV	210955	70953	3710691 LOT 264	001	08/01/12	PT	31935	08/09/12	-375.07	375.07	70953 -	(

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	OV	210879	70953	3710700 LOT 264	001	07/27/12	PT	31935	08/09/12	-154.65	154.65	70953 -		(
	OV	210954	70953	3710703 LOT 264	001	08/01/12	PT	31935	08/09/12	-47.5	47.5	70953 -		(
	OV	210878	70953	3710764 LOT 261	001	07/27/12	PT	31935	08/09/12	-2.28	2.28	70953 -		(
	OV	210404	70951	200363 143	000	02/17/12	PT	21742	02/23/12	325	-325	709510143 - 32 Duxbury Lane	MILL	(
	OV	210401	70951	200441 LOT 143	000	02/16/12	PT	21742	02/23/12	1779.2	-1779.2	709510143 - 32 Duxbury Lane	MILL	(
	OV	210403	70951	200366 143	000	02/17/12	PT	21742	02/23/12	168.75	-168.75	709510143 - 32 Duxbury Lane	MILL	(
	OV	210403	70951	200366 143	001	02/17/12	PT	21742	02/23/12	10.13	-10.13	709510143 - 32 Duxbury Lane	MILL	(
	OV	210471	70951	200400 143	000	03/15/12	PT	23226	03/22/12	532.62	-532.62	709510143 - 32 Duxbury Lane	MILL	(
	OV	210675	70951	200428 LOT 143	000	05/11/12	PT	26807	05/17/12	477.7	-477.7	709510143 - 32 Duxbury Lane	MILL	(
	OV	214529	70951	3710680 LOT 143	000	07/27/12	PT	31935	08/09/12	289	-289	709510143 - 32 Duxbury Lane	MILL	(
	OV	215519	70951	70951-	001	08/06/12	PT	31935	08/09/12	325	-325	709510144 - 30 Duxbury Lane	EVER	(
	OV	221109	70951	3717180 LOT 144	000	10/25/12	PT	37782	11/01/12	8	-8	709510144 - 30 Duxbury Lane	EVER	(
	OV	221110	70951	3717181 LOT 144	000	10/25/12	PT	37782	11/01/12	149.3	-149.3	709510144 - 30 Duxbury Lane	EVER	(
	OV	220037	70951	3716566 LOT 144	000	10/12/12	PT	36633	10/18/12	322.95	-322.95	709510144 - 30 Duxbury Lane	EVER	(
	OV	211147	70951	70951-00211147	001	06/18/12	PT	29431	06/28/12	1615.9	-1615.9	709510144 - 30 Duxbury Lane	EVER	(
	OV	215520	70951	70951-00215520	001	08/06/12	PT	31935	08/09/12	156.25	-156.25	709510144 - 30 Duxbury Lane	EVER	(
	OV	215520	70951	70951-00215520	003	08/06/12	PT	31935	08/09/12	9.38	-9.38	709510144 - 30 Duxbury Lane	EVER	(
	OV	215777	70951	200623 LOT 144	000	08/16/12	PT	32837	08/23/12	1504.5	-1504.5	709510144 - 30 Duxbury Lane	EVER	(
	OV	218864	70951	200649 LOT 144	000	09/14/12	PT	34648	09/20/12	477.7	-477.7	709510144 - 30 Duxbury Lane	EVER	(
	OV	210638	70951	200671 146	000	05/10/12	PT	26807	05/17/12	325	-325	709510146 - 26 Duxbury Lane	SHER	(
	OV	210677	70951	200747 LOT 146	000	05/11/12	PT	26807	05/17/12	1931	-1931	709510146 - 26 Duxbury Lane	SHER	(
	OV	214530	70951	3710690 LOT 146	000	07/27/12	PT	31935	08/09/12	8	-8	709510146 - 26 Duxbury Lane	SHER	(
	OV	210676	70951	200674 LOT 146	001	05/11/12	PT	26807	05/17/12	13.13	-13.13	709510146 - 26 Duxbury Lane	SHER	(

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	OV	210676	70951	200674 LOT 146	000	05/11/12	PT	26807	05/17/12	218.75	-218.75	709510146 - 26 Duxbury Lane	SHER	(
	OV	211669	70951	70951-	001	06/21/12	PT	29431	06/28/12	472.23	-472.23	709510146 - 26 Duxbury Lane	SHER	(
	OV	215780	70951	200735 LOT 146	000	08/16/12	PT	32837	08/23/12	477.7	-477.7	709510146 - 26 Duxbury Lane	SHER	(
	OV	210060	70951	200090 147	000	11/14/11	PK	369787	11/18/11	325	-325	709510147 - 24 Duxbury Lane	MILL	(
	OV	210072	70951	200163 LOT 147	000	11/16/11	PK	369787	11/18/11	1779.2	-1779.2	709510147 - 24 Duxbury Lane	MILL	(
	OV	210150	70951	3701464 147	000	12/13/11	PK	376084	12/16/11	8	-8	709510147 - 24 Duxbury Lane	MILL	(
	OV	210059	70951	200093 147	000	11/14/11	PK	369787	11/18/11	168.75	-168.75	709510147 - 24 Duxbury Lane	MILL	(
	OV	210059	70951	200093 147	001	11/14/11	PK	369787	11/18/11	10.13	-10.13	709510147 - 24 Duxbury Lane	MILL	(
	OV	210064	70951	200173 148	000	11/14/11	PK	369787	11/18/11	325	-325	709510148 - 22 Duxbury Lane	EVER	(
	OV	210071	70951	200252 LOT 148	000	11/16/11	PK	369787	11/18/11	1615.9	-1615.9	709510148 - 22 Duxbury Lane	EVER	(
	OV	210149	70951	3701464 148	000	12/13/11	PK	376084	12/16/11	8	-8	709510148 - 22 Duxbury Lane	EVER	(
	OV	210711	70951	3703292 LOT 148	000	05/23/12	PT	27534	05/31/12	94.2	-94.2	709510148 - 22 Duxbury Lane	EVER	(
	OV	210061	70951	200176 148	001	11/14/11	PK	369787	11/18/11	9.38	-9.38	709510148 - 22 Duxbury Lane	EVER	(
	OV	210061	70951	200176 148	000	11/14/11	PK	369787	11/18/11	156.25	-156.25	709510148 - 22 Duxbury Lane	EVER	(
	OV	210197	70951	200210 LOT 148	000	12/30/11	PT	19368	01/05/12	653.9	-653.9	709510148 - 22 Duxbury Lane	EVER	(
	OV	210304	70951	200238 148	000	01/19/12	PT	20352	01/26/12	477.7	-477.7	709510148 - 22 Duxbury Lane	EVER	(
	OV	210704	70951	3704293 LOT 148	000	05/23/12	PT	27534	05/31/12	250	-250	709510148 - 22 Duxbury Lane	EVER	(
	OV	210057	70951	200009 149	000	11/14/11	PK	369787	11/18/11	325	-325	709510149 - 20 Duxbury Lane	ABIN	(
	OV	210069	70951	200083 LOT 149	000	11/16/11	PK	369787	11/18/11	2614.1	-2614.1	709510149 - 20 Duxbury Lane	ABIN	(
	OV	210712	70951	3703292 LOT 149	000	05/23/12	PT	27534	05/31/12	173.05	-173.05	709510149 - 20 Duxbury Lane	ABIN	(

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	OV	210708	70951	3703293 LOT 149	000	05/23/12	PT	27534	05/31/12	150	-150	709510149 - 20 Duxbury Lane	ABIN	(
	OV	210148	70951	3701464 149	000	12/13/11	PK	376084	12/16/11	8	-8	709510149 - 20 Duxbury Lane	ABIN	(
	OV	210058	70951	200012 149	001	11/14/11	PK	369787	11/18/11	11.63	-11.63	709510149 - 20 Duxbury Lane	ABIN	(
	OV	210058	70951	200012 149	000	11/14/11	PK	369787	11/18/11	193.75	-193.75	709510149 - 20 Duxbury Lane	ABIN	(
	OV	210200	70951	200045 LOT 149	000	12/30/11	PT	19368	01/05/12	1011.5	-1011.5	709510149 - 20 Duxbury Lane	ABIN	(
	OV	210306	70951	200070 149	000	01/19/12	PT	20352	01/26/12	477.7	-477.7	709510149 - 20 Duxbury Lane	ABIN	(
	OV	210706	70951	3704292 LOT 149	000	05/23/12	PT	27534	05/31/12	250	-250	709510149 - 20 Duxbury Lane	ABIN	(
	OV	210063	70951	200259 150	000	11/14/11	PK	369787	11/18/11	325	-325	709510150 - 18 Duxbury Lane	BYRO	(
	OV	210707	70951	3703292 LOT 150	000	05/23/12	PT	27534	05/31/12	173.05	-173.05	709510150 - 18 Duxbury Lane	BYRO	(
	OV	210709	70951	3703293 LOT 150	000	05/23/12	PT	27534	05/31/12	150	-150	709510150 - 18 Duxbury Lane	BYRO	(
	OV	210147	70951	3701464 150	000	12/13/11	PK	376084	12/16/11	8	-8	709510150 - 18 Duxbury Lane	BYRO	(
	OV	210070	70951	200332 LOT 150	000	11/16/11	PK	369787	11/18/11	2595.7	-2595.7	709510150 - 18 Duxbury Lane	BYRO	(
	OV	210062	70951	200262 150	000	11/14/11	PK	369787	11/18/11	200	-200	709510150 - 18 Duxbury Lane	BYRO	(
	OV	210062	70951	200262 150	001	11/14/11	PK	369787	11/18/11	12	-12	709510150 - 18 Duxbury Lane	BYRO	(
	OV	210198	70951	200295 LOT 150	000	12/30/11	PT	19368	01/05/12	960.5	-960.5	709510150 - 18 Duxbury Lane	BYRO	(
	OV	210305	70951	200320 150	000	01/19/12	PT	20352	01/26/12	477.7	-477.7	709510150 - 18 Duxbury Lane	BYRO	(
	OV	210705	70951	3704291 LOT 150	000	05/23/12	PT	27534	05/31/12	250	-250	709510150 - 18 Duxbury Lane	BYRO	(
	OV	212829	70951	201099 152	000	07/06/12	PT	30229	07/12/12	325	-325	709510152 - 103 Yount Court	MILL	(

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	OV	220036	70951	3714943 LOT 152	000	10/12/12	PT	36633	10/18/12	200	-200	709510152 - 103 Yount Court	MILL	(
	PD	213337	70951	201178 152	000	07/10/12	PT	30229	07/12/12	-1779.2	1779.2	709510152 - 103 Yount Court	MILL	(
	OV	213153	70951	70951-00213153	001	07/09/12	PT	30229	07/12/12	1779.2	-1779.2	709510152 - 103 Yount Court	MILL	(
	OV	212865	70951	201178 LOT 152	000	07/06/12	PT	30229	07/12/12	1779.2	-1779.2	709510152 - 103 Yount Court	MILL	(
	OV	212179	70951	70951-00212179	003	06/27/12	PT	29431	06/28/12	10.13	-10.13	709510152 - 103 Yount Court	MILL	(
	OV	212179	70951	70951-00212179	001	06/27/12	PT	29431	06/28/12	168.75	-168.75	709510152 - 103 Yount Court	MILL	(
	OV	216107	70951	70951-	001	08/16/12	PT	32837	08/23/12	812.3	-812.3	709510152 - 103 Yount Court	MILL	(
	OV	217752	70951	201163 LOT 152	000	08/30/12	PT	33730	09/06/12	477.7	-477.7	709510152 - 103 Yount Court	MILL	(
	OV	218000	70951	70951-	001	09/04/12	PT	33730	09/06/12	325	-325	709510153 - 105 Yount Court	SHER	(
	OV	218866	70951	201452 LOT 153	000	09/14/12	PT	34648	09/20/12	1858.55	-1858.55	709510153 - 105 Yount Court	SHER	(
	OV	221111	70951	3717181 LOT 153	000	10/25/12	PT	37782	11/01/12	8	-8	709510153 - 105 Yount Court	SHER	(
	OV	218002	70951	70951-00218002	002	09/04/12	PT	33730	09/06/12	12.75	-12.75	709510153 - 105 Yount Court	SHER	(
	OV	218002	70951	70951-00218002	001	09/04/12	PT	33730	09/06/12	212.5	-212.5	709510153 - 105 Yount Court	SHER	(
	OV	224868	70951	201412 LOT 153	000	12/17/12	PT	41370	12/20/12	2558.5	-2558.5	709510153 - 105 Yount Court	SHER	(
	OV	224870	70951	201437 LOT 153	000	12/17/12	PT	41370	12/20/12	477.7	-477.7	709510153 - 105 Yount Court	SHER	(
	OV	211869	70951	200873 154	000	06/22/12	PT	29431	06/28/12	325	-325	709510154 - 107 Yount Court	BYRO	(
	OV	213155	70951	70951-00213155	001	07/09/12	PT	30229	07/12/12	2595.7	-2595.7	709510154 - 107 Yount Court	BYRO	(
	OV	212864	70951	200922 LOT 154	000	07/06/12	PT	30229	07/12/12	2595.7	-2595.7	709510154 - 107 Yount Court	BYRO	(
	OV	213338	70951	200922 154	000	07/10/12	PT	30229	07/12/12	-2595.7	2595.7	709510154 - 107 Yount Court	BYRO	(
	OV	211676	70951	70951-00211676	001	06/21/12	PT	29431	06/28/12	200	-200	709510154 - 107 Yount Court	BYRO	(
	OV	211676	70951	70951-00211676	002	06/21/12	PT	29431	06/28/12	12	-12	709510154 - 107 Yount Court	BYRO	(
	OV	217754	70951	200906 LOT 154	000	08/30/12	PT	33730	09/06/12	960.5	-960.5	709510154 - 107 Yount Court	BYRO	(
	OV	217753	70951	200917 LOT 154	000	08/30/12	PT	33730	09/06/12	477.7	-477.7	709510154 - 107 Yount Court	BYRO	(

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	OV	217753	70951	200917 LOT 154	001	08/30/12	PT	33730	09/06/12	47.6	-47.6	709510154 - 107 Yount Court	BYRO	(
	OV	224117	70951	70951-	001	12/11/12	PT	41370	12/20/12	325	-325	709510155 - 109 Yount Court	MILL	(
	OV	224118	70951	70951-00224118	001	12/11/12	PT	41370	12/20/12	1779.2	-1779.2	709510155 - 109 Yount Court	MILL	(
	OV	224119	70951	70951-00224119	001	12/11/12	PT	41370	12/20/12	168.75	-168.75	709510155 - 109 Yount Court	MILL	(
	OV	224119	70951	70951-00224119	002	12/11/12	PT	41370	12/20/12	10.13	-10.13	709510155 - 109 Yount Court	MILL	(
	OV	228543	70951	201882 LOT 155	000	02/18/13	PT	46719	02/21/13	477.7	-477.7	709510155 - 109 Yount Court	MILL	(
	OV	228869	70951	3721925 LOT 155	000	02/28/13	PT	48162	03/07/13	365.75	-365.75	709510155 - 109 Yount Court	MILL	(
	OV	228868	70951	3721926 LOT 155	000	02/28/13	PT	48162	03/07/13	56.2	-56.2	709510155 - 109 Yount Court	MILL	(
	OV	227642	70951	201857 LOT 155	000	01/31/13	PT	45137	02/07/13	1581	-1581	709510155 - 109 Yount Court	MILL	(
	OV	234535	70951	70951-00234535	002	05/28/13	PT	57782	06/06/13	9.38	-9.38	709510156 - 111 Yount Court	EVER	(
	OV	234535	70951	70951-00234535	001	05/28/13	PT	57782	06/06/13	156.25	-156.25	709510156 - 111 Yount Court	EVER	(
	OV	234534	70951	70951-00234534	001	05/28/13	PT	57782	06/06/13	1615.9	-1615.9	709510156 - 111 Yount Court	EVER	(
	OV	238097	70951	70951-	001	07/08/13	PT	61954	07/11/13	653.9	-653.9	709510156 - 111 Yount Court	EVER	(
	OV	240504	70951	3730762 LOT 156	000	08/02/13	PT	65246	08/08/13	346	-346	709510156 - 111 Yount Court	EVER	(
	OV	249161	70951	37395800156	000	02/10/14	PT	87786	02/13/14	100	-100	709510156 - 111 Yount Court	EVER	(
	OV	242360	70951	3732039 LOT 156	000	08/23/13	PT	67554	08/29/13	139.8	-139.8	709510156 - 111 Yount Court	EVER	(
	OV	240503	70951	202356 LOT 156	000	08/02/13	PT	65246	08/08/13	477.7	-477.7	709510156 - 111 Yount Court	EVER	(
	OV	240147	70951	70951-00240147	001	07/31/13	PT	65246	08/08/13	38	-38	709510157 - 110 Yount Court	BYRO	(
	OV	240147	70951	70951-00240147	002	07/31/13	PT	65246	08/08/13	2889.44	-2889.44	709510157 - 110 Yount Court	BYRO	(
	OV	238760	70951	70951-00238760	001	07/15/13	PT	63577	07/25/13	240	-240	709510157 - 110 Yount Court	BYRO	(

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	OV	238760	70951	70951-00238760	002	07/15/13	PT	63577	07/25/13	14.4	-14.4	709510157 - 110 Yount Court	BYRO	(
	OV	244118	70951	202795 LOT 157	000	09/13/13	PT	70154	09/19/13	533.9	-533.9	709510157 - 110 Yount Court	BYRO	(
	OV	215779	70951	201213 LOT 158	000	08/16/12	PT	32837	08/23/12	325	-325	709510158 - 108 Yount Court	MILL	(
	OV	218004	70951	70951-00218004	001	09/04/12	PT	33730	09/06/12	1779.2	-1779.2	709510158 - 108 Yount Court	MILL	(
	OV	215778	70951	201216 LOT 158	000	08/16/12	PT	32837	08/23/12	168.75	-168.75	709510158 - 108 Yount Court	MILL	(
	OV	215778	70951	201216 LOT 158	001	08/16/12	PT	32837	08/23/12	10.13	-10.13	709510158 - 108 Yount Court	MILL	(
	OV	219370	70951	70951-	001	09/27/12	PT	35766	10/04/12	532.62	-532.62	709510158 - 108 Yount Court	MILL	(
	OV	220038	70951	201275 LOT 158	000	10/12/12	PT	36633	10/18/12	477.7	-477.7	709510158 - 108 Yount Court	MILL	(
	OV	216671	70951	70951-	001	08/20/12	PT	32837	08/23/12	325	-325	709510159 - 106 Yount Court	MILL	(
	OV	218867	70951	201367 LOT 159	000	09/14/12	PT	34648	09/20/12	1779.2	-1779.2	709510159 - 106 Yount Court	MILL	(
	OV	221113	70951	3717181 LOT 159	000	10/25/12	PT	37782	11/01/12	8	-8	709510159 - 106 Yount Court	MILL	(
	OV	218007	70951	70951-00218007	001	09/04/12	PT	33730	09/06/12	168.75	-168.75	709510159 - 106 Yount Court	MILL	(
	OV	218007	70951	70951-00218007	002	09/04/12	PT	33730	09/06/12	10.13	-10.13	709510159 - 106 Yount Court	MILL	(
	OV	224872	70951	201331 LOT 159	000	12/17/12	PT	41370	12/20/12	1581	-1581	709510159 - 106 Yount Court	MILL	(
	OV	235937	70951	3727879 LOT 159	000	06/14/13	PT	59519	06/20/13	600	-600	709510159 - 106 Yount Court	MILL	(
	OV	224869	70951	201356 LOT 159	000	12/17/12	PT	41370	12/20/12	477.7	-477.7	709510159 - 106 Yount Court	MILL	(
	OV	224122	70951	70951-	001	12/11/12	PT	41370	12/20/12	325	-325	709510161 - 102 Yount Court	ABIN	(
	OV	232185	70951	70951-00232185	001	04/22/13	PT	54950	05/09/13	34	-34	709510161 - 102 Yount Court	ABIN	(
	OV	224123	70951	70951-00224123	001	12/11/12	PT	41370	12/20/12	2614.1	-2614.1	709510161 - 102 Yount Court	ABIN	(
	OV	224124	70951	70951-00224124	001	12/11/12	PT	41370	12/20/12	193.75	-193.75	709510161 - 102 Yount Court	ABIN	(
	OV	224124	70951	70951-00224124	002	12/11/12	PT	41370	12/20/12	11.63	-11.63	709510161 - 102 Yount Court	ABIN	(
	OV	227643	70951	201939 LOT 161	000	01/31/13	PT	45137	02/07/13	1011.5	-1011.5	709510161 - 102 Yount Court	ABIN	(
	OV	228866	70951	3721925 LOT 161	000	02/28/13	PT	48162	03/07/13	191.9	-191.9	709510161 - 102 Yount Court	ABIN	(

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	OV	228867	70951	3721926 LOT 161	000	02/28/13	PT	48162	03/07/13	56.2	-56.2	709510161 - 102 Yount Court	ABIN
	OV	228542	70951	201963 LOT 161	000	02/18/13	PT	46719	02/21/13	477.7	-477.7	709510161 - 102 Yount Court	ABIN
	OV	215163	70951	200929 LOT 162	000	08/01/12	PT	31935	08/09/12	325	-325	709510162 - 100 Yount Court	MILL
	OV	221114	70951	3717181 LOT 162	000	10/25/12	PT	37782	11/01/12	8	-8	709510162 - 100 Yount Court	MILL
	OV	221114	70951	3717181 LOT 162	001	10/25/12	PT	37782	11/01/12	266.15	-266.15	709510162 - 100 Yount Court	MILL
	OV	221114	70951	3717181 LOT 162	002	10/25/12	PT	37782	11/01/12	150	-150	709510162 - 100 Yount Court	MILL
	OV	220035	70951	3714942 LOT 162	000	10/12/12	PT	36633	10/18/12	200	-200	709510162 - 100 Yount Court	MILL
	OV	214919	70951	70951-00214919	001	07/30/12	PT	31935	08/09/12	1779.2	-1779.2	709510162 - 100 Yount Court	MILL
	OV	213702	70951	70951-00213702	001	07/19/12	PT	31210	07/26/12	168.75	-168.75	709510162 - 100 Yount Court	MILL
	OV	213702	70951	70951-00213702	003	07/19/12	PT	31210	07/26/12	10.13	-10.13	709510162 - 100 Yount Court	MILL
	OV	218009	70951	70951-00218009	001	09/04/12	PT	33730	09/06/12	532.62	-532.62	709510162 - 100 Yount Court	MILL
	OV	220039	70951	200993 LOT 162	000	10/12/12	PT	36633	10/18/12	477.7	-477.7	709510162 - 100 Yount Court	MILL
	OV	222577	70951	70951-00222577	001	11/13/12	PT	38599	11/15/12	325	-325	709510163 - 1 Harwick Court	MILL
	OV	222578	70951	70951-00222578	001	11/13/12	PT	38599	11/15/12	1779.2	-1779.2	709510163 - 1 Harwick Court	MILL
	OV	222579	70951	70951-00222579	001	11/13/12	PT	38599	11/15/12	168.75	-168.75	709510163 - 1 Harwick Court	MILL
	OV	222579	70951	70951-00222579	002	11/13/12	PT	38599	11/15/12	10.13	-10.13	709510163 - 1 Harwick Court	MILL
	OV	224126	70951	70951-00224126	001	12/11/12	PT	41370	12/20/12	532.62	-532.62	709510163 - 1 Harwick Court	MILL
	OV	225833	70951	201633 LOT 163	000	01/04/13	PT	43005	01/10/13	477.7	-477.7	709510163 - 1 Harwick Court	MILL
	OV	225833	70951	201633 LOT 163	001	01/04/13	PT	43005	01/10/13	34	-34	709510163 - 1 Harwick Court	MILL
	OV	226973	70951	201998 LOT 164	000	01/18/13	PT	44169	01/24/13	325	-325	709510164 - 3 Harwick Court	SHER
	OV	228545	70951	3721487 LOT 164	000	02/18/13	PT	46719	02/21/13	450	-450	709510164 - 3 Harwick Court	SHER
	OV	227808	70951	70951-00227808	001	02/05/13	PT	45137	02/07/13	2064.4	-2064.4	709510164 - 3 Harwick Court	SHER

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	OV	226974	70951	202001 LOT 164	000	01/18/13	PT	44169	01/24/13	218.75	-218.75	709510164 - 3 Harwick Court	SHER	(
	OV	226974	70951	202001 LOT 164	001	01/18/13	PT	44169	01/24/13	13.13	-13.13	709510164 - 3 Harwick Court	SHER	(
	OV	229093	70951	70951-	001	03/04/13	PT	48162	03/07/13	472.23	-472.23	709510164 - 3 Harwick Court	SHER	(
	OV	231148	70951	3723440 LOT 164	000	04/02/13	PT	51390	04/04/13	171.27	-171.27	709510164 - 3 Harwick Court	SHER	(
	OV	231150	70951	3724570 LOT 164	000	04/02/13	PT	51390	04/04/13	167.2	-167.2	709510164 - 3 Harwick Court	SHER	(
	OV	231149	70951	3724571 LOT 164	000	04/02/13	PT	51390	04/04/13	56.2	-56.2	709510164 - 3 Harwick Court	SHER	(
	OV	231151	70951	202062 LOT 164	000	04/02/13	PT	51390	04/04/13	477.7	-477.7	709510164 - 3 Harwick Court	SHER	(
	OV	232845	70951	202464 LOT 165	000	04/29/13	PT	54950	05/09/13	1779.2	-1779.2	709510165 - 5 Harwick Court	MILL	(
	OV	235941	70951	3727873 LOT 165	000	06/14/13	PT	59519	06/20/13	8	-8	709510165 - 5 Harwick Court	MILL	(
	OV	239795	70951	3730507 LOT 165	000	07/23/13	PT	63577	07/25/13	253.8	-253.8	709510165 - 5 Harwick Court	MILL	(
	OV	232605	70951	70951-00232605	001	04/29/13	PT	54950	05/09/13	168.75	-168.75	709510165 - 5 Harwick Court	MILL	(
	OV	232605	70951	70951-00232605	002	04/29/13	PT	54950	05/09/13	10.13	-10.13	709510165 - 5 Harwick Court	MILL	(
	OV	239793	70951	3730505 LOT 165	000	07/23/13	PT	63577	07/25/13	600	-600	709510165 - 5 Harwick Court	MILL	(
	OV	239794	70951	3730506 LOT 165	000	07/23/13	PT	63577	07/25/13	910.8	-910.8	709510165 - 5 Harwick Court	MILL	(
	OV	242947	70951	202425 LOT 165	000	08/27/13	PT	67554	08/29/13	1581	-1581	709510165 - 5 Harwick Court	MILL	(
	OV	239791	70951	202450 LOT 165	000	07/23/13	PT	63577	07/25/13	477.7	-477.7	709510165 - 5 Harwick Court	MILL	(
	OV	235668	70951	70951-00235668	001	06/10/13	PT	59519	06/20/13	38	-38	709510166 - 7 Harwick Court	ABIN	(
	OV	235668	70951	70951-00235668	002	06/10/13	PT	59519	06/20/13	2909.92	-2909.92	709510166 - 7 Harwick Court	ABIN	(
	OV	234542	70951	70951-00234542	001	05/28/13	PT	57782	06/06/13	232.5	-232.5	709510166 - 7 Harwick Court	ABIN	(
	OV	234542	70951	70951-00234542	002	05/28/13	PT	57782	06/06/13	13.95	-13.95	709510166 - 7 Harwick Court	ABIN	(
	OV	238102	70951	70951-	001	07/08/13	PT	61954	07/11/13	319.28	-319.28	709510166 - 7 Harwick Court	ABIN	(
	OV	240502	70951	202576 LOT 166	000	08/02/13	PT	65246	08/08/13	533.9	-533.9	709510166 - 7 Harwick Court	ABIN	(

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	OV	235670	70951	70951-00235670	001	06/10/13	PT	59519	06/20/13	2298.08	-2298.08	709510167 - 9 Harwick Court	SHER	(
	OV	235095	70951	70951-00235095	001	06/03/13	PT	57782	06/06/13	262.5	-262.5	709510167 - 9 Harwick Court	SHER	(
	OV	235095	70951	70951-00235095	002	06/03/13	PT	57782	06/06/13	15.75	-15.75	709510167 - 9 Harwick Court	SHER	(
	OV	227168	70951	70951-00227168	001	01/22/13	PT	44169	01/24/13	1779.2	-1779.2	709510168 - 11 Harwick Court	MILL	(
	OV	235940	70951	3727873 LOT 168	000	06/14/13	PT	59519	06/20/13	259.45	-259.45	709510168 - 11 Harwick Court	MILL	(
	OV	230958	70951	70951-	001	04/01/13	PT	51390	04/04/13	812.3	-812.3	709510168 - 11 Harwick Court	MILL	(
	OV	224871	70951	201651 LOT 168	000	12/17/12	PT	41370	12/20/12	325	-325	709510168 - 11 Harwick Court	MILL	(
	OV	243528	70951	202668 LOT 167	000	09/03/13	PT	68428	09/05/13	533.9	-533.9	709510167 - 9 Harwick Court	SHER	(
	OV	244120	70951	3733596 LOT 167	000	09/13/13	PT	70154	09/19/13	150.1	-150.1	709510167 - 9 Harwick Court	SHER	(
	OV	220898	70951	70951-00220898	002	10/24/12	PT	37782	11/01/12	10.13	-10.13	709510168 - 11 Harwick Court	MILL	(
	OV	220898	70951	70951-00220898	001	10/24/12	PT	37782	11/01/12	168.75	-168.75	709510168 - 11 Harwick Court	MILL	(
	OV	232844	70951	201715 LOT 168	000	04/29/13	PT	54950	05/09/13	477.7	-477.7	709510168 - 11 Harwick Court	MILL	(
	OV	234253	70951	3726080 LOT 168	000	05/21/13	PT	56168	05/23/13	56.2	-56.2	709510168 - 11 Harwick Court	MILL	(
	OV	244344	70951	70951-00244344	001	09/16/13	PT	70154	09/19/13	1980.64	-1980.64	709510169 - 15 Harwick Court	MILL	(
	OV	243234	70951	70951-00243234	002	09/03/13	PT	68428	09/05/13	12.15	-12.15	709510169 - 15 Harwick Court	MILL	(
	OV	243234	70951	70951-00243234	001	09/03/13	PT	68428	09/05/13	202.5	-202.5	709510169 - 15 Harwick Court	MILL	(
	OV	247611	70951	203518 LOT 169	000	12/03/13	PT	79436	12/05/13	1581	-1581	709510169 - 15 Harwick Court	MILL	(
	OV	247149	70951	203543 0169	000	11/19/13	PT	77788	11/21/13	533.9	-533.9	709510169 - 15 Harwick Court	MILL	(
	OV	247593	70951	3737831 LOT 169	000	12/03/13	PT	79436	12/05/13	583.3	-583.3	709510169 - 15 Harwick Court	MILL	(
	OV	239792	70951	3729525 LOT 172	000	07/23/13	PT	63577	07/25/13	500.8	-500.8	709510172 - 12 Harwick Court	MILL	(
	OV	234789	70951	202263 LOT 172	000	05/28/13	PT	57782	06/06/13	477.7	-477.7	709510172 - 12 Harwick Court	MILL	(

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	OV	245981	70951	202855 LOT 173	000	10/18/13	PT	74499	10/24/13	867	-867	709510173 - 10 Harwick Court	BYRO	(
	OV	235938	70951	3727878 LOT 172	000	06/14/13	PT	59519	06/20/13	113.35	-113.35	709510172 - 12 Harwick Court	MILL	(
	OV	234257	70951	202236 LOT 172	000	05/21/13	PT	56168	05/23/13	812.3	-812.3	709510172 - 12 Harwick Court	MILL	(
	OV	239435	70951	70951-00239435	001	07/22/13	PT	63577	07/25/13	240	-240	709510173 - 10 Harwick Court	BYRO	(
	OV	239435	70951	70951-00239435	002	07/22/13	PT	63577	07/25/13	14.4	-14.4	709510173 - 10 Harwick Court	BYRO	(
	OV	239434	70951	70951-00239434	001	07/22/13	PT	63577	07/25/13	2889.44	-2889.44	709510173 - 10 Harwick Court	BYRO	(
	OV	245031	70951	202879 LOT 173	000	09/27/13	PT	72677	10/10/13	533.9	-533.9	709510173 - 10 Harwick Court	BYRO	(
	OV	245973	70951	3735123 LOT 173	000	10/18/13	PT	74499	10/24/13	249.85	-249.85	709510173 - 10 Harwick Court	BYRO	(
	OV	246688	70951	3736639 LOT 173	000	11/04/13	PT	76020	11/07/13	75	-75	709510173 - 10 Harwick Court	BYRO	(
	OV	239443	70951	70951-00239443	001	07/22/13	PT	63577	07/25/13	2889.44	-2889.44	709510176 - 4 Harwick Court	BYRO	(
	OV	239444	70951	70951-00239444	001	07/22/13	PT	63577	07/25/13	240	-240	709510176 - 4 Harwick Court	BYRO	(
	OV	239444	70951	70951-00239444	002	07/22/13	PT	63577	07/25/13	14.4	-14.4	709510176 - 4 Harwick Court	BYRO	(
	OV	245977	70951	203136 LOT 176	000	10/18/13	PT	74499	10/24/13	867	-867	709510176 - 4 Harwick Court	BYRO	(
	OV	245976	70951	203169 LOT 176	000	10/18/13	PT	74499	10/24/13	400	-400	709510176 - 4 Harwick Court	BYRO	(
	OV	244116	70951	203160 LOT 176	000	09/13/13	PT	70154	09/19/13	533.9	-533.9	709510176 - 4 Harwick Court	BYRO	(
	OV	245970	70951	3735126 LOT 176	000	10/18/13	PT	74499	10/24/13	142.5	-142.5	709510176 - 4 Harwick Court	BYRO	(
	OV	245969	70951	3735127 LOT 177	000	10/18/13	PT	74499	10/24/13	300	-300	709510177 - 2 Harwick Court	BNV2	(
	OV	243824	70951	70951-00243824	001	09/09/13	PT	70154	09/19/13	51.2	-51.2	709510177 - 2 Harwick Court	BNV2	(
	OV	243824	70951	70951-00243824	002	09/09/13	PT	70154	09/19/13	3024.16	-3024.16	709510177 - 2 Harwick Court	BNV2	(
	OV	243244	70951	70951-00243244	001	09/03/13	PT	68428	09/05/13	337.5	-337.5	709510177 - 2 Harwick Court	BNV2	(
	OV	243244	70951	70951-00243244	002	09/03/13	PT	68428	09/05/13	20.25	-20.25	709510177 - 2 Harwick Court	BNV2	(
	OV	246566	70951	70951-	001	11/04/13	PT	76020	11/07/13	754.88	-754.88	709510177 - 2 Harwick Court	BNV2	(
	OV	249485	70951	37422730177	000	02/19/14	PT	89669	02/27/14	75	-75	709510177 - 2 Harwick Court	BNV2	(

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	OV	245974	70951	3736064 LOT 177	000	10/18/13	PT	74499	10/24/13	581.62	-581.62	709510177 - 2 Harwick Court	BNV2	(
	OV	246684	70951	203434 LOT 177	000	11/04/13	PT	76020	11/07/13	533.9	-533.9	709510177 - 2 Harwick Court	BNV2	(
	OV	246685	70951	3736648 LOT 177	000	11/04/13	PT	76020	11/07/13	108.3	-108.3	709510177 - 2 Harwick Court	BNV2	(
	OV	246687	70951	3736639 LOT 177	000	11/04/13	PT	76020	11/07/13	100	-100	709510177 - 2 Harwick Court	BNV2	(
	OV	251904	70951	70951-00251904	001	04/22/14	PT	98029	04/24/14	2643.68	-2643.68	709510181 - 107 Amherst Way	BROO	(
	OV	251358	70951	70951-00251358	001	04/15/14	PT	96655	04/17/14	217.5	-217.5	709510181 - 107 Amherst Way	BROO	(
	OV	251358	70951	70951-00251358	002	04/15/14	PT	96655	04/17/14	13.05	-13.05	709510181 - 107 Amherst Way	BROO	(
	OV	257667	70951	37500050181	000	07/02/14	PT	109061	07/10/14	249.85	-249.85	709510181 - 107 Amherst Way	BROO	(
	OV	255299	70951	70951-00255299	001	06/03/14	PK	647009	06/04/14	533.9	-533.9	709510181 - 107 Amherst Way	BROO	(
	OV	251907	70951	70951-00251907	001	04/22/14	PT	98029	04/24/14	51.2	-51.2	709510182 - 109 Amherst Way	BNV2	(
	OV	251907	70951	70951-00251907	002	04/22/14	PT	98029	04/24/14	3024.16	-3024.16	709510182 - 109 Amherst Way	BNV2	(
	OV	251908	70951	70951-00251908	001	04/22/14	PT	98029	04/24/14	337.5	-337.5	709510182 - 109 Amherst Way	BNV2	(
	OV	251908	70951	70951-00251908	002	04/22/14	PT	98029	04/24/14	20.25	-20.25	709510182 - 109 Amherst Way	BNV2	(
	OV	253467	70951	37469920182	000	05/07/14	PT	100839	05/15/14	300	-300	709510182 - 109 Amherst Way	BNV2	(
	OV	253747	70951	70951-	001	05/13/14	PT	100839	05/15/14	754.88	-754.88	709510182 - 109 Amherst Way	BNV2	(
	OV	255068	70951	37484720182	000	05/29/14	PK	647009	06/04/14	141.07	-141.07	709510182 - 109 Amherst Way	BNV2	(
	OV	256061	70951	37490350182	000	06/12/14	PT	105886	06/19/14	190	-190	709510182 - 109 Amherst Way	BNV2	(
	OV	255300	70951	70951-00255300	001	06/03/14	PK	647009	06/04/14	533.9	-533.9	709510182 - 109 Amherst Way	BNV2	(
	OV	249486	70951	37422740183	000	02/19/14	PT	89669	02/27/14	250	-250	709510183 - 111 Amherst Way	BROO	(
	OV	249050	70951	70951-00249050	001	02/04/14	PT	86695	02/06/14	2643.68	-2643.68	709510183 - 111 Amherst Way	BROO	(
	OV	248617	70951	70951-00248617	001	01/13/14	PT	84470	01/16/14	217.5	-217.5	709510183 - 111 Amherst Way	BROO	(
	OV	248617	70951	70951-00248617	002	01/13/14	PT	84470	01/16/14	13.05	-13.05	709510183 - 111 Amherst Way	BROO	(

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	OV	249840	70951	70951-	001	03/10/14	PT	91763	03/13/14	903.87	-903.87	709510183 - 111 Amherst Way	BROO	(
	OV	250427	70951	37447450183	000	03/27/14	PT	94630	04/03/14	105.93	-105.93	709510183 - 111 Amherst Way	BROO	(
	OV	250586	70951	70951-00250586	001	04/01/14	PT	94630	04/03/14	533.9	-533.9	709510183 - 111 Amherst Way	BROO	(
	OV	253468	70951	37469930183	000	05/07/14	PT	100839	05/15/14	205.2	-205.2	709510183 - 111 Amherst Way	BROO	(
	OV	251911	70951	70951-00251911	001	04/22/14	PT	98029	04/24/14	1980.64	-1980.64	709510184 - 116 Amherst Way	MILL	(
	OV	251366	70951	70951-00251366	001	04/15/14	PT	96655	04/17/14	202.5	-202.5	709510184 - 116 Amherst Way	MILL	(
	OV	251366	70951	70951-00251366	002	04/15/14	PT	96655	04/17/14	12.15	-12.15	709510184 - 116 Amherst Way	MILL	(
	OV	255064	70951	2040540184	000	05/28/14	PK	647009	06/04/14	1581	-1581	709510184 - 116 Amherst Way	MILL	(
	OV	254804	70951	70951-00254804	001	05/27/14	PT	102779	05/29/14	533.9	-533.9	709510184 - 116 Amherst Way	MILL	(
	OV	256062	70951	37490350184	000	06/12/14	PT	105886	06/19/14	235.6	-235.6	709510184 - 116 Amherst Way	MILL	(
	OV	257669	70951	37500070185	000	07/02/14	PT	109061	07/10/14	250	-250	709510185 - 114 Amherst Way	HERI	(
	OV	256893	70951	70951-00256893	001	06/24/14	PT	107076	06/26/14	2166.24	-2166.24	709510185 - 114 Amherst Way	HERI	(
	OV	255799	70951	70951-00255799	001	06/10/14	PT	104887	06/12/14	210	-210	709510185 - 114 Amherst Way	HERI	(
	OV	255799	70951	70951-00255799	002	06/10/14	PT	104887	06/12/14	12.6	-12.6	709510185 - 114 Amherst Way	HERI	(
	OV	257668	70951	37500060185	000	07/02/14	PT	109061	07/10/14	300	-300	709510185 - 114 Amherst Way	HERI	(
	OV	259998	70951	70951-00259998	001	08/19/14	PT	115679	08/21/14	2298.08	-2298.08	709510189 - 106 Amherst Way	SHER	(
	OV	259999	70951	70951-00259999	001	08/19/14	PT	115679	08/21/14	262.5	-262.5	709510189 - 106 Amherst Way	SHER	(
	OV	259999	70951	70951-00259999	002	08/19/14	PT	115679	08/21/14	15.75	-15.75	709510189 - 106 Amherst Way	SHER	(
	OV	259999	70951	70951-00259999	003	08/19/14	PT	115679	08/21/14	45	-45	709510189 - 106 Amherst Way	SHER	(
	OV	259999	70951	70951-00259999	004	08/19/14	PT	115679	08/21/14	2.7	-2.7	709510189 - 106 Amherst Way	SHER	(
	OV	257409	70951	70951-00257409	001	07/01/14	PT	108137	07/02/14	51.2	-51.2	709510190 - 104 Amherst Way	BNV2	(
	OV	257409	70951	70951-00257409	002	07/01/14	PT	108137	07/02/14	3024.16	-3024.16	709510190 - 104 Amherst Way	BNV2	(

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	OV	256901	70951	70951-00256901	001	06/24/14	PT	107076	06/26/14	337.5	-337.5	709510190 - 104 Amherst Way	BNV2	(
	OV	256901	70951	70951-00256901	002	06/24/14	PT	107076	06/26/14	20.25	-20.25	709510190 - 104 Amherst Way	BNV2	(
	OV	257413	70951	70951-00257413	001	07/01/14	PT	108137	07/02/14	1980.64	-1980.64	709510191 - 102 Amherst Way	MILL	(
	OV	256906	70951	70951-00256906	001	06/24/14	PT	107076	06/26/14	202.5	-202.5	709510191 - 102 Amherst Way	MILL	(
	OV	256906	70951	70951-00256906	002	06/24/14	PT	107076	06/26/14	12.15	-12.15	709510191 - 102 Amherst Way	MILL	(
	OV	256064	70951	37490340192	000	06/12/14	PT	105886	06/19/14	250	-250	709510192 - 100 Amherst Way	ABIN	(
	OV	256909	70951	70951-	001	06/24/14	PT	107076	06/26/14	178.2	-178.2	709510192 - 100 Amherst Way	ABIN	(
	OV	256910	70951	70951-00256910	001	06/24/14	PT	107076	06/26/14	533.9	-533.9	709510192 - 100 Amherst Way	ABIN	(
	OV	258868	70951	37520200192	000	07/23/14	PT	112733	07/31/14	368.5	-368.5	709510192 - 100 Amherst Way	ABIN	(
	OV	215008	70952	201916 LOT 1	000	08/01/12	PT	31935	08/09/12	325	-325	709520001 - 101 Berwick Court	FIEL	(
	OV	215523	70952	201996 LOT 1	000	08/07/12	PT	31935	08/09/12	19.55	-19.55	709520001 - 101 Berwick Court	FIEL	(
	OV	215523	70952	201996 LOT 1	002	08/07/12	PT	31935	08/09/12	2392.7	-2392.7	709520001 - 101 Berwick Court	FIEL	(
	OV	215009	70952	201919 LOT 1	000	08/01/12	PT	31935	08/09/12	281.25	-281.25	709520001 - 101 Berwick Court	FIEL	(
	OV	215009	70952	201919 LOT 1	002	08/01/12	PT	31935	08/09/12	16.88	-16.88	709520001 - 101 Berwick Court	FIEL	(
	OV	222441	70952	3717344 LOT 1	000	10/25/12	PT	37782	11/01/12	22	-22	709520001 - 101 Berwick Court	FIEL	(
	OV	222445	70952	3717195 LOT 1	000	10/25/12	PT	37782	11/01/12	750	-750	709520001 - 101 Berwick Court	FIEL	(
	OV	218991	70952	70952-	001	09/13/12	PT	34648	09/20/12	579.15	-579.15	709520001 - 101 Berwick Court	FIEL	(
	OV	221014	70952	201956 1	000	10/16/12	PT	36633	10/18/12	637.5	-637.5	709520001 - 101 Berwick Court	FIEL	(
	OV	221013	70952	201999 1	000	10/16/12	PT	36633	10/18/12	400	-400	709520001 - 101 Berwick Court	FIEL	(
	OV	225615	70952	201982 LOT 1	000	12/17/12	PT	41370	12/20/12	477.7	-477.7	709520001 - 101 Berwick Court	FIEL	(
	OV	225615	70952	201982 LOT 1	001	12/17/12	PT	41370	12/20/12	112.2	-112.2	709520001 - 101 Berwick Court	FIEL	(
	OV	225627	70952	3719535 LOT 1	000	12/17/12	PT	41370	12/20/12	150	-150	709520001 - 101 Berwick Court	FIEL	(
	OV	222439	70952	3717349 LOT 1	000	10/25/12	PT	37782	11/01/12	200	-200	709520001 - 101 Berwick Court	FIEL	(

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	OV	211201	70952	3701467 LOT 2	000	05/23/12	PT	27534	05/31/12	75	-75	709520002 - 103 Berwick Court	CYTH	(
	OV	211211	70952	3701462 LOT 2	000	05/23/12	PT	27534	05/31/12	24.3	-24.3	709520002 - 103 Berwick Court	CYTH	(
	OV	211208	70952	3703291 LOT 2	000	05/23/12	PT	27534	05/31/12	69.4	-69.4	709520002 - 103 Berwick Court	CYTH	(
	OV	211329	70952	3702762 2	000	05/24/12	PT	27534	05/31/12	229.5	-229.5	709520002 - 103 Berwick Court	CYTH	(
	OV	211207	70952	3704294 LOT 2	000	05/23/12	PT	27534	05/31/12	450	-450	709520002 - 103 Berwick Court	CYTH	(
	OV	210043	70952	200183 3	000	11/14/11	PK	369787	11/18/11	325	-325	709520003 - 105 Berwick Court	BROO	(
	OV	210049	70952	200264 LOT 3	000	11/16/11	PK	369787	11/18/11	2374.9	-2374.9	709520003 - 105 Berwick Court	BROO	(
	OV	211202	70952	3703291 LOT 3	000	05/23/12	PT	27534	05/31/12	69.4	-69.4	709520003 - 105 Berwick Court	BROO	(
	OV	211212	70952	3701462 LOT 3	000	05/23/12	PT	27534	05/31/12	8	-8	709520003 - 105 Berwick Court	BROO	(
	OV	210042	70952	200186 3	000	11/14/11	PK	369787	11/18/11	181.25	-181.25	709520003 - 105 Berwick Court	BROO	(
	OV	210042	70952	200186 3	001	11/14/11	PK	369787	11/18/11	10.88	-10.88	709520003 - 105 Berwick Court	BROO	(
	OV	211330	70952	3702762 3	000	05/24/12	PT	27534	05/31/12	86.13	-86.13	709520003 - 105 Berwick Court	BROO	(
	OV	231850	70952	203158 LOT 4	000	05/21/13	PT	56168	05/23/13	2635	-2635	709520004 - 107 Berwick Court	FIEL	(
	OV	231854	70952	203184 LOT 4	000	05/21/13	PT	56168	05/23/13	477.7	-477.7	709520004 - 107 Berwick Court	FIEL	(
	OV	232168	70952	3727872 LOT 4	000	06/14/13	PT	59519	06/20/13	171.05	-171.05	709520004 - 107 Berwick Court	FIEL	(
	OV	231853	70952	203185 LOT 4	000	05/21/13	PT	56168	05/23/13	112.2	-112.2	709520004 - 107 Berwick Court	FIEL	(
	OV	227174	70952	70952-	001	01/14/13	PT	44169	01/24/13	325	-325	709520006 - 1 Chatham Ct	FIEL	(
	OV	227612	70952	3720947 LOT 6	000	01/28/13	PT	45137	02/07/13	350	-350	709520006 - 1 Chatham Ct	FIEL	(
	OV	227785	70952	70952-00227785	001	01/29/13	PT	45137	02/07/13	19.55	-19.55	709520006 - 1 Chatham Ct	FIEL	(
	OV	227785	70952	70952-00227785	002	01/29/13	PT	45137	02/07/13	2434.7	-2434.7	709520006 - 1 Chatham Ct	FIEL	(
	OV	227176	70952	70952-00227176	001	01/14/13	PT	44169	01/24/13	281.25	-281.25	709520006 - 1 Chatham Ct	FIEL	(
	OV	227176	70952	70952-00227176	002	01/14/13	PT	44169	01/24/13	16.88	-16.88	709520006 - 1 Chatham Ct	FIEL	(

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	OV	230905	70952	202951 LOT 6	000	04/02/13	PT	51390	04/04/13	2635	-2635	709520006 - 1 Chatham Ct	FIEL	(
	OV	231098	70952	202989 LOT 6	000	04/12/13	PT	52710	04/18/13	400	-400	709520006 - 1 Chatham Ct	FIEL	(
	OV	230906	70952	202977 LOT 6	000	04/02/13	PT	51390	04/04/13	477.7	-477.7	709520006 - 1 Chatham Ct	FIEL	(
	OV	230907	70952	202978 LOT 6	000	04/02/13	PT	51390	04/04/13	112.2	-112.2	709520006 - 1 Chatham Ct	FIEL	(
	OV	210572	70952	200779 7	000	03/15/12	PT	23226	03/22/12	325	-325	709520007 - 3 Chatham Court	BROO	(
	OV	210648	70952	200859 LOT 7	000	03/16/12	PT	23226	03/22/12	2374.9	-2374.9	709520007 - 3 Chatham Court	BROO	(
	OV	214516	70952	3710663 LOT 7	000	07/27/12	PT	31935	08/09/12	69.4	-69.4	709520007 - 3 Chatham Court	BROO	(
	OV	210570	70952	200782 7	000	03/15/12	PT	23226	03/22/12	181.25	-181.25	709520007 - 3 Chatham Court	BROO	(
	OV	210570	70952	200782 7	001	03/15/12	PT	23226	03/22/12	10.88	-10.88	709520007 - 3 Chatham Court	BROO	(
	OV	211093	70952	200816 7	000	05/10/12	PT	26807	05/17/12	903.87	-903.87	709520007 - 3 Chatham Court	BROO	(
	OV	211160	70952	200843 LOT 7	000	05/11/12	PT	26807	05/17/12	477.7	-477.7	709520007 - 3 Chatham Court	BROO	(
	OV	211168	70952	200844 LOT 7	000	05/11/12	PT	26807	05/17/12	112.2	-112.2	709520007 - 3 Chatham Court	BROO	(
	OV	210283	70952	200603 8	000	01/19/12	PT	20352	01/26/12	325	-325	709520008 - 5 Chatham Court	CYTH	(
	OV	210285	70952	200685 8	000	01/19/12	PT	20352	01/26/12	3311.55	-3311.55	709520008 - 5 Chatham Court	CYTH	(
	OV	211203	70952	3703291 LOT 8	000	05/23/12	PT	27534	05/31/12	24.3	-24.3	709520008 - 5 Chatham Court	CYTH	(
	OV	211203	70952	3703291 LOT 8	001	05/23/12	PT	27534	05/31/12	8	-8	709520008 - 5 Chatham Court	CYTH	(
	OV	210284	70952	200606 8	000	01/19/12	PT	20352	01/26/12	281.25	-281.25	709520008 - 5 Chatham Court	CYTH	(
	OV	210284	70952	200606 8	001	01/19/12	PT	20352	01/26/12	16.88	-16.88	709520008 - 5 Chatham Court	CYTH	(
	OV	210581	70952	200641 8	000	03/15/12	PT	23226	03/22/12	2380	-2380	709520008 - 5 Chatham Court	CYTH	(
	OV	225617	70952	200667 LOT 8	000	12/17/12	PT	41370	12/20/12	477.7	-477.7	709520008 - 5 Chatham Court	CYTH	(
	OV	225616	70952	200668 LOT 8	000	12/17/12	PT	41370	12/20/12	112.2	-112.2	709520008 - 5 Chatham Court	CYTH	(
	OV	210277	70952	200483 9	000	01/19/12	PT	20352	01/26/12	325	-325	709520009 - 7 Chatham Court	BROO	(

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	OV	210279	70952	200536 9	000	01/19/12	PT	20352	01/26/12	2374.9	-2374.9	709520009 - 7 Chatham Court	BROO	(
	OV	211204	70952	3703291 LOT 9	000	05/23/12	PT	27534	05/31/12	8	-8	709520009 - 7 Chatham Court	BROO	(
	OV	210278	70952	200486 9	000	01/19/12	PT	20352	01/26/12	181.25	-181.25	709520009 - 7 Chatham Court	BROO	(
	OV	210278	70952	200486 9	001	01/19/12	PT	20352	01/26/12	10.88	-10.88	709520009 - 7 Chatham Court	BROO	(
	OV	210580	70952	200517 9	000	03/15/12	PT	23226	03/22/12	903.87	-903.87	709520009 - 7 Chatham Court	BROO	(
	OV	213999	70952	201896 9	000	07/19/12	PT	31210	07/26/12	600	-600	709520009 - 7 Chatham Court	BROO	(
	OV	210655	70952	200531 LOT 9	000	03/16/12	PT	23226	03/22/12	477.7	-477.7	709520009 - 7 Chatham Court	BROO	(
	OV	225618	70952	200532 LOT 9	000	12/17/12	PT	41370	12/20/12	112.2	-112.2	709520009 - 7 Chatham Court	BROO	(
	OV	225406	70952	70952-	001	12/13/12	PT	41370	12/20/12	325	-325	709520010 - 9 Chatham Court	FIEL	(
	OV	226240	70952	70952-00226240	001	01/03/13	PT	43005	01/10/13	2392.7	-2392.7	709520010 - 9 Chatham Court	FIEL	(
	OV	228184	70952	70952-00228184	001	02/05/13	PT	45137	02/07/13	107.1	-107.1	709520010 - 9 Chatham Court	FIEL	(
	OV	224977	70952	70952-00224977	002	12/11/12	PT	41370	12/20/12	16.88	-16.88	709520010 - 9 Chatham Court	FIEL	(
	OV	224977	70952	70952-00224977	001	12/11/12	PT	41370	12/20/12	281.25	-281.25	709520010 - 9 Chatham Court	FIEL	(
	OV	227334	70952	202849 LOT 10	000	01/18/13	PT	44169	01/24/13	579.15	-579.15	709520010 - 9 Chatham Court	FIEL	(
	OV	227335	70952	202852 LOT 10	000	01/18/13	PT	44169	01/24/13	637.5	-637.5	709520010 - 9 Chatham Court	FIEL	(
	OV	230900	70952	3724568 LOT 10	000	04/02/13	PT	51390	04/04/13	418	-418	709520010 - 9 Chatham Court	FIEL	(
	OV	230898	70952	202878 LOT 10	000	04/02/13	PT	51390	04/04/13	477.7	-477.7	709520010 - 9 Chatham Court	FIEL	(
	OV	230899	70952	202879 LOT 10	000	04/02/13	PT	51390	04/04/13	112.2	-112.2	709520010 - 9 Chatham Court	FIEL	(
	OV	230901	70952	3724569 LOT 10	000	04/02/13	PT	51390	04/04/13	69.4	-69.4	709520010 - 9 Chatham Court	FIEL	(
	OV	215904	70952	70952-	001	08/16/12	PT	32837	08/23/12	325	-325	709520011 - 11 Chatham Court	BROO	(
	OV	215905	70952	70952-00215905	001	08/16/12	PT	32837	08/23/12	2374.9	-2374.9	709520011 - 11 Chatham Court	BROO	(
	OV	215906	70952	70952-00215906	001	08/16/12	PT	32837	08/23/12	181.25	-181.25	709520011 - 11 Chatham Court	BROO	(

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	OV	215906	70952	70952-00215906	002	08/16/12	PT	32837	08/23/12	10.88	-10.88	709520011 - 11 Chatham Court	BROO	(
	OV	222446	70952	3717196 LOT 11	000	10/25/12	PT	37782	11/01/12	8	-8	709520011 - 11 Chatham Court	BROO	(
	OV	222446	70952	3717196 LOT 11	001	10/25/12	PT	37782	11/01/12	69.4	-69.4	709520011 - 11 Chatham Court	BROO	(
	OV	215011	70952	201595 LOT 11	000	08/01/12	PT	31935	08/09/12	1412.73	-1412.73	709520011 - 11 Chatham Court	BROO	(
	OV	215539	70952	201623 LOT 11	000	08/16/12	PT	32837	08/23/12	477.7	-477.7	709520011 - 11 Chatham Court	BROO	(
	OV	215538	70952	201624 LOT 11	000	08/16/12	PT	32837	08/23/12	112.2	-112.2	709520011 - 11 Chatham Court	BROO	(
	OV	215907	70952	70952-	001	08/16/12	PT	32837	08/23/12	325	-325	709520013 - 8 Chatham Court	CYTH	(
	OV	218498	70952	70952-00218498	001	09/11/12	PT	34648	09/20/12	87.4	-87.4	709520013 - 8 Chatham Court	CYTH	(
	OV	218498	70952	70952-00218498	002	09/11/12	PT	34648	09/20/12	3311.55	-3311.55	709520013 - 8 Chatham Court	CYTH	(
	OV	218012	70952	70952-00218012	001	09/04/12	PT	33730	09/06/12	281.25	-281.25	709520013 - 8 Chatham Court	CYTH	(
	OV	218012	70952	70952-00218012	002	09/04/12	PT	33730	09/06/12	16.88	-16.88	709520013 - 8 Chatham Court	CYTH	(
	OV	222447	70952	3717196 LOT 13	000	10/25/12	PT	37782	11/01/12	24.3	-24.3	709520013 - 8 Chatham Court	CYTH	(
	OV	220781	70952	70952-	001	10/10/12	PT	36633	10/18/12	1389.96	-1389.96	709520013 - 8 Chatham Court	CYTH	(
	OV	225624	70952	3719536 LOT 13	000	12/17/12	PT	41370	12/20/12	227.7	-227.7	709520013 - 8 Chatham Court	CYTH	(
	OV	222457	70952	3717348 LOT 13	000	10/25/12	PT	37782	11/01/12	266	-266	709520013 - 8 Chatham Court	CYTH	(
	OV	226042	70952	3719754 LOT 13	000	12/28/12	PT	43005	01/10/13	534.85	-534.85	709520013 - 8 Chatham Court	CYTH	(
	OV	225611	70952	202075 LOT 13	000	12/17/12	PT	41370	12/20/12	477.7	-477.7	709520013 - 8 Chatham Court	CYTH	(
	OV	230904	70952	3722804 LOT 13	000	04/02/13	PT	51390	04/04/13	75	-75	709520013 - 8 Chatham Court	CYTH	(
	OV	225620	70952	201466 LOT 14	000	12/17/12	PT	41370	12/20/12	325	-325	709520014 - 6 Chatham Court	FIEL	(
	OV	220988	70952	201546 LOT 14	000	10/12/12	PT	36633	10/18/12	2392.7	-2392.7	709520014 - 6 Chatham Court	FIEL	(
	OV	225619	70952	201469 LOT 14	000	12/17/12	PT	41370	12/20/12	281.25	-281.25	709520014 - 6 Chatham Court	FIEL	(
	OV	225619	70952	201469 LOT 14	001	12/17/12	PT	41370	12/20/12	16.88	-16.88	709520014 - 6 Chatham Court	FIEL	(
	OV	211796	70952	70952-	001	06/18/12	PT	29431	06/28/12	579.15	-579.15	709520014 - 6 Chatham Court	FIEL	(
	OV	212422	70952	201506 14	000	06/22/12	PT	29431	06/28/12	637.5	-637.5	709520014 - 6 Chatham Court	FIEL	(

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	OV	213262	70952	201533 LOT 14	000	07/06/12	PT	30229	07/12/12	477.7	-477.7	709520014 - 6 Chatham Court	FIEL	(
	OV	225621	70952	201534 LOT 14	000	12/17/12	PT	41370	12/20/12	112.2	-112.2	709520014 - 6 Chatham Court	FIEL	(
	OV	210044	70952	200273 19	000	11/14/11	PK	369787	11/18/11	325	-325	709520019 - 121 Berwick Court	GLNH	(
	OV	210048	70952	200354 LOT 19	000	11/16/11	PK	369787	11/18/11	3191.3	-3191.3	709520019 - 121 Berwick Court	GLNH	(
	OV	211210	70952	3701462 LOT 19	000	05/23/12	PT	27534	05/31/12	20.3	-20.3	709520019 - 121 Berwick Court	GLNH	(
	OV	211206	70952	3703291 LOT 19	000	05/23/12	PT	27534	05/31/12	265.1	-265.1	709520019 - 121 Berwick Court	GLNH	(
	OV	210045	70952	200276 19	000	11/14/11	PK	369787	11/18/11	262.5	-262.5	709520019 - 121 Berwick Court	GLNH	(
	OV	210045	70952	200276 19	001	11/14/11	PK	369787	11/18/11	15.75	-15.75	709520019 - 121 Berwick Court	GLNH	(
	OV	210163	70952	200310 LOT 19	000	12/30/11	PT	19368	01/05/12	884.57	-884.57	709520019 - 121 Berwick Court	GLNH	(
	OV	210163	70952	200310 LOT 19	001	12/30/11	PT	19368	01/05/12	155.93	-155.93	709520019 - 121 Berwick Court	GLNH	(
	OV	211331	70952	3702762 19	000	05/24/12	PT	27534	05/31/12	197.01	-197.01	709520019 - 121 Berwick Court	GLNH	(
	OV	210286	70952	200338 19	000	01/19/12	PT	20352	01/26/12	477.7	-477.7	709520019 - 121 Berwick Court	GLNH	(
	OV	210289	70952	200339 19	000	01/19/12	PT	20352	01/26/12	112.2	-112.2	709520019 - 121 Berwick Court	GLNH	(
	OV	210008	70952	200096 20	000	10/17/11	PK	362193	10/20/11	325	-325	709520020 - 123 Berwick Court	FIEL	(
	OV	210007	70952	200175 20	000	10/17/11	PK	362193	10/20/11	2434.7	-2434.7	709520020 - 123 Berwick Court	FIEL	(
	OV	211209	70952	3701462 LOT 20	000	05/23/12	PT	27534	05/31/12	8	-8	709520020 - 123 Berwick Court	FIEL	(
	OV	210009	70952	200099 20	000	10/17/11	PK	362193	10/20/11	281.25	-281.25	709520020 - 123 Berwick Court	FIEL	(
	OV	210009	70952	200099 20	001	10/17/11	PK	362193	10/20/11	16.88	-16.88	709520020 - 123 Berwick Court	FIEL	(
	OV	210296	70952	200131 20	000	01/19/12	PT	20352	01/26/12	2635	-2635	709520020 - 123 Berwick Court	FIEL	(
	OV	210394	70952	200157 LOT 20	000	02/16/12	PT	21742	02/23/12	477.7	-477.7	709520020 - 123 Berwick Court	FIEL	(
	OV	210395	70952	200158 LOT 20	000	02/16/12	PT	21742	02/23/12	112.2	-112.2	709520020 - 123 Berwick Court	FIEL	(
	OV	211097	70952	201289 21	000	05/10/12	PT	26807	05/17/12	2635	-2635	709520021 - 125 Berwick Court	BROO	(
	OV	213261	70952	201316 LOT 21	000	07/06/12	PT	30229	07/12/12	477.7	-477.7	709520021 - 125 Berwick Court	BROO	(
	OV	225622	70952	201317 LOT 21	000	12/17/12	PT	41370	12/20/12	112.2	-112.2	709520021 - 125 Berwick Court	BROO	(

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	OV	230108	70952	70952-	001	03/11/13	PT	49582	03/21/13	325	-325	709520022 - 127 Berwick Court	HERR	(
	OV	230375	70952	70952-00230375	001	03/18/13	PT	49582	03/21/13	1896.5	-1896.5	709520022 - 127 Berwick Court	HERR	(
	OV	229562	70952	70952-00229562	001	03/04/13	PT	48162	03/07/13	187.5	-187.5	709520022 - 127 Berwick Court	HERR	(
	OV	229562	70952	70952-00229562	002	03/04/13	PT	48162	03/07/13	11.25	-11.25	709520022 - 127 Berwick Court	HERR	(
	OV	231097	70952	203059 LOT 22	000	04/12/13	PT	52710	04/18/13	605.39	-605.39	709520022 - 127 Berwick Court	HERR	(
	OV	231172	70952	70952-	001	04/15/13	PT	52710	04/18/13	605.39	-605.39	709520022 - 127 Berwick Court	HERR	(
	PD	231932	70952	203059 LOT 22	000	05/31/13	PT	57782	06/06/13	-605.39	605.39	709520022 - 127 Berwick Court	HERR	(
	OV	232167	70952	3727872 LOT 22	000	06/14/13	PT	59519	06/20/13	208.1	-208.1	709520022 - 127 Berwick Court	HERR	(
	OV	231851	70952	203084 LOT 22	000	05/21/13	PT	56168	05/23/13	477.7	-477.7	709520022 - 127 Berwick Court	HERR	(
	OV	231852	70952	203085 LOT 22	000	05/21/13	PT	56168	05/23/13	112.2	-112.2	709520022 - 127 Berwick Court	HERR	(
	OV	210569	70952	200893 23	000	03/15/12	PT	23226	03/22/12	325	-325	709520023 - 142 Berwick Court	FIEL	(
	OV	210649	70952	200972 LOT 23	000	03/16/12	PT	23226	03/22/12	19.55	-19.55	709520023 - 142 Berwick Court	FIEL	(
	OV	210649	70952	200972 LOT 23	001	03/16/12	PT	23226	03/22/12	2273.7	-2273.7	709520023 - 142 Berwick Court	FIEL	(
	OV	214514	70952	3710685 LOT 23	000	07/27/12	PT	31935	08/09/12	376	-376	709520023 - 142 Berwick Court	FIEL	(
	OV	210568	70952	200896 23	000	03/15/12	PT	23226	03/22/12	281.25	-281.25	709520023 - 142 Berwick Court	FIEL	(
	OV	210568	70952	200896 23	001	03/15/12	PT	23226	03/22/12	16.88	-16.88	709520023 - 142 Berwick Court	FIEL	(
	OV	211092	70952	200930 23	000	05/10/12	PT	26807	05/17/12	1336.01	-1336.01	709520023 - 142 Berwick Court	FIEL	(
	OV	211091	70952	200974 23	000	05/10/12	PT	26807	05/17/12	400	-400	709520023 - 142 Berwick Court	FIEL	(
	OV	211162	70952	200960 LOT 23	000	05/11/12	PT	26807	05/17/12	477.7	-477.7	709520023 - 142 Berwick Court	FIEL	(
	OV	211162	70952	200960 LOT 23	001	05/11/12	PT	26807	05/17/12	102	-102	709520023 - 142 Berwick Court	FIEL	(
	OV	214509	70952	3710702 LOT 23	000	07/27/12	PT	31935	08/09/12	120	-120	709520023 - 142 Berwick Court	FIEL	(
	OV	211161	70952	200961 LOT 23	000	05/11/12	PT	26807	05/17/12	112.2	-112.2	709520023 - 142 Berwick Court	FIEL	(
	OV	210567	70952	200984 24	000	03/15/12	PT	23226	03/22/12	325	-325	709520024 - 140 Berwick Court	CYTH	(
	OV	214513	70952	3710684 LOT 24	000	07/27/12	PT	31935	08/09/12	426.7	-426.7	709520024 - 140 Berwick Court	CYTH	(

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	OV	210650	70952	201056 LOT 24	000	03/16/12	PT	23226	03/22/12	87.4	-87.4	709520024 - 140 Berwick Court	CYTH
	OV	210650	70952	201056 LOT 24	001	03/16/12	PT	23226	03/22/12	3311.55	-3311.55	709520024 - 140 Berwick Court	CYTH
	OV	210566	70952	200987 24	000	03/15/12	PT	23226	03/22/12	281.25	-281.25	709520024 - 140 Berwick Court	CYTH
	OV	210566	70952	200987 24	001	03/15/12	PT	23226	03/22/12	16.88	-16.88	709520024 - 140 Berwick Court	CYTH
	OV	222448	70952	3717196 LOT 24	000	10/25/12	PT	37782	11/01/12	24.3	-24.3	709520024 - 140 Berwick Court	CYTH
	OV	211090	70952	201022 24	000	05/10/12	PT	26807	05/17/12	2380	-2380	709520024 - 140 Berwick Court	CYTH
	OV	215005	70952	3710697 LOT 24	000	08/01/12	PT	31935	08/09/12	850	-850	709520024 - 140 Berwick Court	CYTH
	OV	211163	70952	201049 LOT 24	000	05/11/12	PT	26807	05/17/12	477.7	-477.7	709520024 - 140 Berwick Court	CYTH
	OV	222449	70952	3717197 LOT 25	000	10/25/12	PT	37782	11/01/12	8	-8	709520025 - 138 Berwick Court	MCDA
	OV	211096	70952	201202 25	000	05/10/12	PT	26807	05/17/12	2067.12	-2067.12	709520025 - 138 Berwick Court	MCDA
	OV	215007	70952	3710682 LOT 25	000	08/01/12	PT	31935	08/09/12	209.88	-209.88	709520025 - 138 Berwick Court	MCDA
	OV	211098	70952	201205 25	000	05/10/12	PT	26807	05/17/12	1836	-1836	709520025 - 138 Berwick Court	MCDA
	OV	215004	70952	3710696 LOT 25	000	08/01/12	PT	31935	08/09/12	289	-289	709520025 - 138 Berwick Court	MCDA
	OV	211157	70952	201232 LOT 25	000	05/11/12	PT	26807	05/17/12	477.7	-477.7	709520025 - 138 Berwick Court	MCDA
	OV	214512	70952	3710683 LOT 25	000	07/27/12	PT	31935	08/09/12	56.2	-56.2	709520025 - 138 Berwick Court	MCDA
	OV	215914	70952	70952-	001	08/16/12	PT	32837	08/23/12	325	-325	709520026 - 136 Berwick Court	FIEL
	OV	218998	70952	70952-00218998	001	09/13/12	PT	34648	09/20/12	19.55	-19.55	709520026 - 136 Berwick Court	FIEL
	OV	218998	70952	70952-00218998	002	09/13/12	PT	34648	09/20/12	2300.9	-2300.9	709520026 - 136 Berwick Court	FIEL
	OV	222450	70952	3717197 LOT 26	000	10/25/12	PT	37782	11/01/12	11.2	-11.2	709520026 - 136 Berwick Court	FIEL
	OV	218018	70952	70952-00218018	001	09/04/12	PT	33730	09/06/12	281.25	-281.25	709520026 - 136 Berwick Court	FIEL
	OV	218018	70952	70952-00218018	002	09/04/12	PT	33730	09/06/12	16.88	-16.88	709520026 - 136 Berwick Court	FIEL
	OV	221671	70952	70952-	001	10/17/12	PT	36633	10/18/12	1848.83	-1848.83	709520026 - 136 Berwick Court	FIEL
	OV	222440	70952	3717348 LOT 26	000	10/25/12	PT	37782	11/01/12	455	-455	709520026 - 136 Berwick Court	FIEL
	OV	225625	70952	3719536 LOT 26	000	12/17/12	PT	41370	12/20/12	683.1	-683.1	709520026 - 136 Berwick Court	FIEL
	OV	222456	70952	202170 LOT 26	000	10/25/12	PT	37782	11/01/12	400	-400	709520026 - 136 Berwick Court	FIEL

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	OV	225610	70952	202159 LOT 26	000	12/17/12	PT	41370	12/20/12	477.7	-477.7	709520026 - 136 Berwick Court	FIEL	(
	OV	225610	70952	202159 LOT 26	001	12/17/12	PT	41370	12/20/12	102	-102	709520026 - 136 Berwick Court	FIEL	(
	OV	226041	70952	3719754 LOT 26	000	12/28/12	PT	43005	01/10/13	278.35	-278.35	709520026 - 136 Berwick Court	FIEL	(
	OV	210280	70952	200544 27	000	01/19/12	PT	20352	01/26/12	325	-325	709520027 - 134 Berwick Court	BROO	(
	OV	210282	70952	200596 27	000	01/19/12	PT	20352	01/26/12	2374.9	-2374.9	709520027 - 134 Berwick Court	BROO	(
	OV	210281	70952	200547 27	000	01/19/12	PT	20352	01/26/12	181.25	-181.25	709520027 - 134 Berwick Court	BROO	(
	OV	210281	70952	200547 27	001	01/19/12	PT	20352	01/26/12	10.88	-10.88	709520027 - 134 Berwick Court	BROO	(
	OV	215006	70952	3710693 LOT 27	000	08/01/12	PT	31935	08/09/12	200	-200	709520027 - 134 Berwick Court	BROO	(
	OV	210561	70952	200578 27	000	03/15/12	PT	23226	03/22/12	2635	-2635	709520027 - 134 Berwick Court	BROO	(
	OV	210653	70952	200591 LOT 27	000	03/16/12	PT	23226	03/22/12	477.7	-477.7	709520027 - 134 Berwick Court	BROO	(
	OV	210652	70952	200592 LOT 27	000	03/16/12	PT	23226	03/22/12	112.2	-112.2	709520027 - 134 Berwick Court	BROO	(
	OV	211094	70952	201380 28	000	05/10/12	PT	26807	05/17/12	325	-325	709520028 - 132 Berwick Court	CYTH	(
	OV	211167	70952	201453 LOT 28	001	05/11/12	PT	26807	05/17/12	3311.55	-3311.55	709520028 - 132 Berwick Court	CYTH	(
	OV	211167	70952	201453 LOT 28	000	05/11/12	PT	26807	05/17/12	87.4	-87.4	709520028 - 132 Berwick Court	CYTH	(
	OV	214515	70952	3710686 LOT 28	000	07/27/12	PT	31935	08/09/12	24.3	-24.3	709520028 - 132 Berwick Court	CYTH	(
	OV	211166	70952	201383 LOT 28	001	05/11/12	PT	26807	05/17/12	16.88	-16.88	709520028 - 132 Berwick Court	CYTH	(
	OV	211166	70952	201383 LOT 28	000	05/11/12	PT	26807	05/17/12	281.25	-281.25	709520028 - 132 Berwick Court	CYTH	(
	OV	212423	70952	201418 28	000	06/22/12	PT	29431	06/28/12	2380	-2380	709520028 - 132 Berwick Court	CYTH	(
	OV	213263	70952	201445 LOT 28	000	07/06/12	PT	30229	07/12/12	477.7	-477.7	709520028 - 132 Berwick Court	CYTH	(
	OV	225623	70952	201446 LOT 28	000	12/17/12	PT	41370	12/20/12	112.2	-112.2	709520028 - 132 Berwick Court	CYTH	(
	OV	218021	70952	70952- 00000000	001	09/04/12	PT	33730	09/06/12	325	-325	709520029 - 130 Berwick Court	HNTR	(
	OV	218506	70952	70952- 00218506	001	09/11/12	PT	34648	09/20/12	2020.7	-2020.7	709520029 - 130 Berwick Court	HNTR	(
	OV	222451	70952	3717197 LOT 29	000	10/25/12	PT	37782	11/01/12	8	-8	709520029 - 130 Berwick Court	HNTR	(
	OV	218023	70952	70952- 00218023	001	09/04/12	PT	33730	09/06/12	200	-200	709520029 - 130 Berwick Court	HNTR	(

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	OV	218023	70952	70952-00218023	002	09/04/12	PT	33730	09/06/12	12	-12	709520029 - 130 Berwick Court	HNTR	(
	OV	221673	70952	70952-	001	10/17/12	PT	36633	10/18/12	258.39	-258.39	709520029 - 130 Berwick Court	HNTR	(
	OV	222455	70952	202338 LOT 29	000	10/25/12	PT	37782	11/01/12	3119.5	-3119.5	709520029 - 130 Berwick Court	HNTR	(
	OV	224724	70952	202365 LOT 29	000	12/03/12	PT	40141	12/06/12	477.7	-477.7	709520029 - 130 Berwick Court	HNTR	(
	OV	226038	70952	3719754 LOT 29	000	12/28/12	PT	43005	01/10/13	63.65	-63.65	709520029 - 130 Berwick Court	HNTR	(
	OV	224104	70952	70952-	001	11/26/12	PT	40141	12/06/12	325	-325	709520030 - 128 Berwick Court	BROO	(
	OV	224982	70952	70952-00224982	001	12/11/12	PT	41370	12/20/12	2374.9	-2374.9	709520030 - 128 Berwick Court	BROO	(
	OV	222169	70952	70952-00222169	002	10/24/12	PT	37782	11/01/12	10.88	-10.88	709520030 - 128 Berwick Court	BROO	(
	OV	222169	70952	70952-00222169	001	10/24/12	PT	37782	11/01/12	181.25	-181.25	709520030 - 128 Berwick Court	BROO	(
	OV	227943	70952	202660 LOT 30	000	01/31/13	PT	45137	02/07/13	2635	-2635	709520030 - 128 Berwick Court	BROO	(
	OV	229063	70952	202686 LOT 30	000	02/18/13	PT	46719	02/21/13	477.7	-477.7	709520030 - 128 Berwick Court	BROO	(
	OV	229062	70952	202687 LOT 30	000	02/18/13	PT	46719	02/21/13	112.2	-112.2	709520030 - 128 Berwick Court	BROO	(
	OV	218026	70952	70952-	001	09/04/12	PT	33730	09/06/12	325	-325	709520031 - 126 Berwick Court	FIEL	(
	OV	218509	70952	70952-00218509	001	09/11/12	PT	34648	09/20/12	19.55	-19.55	709520031 - 126 Berwick Court	FIEL	(
	OV	218509	70952	70952-00218509	002	09/11/12	PT	34648	09/20/12	2434.7	-2434.7	709520031 - 126 Berwick Court	FIEL	(
	OV	223655	70952	70952-00223655	001	11/13/12	PT	38599	11/15/12	260.95	-260.95	709520031 - 126 Berwick Court	FIEL	(
	OV	222442	70952	3717197 LOT 31	000	10/25/12	PT	37782	11/01/12	8	-8	709520031 - 126 Berwick Court	FIEL	(
	OV	218028	70952	70952-00218028	001	09/04/12	PT	33730	09/06/12	281.25	-281.25	709520031 - 126 Berwick Court	FIEL	(
	OV	218028	70952	70952-00218028	002	09/04/12	PT	33730	09/06/12	16.88	-16.88	709520031 - 126 Berwick Court	FIEL	(
	OV	222454	70952	202239 LOT 31	000	10/25/12	PT	37782	11/01/12	2635	-2635	709520031 - 126 Berwick Court	FIEL	(
	OV	222453	70952	202280 LOT 31	000	10/25/12	PT	37782	11/01/12	400	-400	709520031 - 126 Berwick Court	FIEL	(
	OV	224725	70952	202265 LOT 31	000	12/03/12	PT	40141	12/06/12	477.7	-477.7	709520031 - 126 Berwick Court	FIEL	(
	OV	226040	70952	3719773 LOT 31	000	12/28/12	PT	43005	01/10/13	484.5	-484.5	709520031 - 126 Berwick Court	FIEL	(

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	OV	225626	70952	3719537 LOT 31	000	12/17/12	PT	41370	12/20/12	200	-200	709520031 - 126 Berwick Court	FIEL	(
	OV	222452	70952	3717350 LOT 31	000	10/25/12	PT	37782	11/01/12	200	-200	709520031 - 126 Berwick Court	FIEL	(
	OV	224107	70952	70952-	001	11/26/12	PT	40141	12/06/12	325	-325	709520032 - 124 Berwick Court	FIEL	(
	OV	228547	70952	70952-00228547	001	02/11/13	PT	46719	02/21/13	161.5	-161.5	709520032 - 124 Berwick Court	FIEL	(
	OV	224548	70952	70952-00224548	001	12/03/12	PT	40141	12/06/12	19.55	-19.55	709520032 - 124 Berwick Court	FIEL	(
	OV	224548	70952	70952-00224548	002	12/03/12	PT	40141	12/06/12	2273.7	-2273.7	709520032 - 124 Berwick Court	FIEL	(
	OV	224549	70952	70952-00224549	001	12/03/12	PT	40141	12/06/12	281.25	-281.25	709520032 - 124 Berwick Court	FIEL	(
	OV	224549	70952	70952-00224549	002	12/03/12	PT	40141	12/06/12	16.88	-16.88	709520032 - 124 Berwick Court	FIEL	(
	OV	226421	70952	202755 LOT 32	000	01/04/13	PT	43005	01/10/13	1336.01	-1336.01	709520032 - 124 Berwick Court	FIEL	(
	OV	229401	70952	202783 LOT 32	000	02/28/13	PT	48162	03/07/13	477.7	-477.7	709520032 - 124 Berwick Court	FIEL	(
	OV	230903	70952	3722805 LOT 32	000	04/02/13	PT	51390	04/04/13	295.45	-295.45	709520032 - 124 Berwick Court	FIEL	(
	OV	230902	70952	3722806 LOT 32	000	04/02/13	PT	51390	04/04/13	88.4	-88.4	709520032 - 124 Berwick Court	FIEL	(
	OV	229400	70952	202784 LOT 32	000	02/28/13	PT	48162	03/07/13	112.2	-112.2	709520032 - 124 Berwick Court	FIEL	(
	OV	219005	70952	70952-	001	09/13/12	PT	34648	09/20/12	325	-325	709520033 - 122 Berwick Court	CYTH	(
	OV	220990	70952	202462 LOT 33	000	10/12/12	PT	36633	10/18/12	87.4	-87.4	709520033 - 122 Berwick Court	CYTH	(
	OV	220990	70952	202462 LOT 33	001	10/12/12	PT	36633	10/18/12	3311.55	-3311.55	709520033 - 122 Berwick Court	CYTH	(
	OV	222443	70952	3717197 LOT 33	000	10/25/12	PT	37782	11/01/12	24.3	-24.3	709520033 - 122 Berwick Court	CYTH	(
	OV	220792	70952	70952-00220792	001	10/10/12	PT	36633	10/18/12	281.25	-281.25	709520033 - 122 Berwick Court	CYTH	(
	OV	220792	70952	70952-00220792	002	10/10/12	PT	36633	10/18/12	16.88	-16.88	709520033 - 122 Berwick Court	CYTH	(
	OV	220989	70952	3716567 LOT 33	000	10/12/12	PT	36633	10/18/12	390.05	-390.05	709520033 - 122 Berwick Court	CYTH	(
	OV	226420	70952	3719785 LOT 33	000	01/04/13	PT	43005	01/10/13	255	-255	709520033 - 122 Berwick Court	CYTH	(

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	OV	225613	70952	202426 LOT 33	000	12/17/12	PT	41370	12/20/12	2380	-2380	709520033 - 122 Berwick Court	CYTH	(
	OV	225612	70952	202467 LOT 33	000	12/17/12	PT	41370	12/20/12	400	-400	709520033 - 122 Berwick Court	CYTH	(
	OV	225614	70952	202452 LOT 33	000	12/17/12	PT	41370	12/20/12	477.7	-477.7	709520033 - 122 Berwick Court	CYTH	(
	OV	225614	70952	202452 LOT 33	001	12/17/12	PT	41370	12/20/12	119	-119	709520033 - 122 Berwick Court	CYTH	(
	OV	226039	70952	3719754 LOT 33	000	12/28/12	PT	43005	01/10/13	116.85	-116.85	709520033 - 122 Berwick Court	CYTH	(
	OV	233668	70952	3730761 LOT 34	000	08/02/13	PT	65246	08/08/13	750	-750	709520034 - 120 Berwick Court	BROO	(
	OV	233154	70952	70952-00233154	001	07/15/13	PT	63577	07/25/13	2643.68	-2643.68	709520034 - 120 Berwick Court	BROO	(
	OV	232711	70952	70952-00232711	001	07/01/13	PT	61954	07/11/13	217.5	-217.5	709520034 - 120 Berwick Court	BROO	(
	OV	232711	70952	70952-00232711	002	07/01/13	PT	61954	07/11/13	13.05	-13.05	709520034 - 120 Berwick Court	BROO	(
	OV	234708	70952	70952-00031708	001	09/16/13	PT	70154	09/19/13	903.87	-903.87	709520034 - 120 Berwick Court	BROO	(
	OV	235141	70952	3735119 LOT 34	000	10/18/13	PT	74499	10/24/13	101.97	-101.97	709520034 - 120 Berwick Court	BROO	(
	OV	234644	70952	203306 LOT 34	000	09/13/13	PT	70154	09/19/13	533.9	-533.9	709520034 - 120 Berwick Court	BROO	(
	OV	235142	70952	3735118 LOT 34	000	10/18/13	PT	74499	10/24/13	178.6	-178.6	709520034 - 120 Berwick Court	BROO	(
	OV	235140	70952	3735120 LOT 34	000	10/18/13	PT	74499	10/24/13	41.8	-41.8	709520034 - 120 Berwick Court	BROO	(
	OV	233361	70952	70952-00233361	001	07/22/13	PT	63577	07/25/13	97.28	-97.28	709520035 - 118 Berwick Court	CYTH	(
	OV	233361	70952	70952-00233361	002	07/22/13	PT	63577	07/25/13	3686.85	-3686.85	709520035 - 118 Berwick Court	CYTH	(
	OV	233157	70952	70952-00233157	001	07/15/13	PT	63577	07/25/13	337.5	-337.5	709520035 - 118 Berwick Court	CYTH	(
	OV	233157	70952	70952-00233157	002	07/15/13	PT	63577	07/25/13	20.25	-20.25	709520035 - 118 Berwick Court	CYTH	(
	OV	235139	70952	3735128 LOT 35	000	10/18/13	PT	74499	10/24/13	255	-255	709520035 - 118 Berwick Court	CYTH	(
	OV	235143	70952	203374 LOT 35	000	10/18/13	PT	74499	10/24/13	2380.01	-2380.01	709520035 - 118 Berwick Court	CYTH	(
	OV	234645	70952	203400 LOT 35	000	09/13/13	PT	70154	09/19/13	533.9	-533.9	709520035 - 118 Berwick Court	CYTH	(
	OV	234646	70952	203401 LOT 35	000	09/13/13	PT	70154	09/19/13	125.4	-125.4	709520035 - 118 Berwick Court	CYTH	(
	OV	221683	70952	70952-00000000	001	10/17/12	PT	36633	10/18/12	325	-325	709520036 - 116 Berwick Court	FIEL	(

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	OV	223662	70952	70952-00223662	001	11/13/12	PT	38599	11/15/12	2434.7	-2434.7	709520036 - 116 Berwick Court	FIEL	(
	OV	221685	70952	70952-00221685	001	10/17/12	PT	36633	10/18/12	281.25	-281.25	709520036 - 116 Berwick Court	FIEL	(
	OV	221685	70952	70952-00221685	002	10/17/12	PT	36633	10/18/12	16.88	-16.88	709520036 - 116 Berwick Court	FIEL	(
	OV	225628	70952	3719527 LOT 36	000	12/17/12	PT	41370	12/20/12	200	-200	709520036 - 116 Berwick Court	FIEL	(
	OV	227944	70952	3720994 LOT 36	000	01/31/13	PT	45137	02/07/13	74.25	-74.25	709520036 - 116 Berwick Court	FIEL	(
	OV	226422	70952	202572 LOT 36	000	01/04/13	PT	43005	01/10/13	2635	-2635	709520036 - 116 Berwick Court	FIEL	(
	OV	226425	70952	202609 LOT 36	000	01/04/13	PT	43005	01/10/13	400	-400	709520036 - 116 Berwick Court	FIEL	(
	OV	227333	70952	3720223 LOT 36	000	01/18/13	PT	44169	01/24/13	72.2	-72.2	709520036 - 116 Berwick Court	FIEL	(
	OV	227332	70952	3720224 LOT 36	000	01/18/13	PT	44169	01/24/13	83	-83	709520036 - 116 Berwick Court	FIEL	(
	OV	226423	70952	202598 LOT 36	000	01/04/13	PT	43005	01/10/13	477.7	-477.7	709520036 - 116 Berwick Court	FIEL	(
	OV	226423	70952	202598 LOT 36	001	01/04/13	PT	43005	01/10/13	115.6	-115.6	709520036 - 116 Berwick Court	FIEL	(
	OV	226424	70952	202599 LOT 36	000	01/04/13	PT	43005	01/10/13	112.2	-112.2	709520036 - 116 Berwick Court	FIEL	(
	OV	212420	70952	201764 37	000	06/22/12	PT	29431	06/28/12	325	-325	709520037 - 114 Berwick Court	BROO	(
	OV	214510	70952	3710765 LOT 37	000	07/27/12	PT	31935	08/09/12	8	-8	709520037 - 114 Berwick Court	BROO	(
	OV	211806	70952	70952-00211806	001	06/18/12	PT	29431	06/28/12	2374.9	-2374.9	709520037 - 114 Berwick Court	BROO	(
	OV	212421	70952	201767 37	000	06/22/12	PT	29431	06/28/12	181.25	-181.25	709520037 - 114 Berwick Court	BROO	(
	OV	212421	70952	201767 37	001	06/22/12	PT	29431	06/28/12	10.88	-10.88	709520037 - 114 Berwick Court	BROO	(
	OV	215929	70952	70952-	001	08/16/12	PT	32837	08/23/12	1412.73	-1412.73	709520037 - 114 Berwick Court	BROO	(
	OV	217710	70952	201829 LOT 37	000	08/30/12	PT	33730	09/06/12	477.7	-477.7	709520037 - 114 Berwick Court	BROO	(
	OV	217710	70952	201829 LOT 37	001	08/30/12	PT	33730	09/06/12	74.8	-74.8	709520037 - 114 Berwick Court	BROO	(
	OV	217709	70952	201830 LOT 37	000	08/30/12	PT	33730	09/06/12	112.2	-112.2	709520037 - 114 Berwick Court	BROO	(

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	OV	211095	70952	201663 38	000	05/10/12	PT	26807	05/17/12	325	-325	709520038 - 112 Berwick Court	BROO	(
	OV	211165	70952	201744 LOT 38	000	05/11/12	PT	26807	05/17/12	2374.9	-2374.9	709520038 - 112 Berwick Court	BROO	(
	OV	214511	70952	3710694 LOT 38	000	07/27/12	PT	31935	08/09/12	8	-8	709520038 - 112 Berwick Court	BROO	(
	OV	211164	70952	201666 LOT 38	000	05/11/12	PT	26807	05/17/12	181.25	-181.25	709520038 - 112 Berwick Court	BROO	(
	OV	211164	70952	201666 LOT 38	001	05/11/12	PT	26807	05/17/12	10.88	-10.88	709520038 - 112 Berwick Court	BROO	(
	OV	215013	70952	201700 LOT 38	000	08/01/12	PT	31935	08/09/12	2635	-2635	709520038 - 112 Berwick Court	BROO	(
	OV	215012	70952	201742 LOT 38	000	08/01/12	PT	31935	08/09/12	400	-400	709520038 - 112 Berwick Court	BROO	(
	OV	215541	70952	201727 LOT 38	000	08/16/12	PT	32837	08/23/12	477.7	-477.7	709520038 - 112 Berwick Court	BROO	(
	OV	215540	70952	201728 LOT 38	000	08/16/12	PT	32837	08/23/12	112.2	-112.2	709520038 - 112 Berwick Court	BROO	(
	OV	210565	70952	201072 41	000	03/15/12	PT	23226	03/22/12	325	-325	709520041 - 106 Berwick Court	BROO	(
	OV	210651	70952	201152 LOT 41	000	03/16/12	PT	23226	03/22/12	2374.9	-2374.9	709520041 - 106 Berwick Court	BROO	(
	OV	210564	70952	201075 41	000	03/15/12	PT	23226	03/22/12	181.25	-181.25	709520041 - 106 Berwick Court	BROO	(
	OV	210564	70952	201075 41	001	03/15/12	PT	23226	03/22/12	10.88	-10.88	709520041 - 106 Berwick Court	BROO	(
	OV	211089	70952	201109 41	000	05/10/12	PT	26807	05/17/12	2635	-2635	709520041 - 106 Berwick Court	BROO	(
	OV	211159	70952	201136 LOT 41	000	05/11/12	PT	26807	05/17/12	477.7	-477.7	709520041 - 106 Berwick Court	BROO	(
	OV	211158	70952	201137 LOT 41	000	05/11/12	PT	26807	05/17/12	112.2	-112.2	709520041 - 106 Berwick Court	BROO	(
	OV	220224	70953	70953-00220224	001	06/10/13	PT	59519	06/20/13	97.28	-97.28	709530196 - 10 Duxbury Lane	CYTH	(
	OV	220224	70953	70953-00220224	002	06/10/13	PT	59519	06/20/13	3686.85	-3686.85	709530196 - 10 Duxbury Lane	CYTH	(
	OV	219704	70953	70953-00219704	001	06/03/13	PT	57782	06/06/13	337.5	-337.5	709530196 - 10 Duxbury Lane	CYTH	(
	OV	219704	70953	70953-00219704	002	06/03/13	PT	57782	06/06/13	20.25	-20.25	709530196 - 10 Duxbury Lane	CYTH	(
	OV	223736	70953	70953-00000000	001	07/22/13	PT	63577	07/25/13	5010.39	-5010.39	709530196 - 10 Duxbury Lane	CYTH	(
	OV	228727	70953	201524 LOT 196	000	10/18/13	PT	74499	10/24/13	1275.01	-1275.01	709530196 - 10 Duxbury Lane	CYTH	(
	OV	228729	70953	3735333 LOT 196	000	10/18/13	PT	74499	10/24/13	1275	-1275	709530196 - 10 Duxbury Lane	CYTH	(

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	OV	226886	70953	201550 LOT 196	000	09/03/13	PT	68428	09/05/13	533.9	-533.9	709530196 - 10 Duxbury Lane	CYTH	(
	OV	226885	70953	201551 LOT 196	000	09/03/13	PT	68428	09/05/13	201.4	-201.4	709530196 - 10 Duxbury Lane	CYTH	(
	OV	234845	70953	70953-00234845	001	07/28/14	PT	112733	07/31/14	38	-38	709530198 - 6 Duxbury Lane	FIEL	(
	OV	234845	70953	70953-00234845	002	07/28/14	PT	112733	07/31/14	2710.24	-2710.24	709530198 - 6 Duxbury Lane	FIEL	(
	OV	234846	70953	70953-00234846	001	07/28/14	PT	112733	07/31/14	337.5	-337.5	709530198 - 6 Duxbury Lane	FIEL	(
	OV	234846	70953	70953-00234846	002	07/28/14	PT	112733	07/31/14	20.25	-20.25	709530198 - 6 Duxbury Lane	FIEL	(
	OV	231881	70953	70953-00231881	001	04/15/14	PT	96655	04/17/14	98.8	-98.8	709530200 - 2 Duxbury Lane	BROO	(
	OV	231881	70953	70953-00231881	002	04/15/14	PT	96655	04/17/14	38	-38	709530200 - 2 Duxbury Lane	BROO	(
	OV	231881	70953	70953-00231881	003	04/15/14	PT	96655	04/17/14	2643.68	-2643.68	709530200 - 2 Duxbury Lane	BROO	(
	OV	233803	70953	70953-00233803	001	06/24/14	PT	107076	06/26/14	307.8	-307.8	709530200 - 2 Duxbury Lane	BROO	(
	OV	232807	70953	70953-	001	05/13/14	PT	100839	05/15/14	4472.82	-4472.82	709530200 - 2 Duxbury Lane	BROO	(
	OV	233290	70953	37484740200	000	05/29/14	PK	647009	06/04/14	536.58	-536.58	709530200 - 2 Duxbury Lane	BROO	(
	OV	233283	70953	2022740200	000	05/28/14	PK	647009	06/04/14	2635	-2635	709530200 - 2 Duxbury Lane	BROO	(
	OV	233289	70953	37484730200	000	05/29/14	PK	647009	06/04/14	977.5	-977.5	709530200 - 2 Duxbury Lane	BROO	(
	OV	233127	70953	2023170200	000	05/25/14	PK	647009	06/04/14	400	-400	709530200 - 2 Duxbury Lane	BROO	(
	OV	233015	70953	70953-00233015	001	05/20/14	PT	101888	05/22/14	533.9	-533.9	709530200 - 2 Duxbury Lane	BROO	(
	OV	233288	70953	37484750200	000	05/29/14	PK	647009	06/04/14	459.8	-459.8	709530200 - 2 Duxbury Lane	BROO	(
	OV	233016	70953	70953-00233016	001	05/20/14	PT	101888	05/22/14	201.4	-201.4	709530200 - 2 Duxbury Lane	BROO	(
	OV	210042	70953	200041 201	000	11/14/11	PK	369787	11/18/11	1336.01	-1336.01	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210042	70953	200041 201	001	11/14/11	PK	369787	11/18/11	4163.94	-4163.94	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210009	70953	200007 201	001	10/17/11	PK	362193	10/20/11	16.88	-16.88	709530201 - 101 Sturbridge Court	FIEL	(

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	OV	210009	70953	200007 201	000	10/17/11	PK	362193	10/20/11	281.25	-281.25	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210007	70953	200088 201	002	10/17/11	PK	362193	10/20/11	2273.7	-2273.7	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210007	70953	200088 201	001	10/17/11	PK	362193	10/20/11	34	-34	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210007	70953	200088 201	000	10/17/11	PK	362193	10/20/11	19.55	-19.55	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210094	70953	3701466 201	000	12/13/11	PK	376084	12/16/11	250	-250	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210095	70953	3701463 201	000	12/13/11	PK	376084	12/16/11	12	-12	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210226	70953	3702292 LOT 201	002	05/23/12	PT	27534	05/31/12	2420.06	-2420.06	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210226	70953	3702292 LOT 201	001	05/23/12	PT	27534	05/31/12	456	-456	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210226	70953	3702292 LOT 201	000	05/23/12	PT	27534	05/31/12	129.4	-129.4	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210008	70953	200004 201	000	10/17/11	PK	362193	10/20/11	325	-325	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210041	70953	200091 201	000	11/14/11	PK	369787	11/18/11	400	-400	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210092	70953	200071 201	000	12/13/11	PK	376084	12/16/11	477.7	-477.7	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210092	70953	200071 201	001	12/13/11	PK	376084	12/16/11	442	-442	709530201 - 101 Sturbridge Court	FIEL	(
	OV	210093	70953	200072 201	000	12/13/11	PK	376084	12/16/11	180.2	-180.2	709530201 - 101 Sturbridge Court	FIEL	(
	OV	233484	70953	70953-00233484	001	06/10/14	PT	104887	06/12/14	38	-38	709530242 - 5 Kettering Court	BROO	(
	OV	233484	70953	70953-00233484	002	06/10/14	PT	104887	06/12/14	2643.68	-2643.68	709530242 - 5 Kettering Court	BROO	(
	OV	233361	70953	70953-00233361	001	06/03/14	PK	647009	06/04/14	217.5	-217.5	709530242 - 5 Kettering Court	BROO	(
	OV	233361	70953	70953-00233361	002	06/03/14	PK	647009	06/04/14	13.05	-13.05	709530242 - 5 Kettering Court	BROO	(
	OV	234850	70953	70953-	001	07/28/14	PT	112733	07/31/14	2003.76	-2003.76	709530242 - 5 Kettering Court	BROO	(
	OV	234850	70953	70953-	002	07/28/14	PT	112733	07/31/14	2003.76	-2003.76	709530242 - 5 Kettering Court	BROO	(
	OV	234850	70953	70953-	003	07/28/14	PT	112733	07/31/14	4472.82	-4472.82	709530242 - 5 Kettering Court	BROO	(
	OV	228069	70953	70953-00228069	002	09/30/13	PT	72677	10/10/13	3686.85	-3686.85	709530243 - 7 Kettering Court	CYTH	(
	OV	228069	70953	70953-00228069	001	09/30/13	PT	72677	10/10/13	97.28	-97.28	709530243 - 7 Kettering Court	CYTH	(
	OV	227757	70953	70953-00227757	002	09/23/13	PT	72677	10/10/13	20.25	-20.25	709530243 - 7 Kettering Court	CYTH	(

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	OV	227757	70953	70953-00227757	001	09/23/13	PT	72677	10/10/13	337.5	-337.5	709530243 - 7 Kettering Court	CYTH	(
	OV	229646	70953	70953-	004	11/25/13	PT	79436	12/05/13	3376.89	-3376.89	709530243 - 7 Kettering Court	CYTH	(
	OV	229646	70953	70953-	003	11/25/13	PT	79436	12/05/13	225.72	-225.72	709530243 - 7 Kettering Court	CYTH	(
	OV	229646	70953	70953-	002	11/25/13	PT	79436	12/05/13	247.5	-247.5	709530243 - 7 Kettering Court	CYTH	(
	OV	229646	70953	70953-	001	11/25/13	PT	79436	12/05/13	1389.96	-1389.96	709530243 - 7 Kettering Court	CYTH	(
	OV	229575	70953	3737333 0243	000	11/19/13	PT	77788	11/21/13	1135.53	-1135.53	709530243 - 7 Kettering Court	CYTH	(
	OV	230380	70953	202019 LOT 243	000	01/14/14	PT	84470	01/16/14	400	-400	709530243 - 7 Kettering Court	CYTH	(
	OV	230540	70953	37394300243	000	02/10/14	PT	87786	02/13/14	746.7	-746.7	709530243 - 7 Kettering Court	CYTH	(
	OV	230087	70953	202003 LOT 243	000	12/16/13	PT	81475	12/19/13	533.9	-533.9	709530243 - 7 Kettering Court	CYTH	(
	OV	230087	70953	202003 LOT 243	001	12/16/13	PT	81475	12/19/13	494	-494	709530243 - 7 Kettering Court	CYTH	(
	OV	230086	70953	202004 LOT 243	000	12/16/13	PT	81475	12/19/13	201.4	-201.4	709530243 - 7 Kettering Court	CYTH	(
	OV	219429	70953	201451 LOT 244	000	05/28/13	PT	57782	06/06/13	21.76	-21.76	709530244 - 9 Kettering Court	MCDA	(
	OV	219429	70953	201451 LOT 244	001	05/28/13	PT	57782	06/06/13	38	-38	709530244 - 9 Kettering Court	MCDA	(
	OV	219429	70953	201451 LOT 244	002	05/28/13	PT	57782	06/06/13	3295.2	-3295.2	709530244 - 9 Kettering Court	MCDA	(
	OV	218539	70953	70953-00218539	001	05/21/13	PT	56168	05/23/13	307.5	-307.5	709530244 - 9 Kettering Court	MCDA	(
	OV	218539	70953	70953-00218539	002	05/21/13	PT	56168	05/23/13	18.45	-18.45	709530244 - 9 Kettering Court	MCDA	(
	OV	223197	70953	70953-	001	07/15/13	PT	63577	07/25/13	2183.94	-2183.94	709530244 - 9 Kettering Court	MCDA	(
	OV	223197	70953	70953-	002	07/15/13	PT	63577	07/25/13	5197.5	-5197.5	709530244 - 9 Kettering Court	MCDA	(
	OV	228725	70953	201412 LOT 244	000	10/18/13	PT	74499	10/24/13	1020	-1020	709530244 - 9 Kettering Court	MCDA	(
	PD	229958	70953	3738783 LOT 244	000	12/09/13	PT	81475	12/19/13	-250	250	709530244 - 9 Kettering Court	MCDA	(
	OV	226040	70953	201439 LOT 244	000	08/23/13	PT	67554	08/29/13	533.9	-533.9	709530244 - 9 Kettering Court	MCDA	(

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	OV	226039	70953	201440 LOT 244	000	08/23/13	PT	67554	08/29/13	201.4	-201.4	709530244 - 9 Kettering Court	MCDA	(
	OV	217881	70953	70953-00217881	001	05/15/13	PT	56168	05/23/13	34	-34	709530245 - 11 Kettering Court	BROO	(
	OV	217881	70953	70953-00217881	002	05/15/13	PT	56168	05/23/13	2374.9	-2374.9	709530245 - 11 Kettering Court	BROO	(
	OV	220474	70953	3728084 LOT 245	000	06/14/13	PT	59519	06/20/13	12	-12	709530245 - 11 Kettering Court	BROO	(
	OV	216641	70953	70953-00216641	001	04/29/13	PT	54950	05/09/13	181.25	-181.25	709530245 - 11 Kettering Court	BROO	(
	OV	216641	70953	70953-00216641	002	04/29/13	PT	54950	05/09/13	10.88	-10.88	709530245 - 11 Kettering Court	BROO	(
	OV	224056	70953	3729861 LOT 245	000	07/23/13	PT	63577	07/25/13	734.58	-734.58	709530245 - 11 Kettering Court	BROO	(
	OV	226481	70953	200801 LOT 245	000	08/27/13	PT	67554	08/29/13	2048.5	-2048.5	709530245 - 11 Kettering Court	BROO	(
	OV	226480	70953	200840 LOT 245	000	08/27/13	PT	67554	08/29/13	400	-400	709530245 - 11 Kettering Court	BROO	(
	OV	224051	70953	3729860 LOT 245	000	07/23/13	PT	63577	07/25/13	77.4	-77.4	709530245 - 11 Kettering Court	BROO	(
	OV	222337	70953	200826 LOT 245	000	07/05/13	PT	61954	07/11/13	477.7	-477.7	709530245 - 11 Kettering Court	BROO	(
	OV	222336	70953	200827 LOT 245	000	07/05/13	PT	61954	07/11/13	180.2	-180.2	709530245 - 11 Kettering Court	BROO	(
	OV	216645	70953	70953-00216645	001	04/29/13	PT	54950	05/09/13	335	-335	709530246 - 15 Kettering Court	BLAK	(
	OV	216645	70953	70953-00216645	002	04/29/13	PT	54950	05/09/13	3773.95	-3773.95	709530246 - 15 Kettering Court	BLAK	(
	OV	233641	70953	70953-00233641	001	06/17/14	PT	105886	06/19/14	364.8	-364.8	709530246 - 15 Kettering Court	BLAK	(
	OV	216092	70953	70953-00216092	001	04/22/13	PT	54950	05/09/13	293.75	-293.75	709530246 - 15 Kettering Court	BLAK	(
	OV	216092	70953	70953-00216092	002	04/22/13	PT	54950	05/09/13	17.63	-17.63	709530246 - 15 Kettering Court	BLAK	(
	OV	224050	70953	3729855 LOT 246	000	07/23/13	PT	63577	07/25/13	1056.83	-1056.83	709530246 - 15 Kettering Court	BLAK	(
	OV	221446	70953	70953-	001	06/24/13	PT	61954	07/11/13	890.51	-890.51	709530246 - 15 Kettering Court	BLAK	(
	OV	221446	70953	70953-	002	06/24/13	PT	61954	07/11/13	3517.47	-3517.47	709530246 - 15 Kettering Court	BLAK	(
	OV	226478	70953	200946 LOT 246	000	08/27/13	PT	67554	08/29/13	400	-400	709530246 - 15 Kettering Court	BLAK	(
	OV	230539	70953	37394310246	000	02/10/14	PT	87786	02/13/14	500	-500	709530246 - 15 Kettering Court	BLAK	(

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	OV	224052	70953	3729860 LOT 246	000	07/23/13	PT	63577	07/25/13	869.4	-869.4	709530246 - 15 Kettering Court	BLAK	(C)
	OV	222333	70953	200934 LOT 246	000	07/05/13	PT	61954	07/11/13	477.7	-477.7	709530246 - 15 Kettering Court	BLAK	(C)
	OV	234751	70953	37520210246	000	07/23/14	PT	112733	07/31/14	635.2	-635.2	709530246 - 15 Kettering Court	BLAK	(C)
	OV	227279	70953	3733146 LOT 248	000	09/13/13	PT	70154	09/19/13	1000	-1000	709530248 - 19 Kettering Court	WSLY	(C)
	OV	223742	70953	70953-00223742	001	07/22/13	PT	63577	07/25/13	38	-38	709530248 - 19 Kettering Court	WSLY	(C)
	OV	223742	70953	70953-00223742	002	07/22/13	PT	63577	07/25/13	3329.76	-3329.76	709530248 - 19 Kettering Court	WSLY	(C)
	OV	223203	70953	70953-00223203	001	07/15/13	PT	63577	07/25/13	315	-315	709530248 - 19 Kettering Court	WSLY	(C)
	OV	223203	70953	70953-00223203	002	07/15/13	PT	63577	07/25/13	18.9	-18.9	709530248 - 19 Kettering Court	WSLY	(C)
	OV	227436	70953	70953-	001	09/16/13	PT	70154	09/19/13	1245.92	-1245.92	709530248 - 19 Kettering Court	WSLY	(C)
	OV	227436	70953	70953-	002	09/16/13	PT	70154	09/19/13	6817.64	-6817.64	709530248 - 19 Kettering Court	WSLY	(C)
	OV	226044	70953	3732114 LOT 249	000	08/23/13	PT	67554	08/29/13	400	-400	709530249 - 16 Kettering Court	BROO	(C)
	OV	225789	70953	70953-00225789	001	08/19/13	PT	66924	08/22/13	114	-114	709530249 - 16 Kettering Court	BROO	(C)
	OV	225789	70953	70953-00225789	002	08/19/13	PT	66924	08/22/13	38	-38	709530249 - 16 Kettering Court	BROO	(C)
	OV	225789	70953	70953-00225789	003	08/19/13	PT	66924	08/22/13	2643.68	-2643.68	709530249 - 16 Kettering Court	BROO	(C)
	OV	225300	70953	70953-00225300	001	08/12/13	PT	66924	08/22/13	217.5	-217.5	709530249 - 16 Kettering Court	BROO	(C)
	OV	225300	70953	70953-00225300	002	08/12/13	PT	66924	08/22/13	13.05	-13.05	709530249 - 16 Kettering Court	BROO	(C)
	OV	228726	70953	201848 LOT 249	000	10/18/13	PT	74499	10/24/13	1048.41	-1048.41	709530249 - 16 Kettering Court	BROO	(C)
	OV	228726	70953	201848 LOT 249	001	10/18/13	PT	74499	10/24/13	4472.82	-4472.82	709530249 - 16 Kettering Court	BROO	(C)
	OV	228724	70953	3736065 LOT 249	000	10/18/13	PT	74499	10/24/13	626.67	-626.67	709530249 - 16 Kettering Court	BROO	(C)
	OV	229846	70953	201851 LOT 249	000	12/03/13	PT	79436	12/05/13	1853	-1853	709530249 - 16 Kettering Court	BROO	(C)
	OV	229845	70953	201893 LOT 249	000	12/03/13	PT	79436	12/05/13	400	-400	709530249 - 16 Kettering Court	BROO	(C)

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	OV	228719	70953	201876 LOT 249	000	10/18/13	PT	74499	10/24/13	533.9	-533.9	709530249 - 16 Kettering Court	BROO	(
	OV	228721	70953	201877 LOT 249	000	10/18/13	PT	74499	10/24/13	201.4	-201.4	709530249 - 16 Kettering Court	BROO	(
	OV	219169	70953	70953-00219169	001	05/28/13	PT	57782	06/06/13	19.55	-19.55	709530253 - 8 Kettering Court	FIEL	(
	OV	219169	70953	70953-00219169	002	05/28/13	PT	57782	06/06/13	20.4	-20.4	709530253 - 8 Kettering Court	FIEL	(
	OV	219169	70953	70953-00219169	003	05/28/13	PT	57782	06/06/13	34	-34	709530253 - 8 Kettering Court	FIEL	(
	OV	219169	70953	70953-00219169	004	05/28/13	PT	57782	06/06/13	2273.7	-2273.7	709530253 - 8 Kettering Court	FIEL	(
	OV	219169	70953	70953-00219169	005	05/28/13	PT	57782	06/06/13	203.55	-203.55	709530253 - 8 Kettering Court	FIEL	(
	OV	218549	70953	70953-00218549	001	05/21/13	PT	56168	05/23/13	281.25	-281.25	709530253 - 8 Kettering Court	FIEL	(
	OV	218549	70953	70953-00218549	002	05/21/13	PT	56168	05/23/13	16.88	-16.88	709530253 - 8 Kettering Court	FIEL	(
	OV	218549	70953	70953-00218549	003	05/21/13	PT	56168	05/23/13	18.75	-18.75	709530253 - 8 Kettering Court	FIEL	(
	OV	218549	70953	70953-00218549	004	05/21/13	PT	56168	05/23/13	1.13	-1.13	709530253 - 8 Kettering Court	FIEL	(
	OV	222052	70953	70953-0022052	001	07/01/13	PT	61954	07/11/13	1336.01	-1336.01	709530253 - 8 Kettering Court	FIEL	(
	OV	222052	70953	70953-0022052	002	07/01/13	PT	61954	07/11/13	2340.86	-2340.86	709530253 - 8 Kettering Court	FIEL	(
	OV	222052	70953	70953-0022052	003	07/01/13	PT	61954	07/11/13	225.72	-225.72	709530253 - 8 Kettering Court	FIEL	(
	OV	222052	70953	70953-0022052	004	07/01/13	PT	61954	07/11/13	5411.34	-5411.34	709530253 - 8 Kettering Court	FIEL	(
	OV	226042	70953	3732041 LOT 253	000	08/23/13	PT	67554	08/29/13	249.48	-249.48	709530253 - 8 Kettering Court	FIEL	(
	OV	224047	70953	201215 LOT 253	000	07/23/13	PT	63577	07/25/13	477.7	-477.7	709530253 - 8 Kettering Court	FIEL	(
	OV	224047	70953	201215 LOT 253	001	07/23/13	PT	63577	07/25/13	158.1	-158.1	709530253 - 8 Kettering Court	FIEL	(
	OV	224047	70953	201215 LOT 253	002	07/23/13	PT	63577	07/25/13	102	-102	709530253 - 8 Kettering Court	FIEL	(
	OV	224049	70953	3729527 LOT 253	000	07/23/13	PT	63577	07/25/13	181.6	-181.6	709530253 - 8 Kettering Court	FIEL	(
	OV	224053	70953	3729860 LOT 253	000	07/23/13	PT	63577	07/25/13	182.22	-182.22	709530253 - 8 Kettering Court	FIEL	(

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	OV	226041	70953	3732040 LOT 253	000	08/23/13	PT	67554	08/29/13	771.25	-771.25	709530253 - 8 Kettering Court	FIEL	(
	OV	224046	70953	201216 LOT 253	000	07/23/13	PT	63577	07/25/13	180.2	-180.2	709530253 - 8 Kettering Court	FIEL	(
	OV	231089	70953	70953-00231089	001	03/10/14	PT	91763	03/13/14	38	-38	709530254 - 6 Kettering Court	FIEL	(
	OV	231089	70953	70953-00231089	002	03/10/14	PT	91763	03/13/14	2710.24	-2710.24	709530254 - 6 Kettering Court	FIEL	(
	OV	231089	70953	70953-00231089	003	03/10/14	PT	91763	03/13/14	226.56	-226.56	709530254 - 6 Kettering Court	FIEL	(
	OV	230887	70953	70953-00230887	001	02/24/14	PT	89669	02/27/14	337.5	-337.5	709530254 - 6 Kettering Court	FIEL	(
	OV	230887	70953	70953-00230887	002	02/24/14	PT	89669	02/27/14	20.25	-20.25	709530254 - 6 Kettering Court	FIEL	(
	OV	230887	70953	70953-00230887	003	02/24/14	PT	89669	02/27/14	22.5	-22.5	709530254 - 6 Kettering Court	FIEL	(
	OV	230887	70953	70953-00230887	004	02/24/14	PT	89669	02/27/14	1.35	-1.35	709530254 - 6 Kettering Court	FIEL	(
	OV	232219	70953	2021650254	000	04/23/14	PT	98843	05/01/14	4163.94	-4163.94	709530254 - 6 Kettering Court	FIEL	(
	OV	233284	70953	2021150254	000	05/28/14	PK	647009	06/04/14	2635	-2635	709530254 - 6 Kettering Court	FIEL	(
	OV	233126	70953	2021580254	000	05/25/14	PK	647009	06/04/14	400	-400	709530254 - 6 Kettering Court	FIEL	(
	OV	232576	70953	70953-00232576	001	05/05/14	PT	99831	05/08/14	533.9	-533.9	709530254 - 6 Kettering Court	FIEL	(
	OV	232576	70953	70953-00232576	002	05/05/14	PT	99831	05/08/14	494	-494	709530254 - 6 Kettering Court	FIEL	(
	OV	232576	70953	70953-00232576	003	05/05/14	PT	99831	05/08/14	114	-114	709530254 - 6 Kettering Court	FIEL	(
	OV	232577	70953	70953-00232577	001	05/05/14	PT	99831	05/08/14	201.4	-201.4	709530254 - 6 Kettering Court	FIEL	(
	OV	234134	70953	37500110254	000	07/02/14	PT	109061	07/10/14	400	-400	709530254 - 6 Kettering Court	FIEL	(
	OV	223211	70953	70953-00223211	003	07/15/13	PT	63577	07/25/13	2710.24	-2710.24	709530255 - 4 Kettering Court	FIEL	(
	OV	223211	70953	70953-00223211	002	07/15/13	PT	63577	07/25/13	38	-38	709530255 - 4 Kettering Court	FIEL	(
	OV	223211	70953	70953-00223211	001	07/15/13	PT	63577	07/25/13	21.76	-21.76	709530255 - 4 Kettering Court	FIEL	(
	OV	222054	70953	70953-00222054	001	07/01/13	PT	61954	07/11/13	337.5	-337.5	709530255 - 4 Kettering Court	FIEL	(

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	OV	222054	70953	70953-00222054	002	07/01/13	PT	61954	07/11/13	20.25	-20.25	709530255 - 4 Kettering Court	FIEL	(
	OV	226277	70953	70953-	001	08/26/13	PT	67554	08/29/13	6438.96	-6438.96	709530255 - 4 Kettering Court	FIEL	(
	OV	228731	70953	3734746 LOT 255	000	10/18/13	PT	74499	10/24/13	3124.44	-3124.44	709530255 - 4 Kettering Court	FIEL	(
	OV	228728	70953	3736053 LOT 255	000	10/18/13	PT	74499	10/24/13	1750	-1750	709530255 - 4 Kettering Court	FIEL	(
	OV	229848	70953	202040 0255	000	12/03/13	PT	79436	12/05/13	2635	-2635	709530255 - 4 Kettering Court	FIEL	(
	OV	227938	70953	201758 LOT 255	001	09/27/13	PT	72677	10/10/13	494	-494	709530255 - 4 Kettering Court	FIEL	(
	OV	227938	70953	201758 LOT 255	000	09/27/13	PT	72677	10/10/13	533.9	-533.9	709530255 - 4 Kettering Court	FIEL	(
	OV	231095	70953	70953-00231095	001	03/10/14	PT	91763	03/13/14	201.4	-201.4	709530255 - 4 Kettering Court	FIEL	(
	OV	228730	70953	3735132 LOT 255	000	10/18/13	PT	74499	10/24/13	285	-285	709530255 - 4 Kettering Court	FIEL	(
	OV	224575	70953	3730752 LOT 256	000	08/02/13	PT	65246	08/08/13	1400	-1400	709530256 - 2 Kettering Court	BROO	(
	OV	225306	70953	70953-00225306	001	08/12/13	PT	66924	08/22/13	45.6	-45.6	709530256 - 2 Kettering Court	BROO	(
	OV	225306	70953	70953-00225306	002	08/12/13	PT	66924	08/22/13	-45.6	45.6	709530256 - 2 Kettering Court	BROO	(
	OV	225306	70953	70953-00225306	003	08/12/13	PT	66924	08/22/13	253.65	-253.65	709530256 - 2 Kettering Court	BROO	(
	OV	225306	70953	70953-00225306	004	08/12/13	PT	66924	08/22/13	38	-38	709530256 - 2 Kettering Court	BROO	(
	OV	225306	70953	70953-00225306	005	08/12/13	PT	66924	08/22/13	1856.25	-1856.25	709530256 - 2 Kettering Court	BROO	(
	OV	225306	70953	70953-00225306	006	08/12/13	PT	66924	08/22/13	38	-38	709530256 - 2 Kettering Court	BROO	(
	OV	225306	70953	70953-00225306	007	08/12/13	PT	66924	08/22/13	2643.68	-2643.68	709530256 - 2 Kettering Court	BROO	(
	OV	225306	70953	70953-00225306	008	08/12/13	PT	66924	08/22/13	-38	38	709530256 - 2 Kettering Court	BROO	(
	OV	225306	70953	70953-00225306	009	08/12/13	PT	66924	08/22/13	-2643.68	2643.68	709530256 - 2 Kettering Court	BROO	(
	OV	227078	70953	70953-00227078	001	09/09/13	PT	70154	09/19/13	90	-90	709530256 - 2 Kettering Court	BROO	(
	OV	227078	70953	70953-00227078	002	09/09/13	PT	70154	09/19/13	5.4	-5.4	709530256 - 2 Kettering Court	BROO	(
	OV	210454	70953	200225 261	000	06/22/12	PT	29431	06/28/12	325	-325	709530261 - 9 Dartford Court	LENO	(

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	OV	210317	70953	70953-00210317	001	06/18/12	PT	29431	06/28/12	34	-34	709530261 - 9 Dartford Court	LENO	(
	OV	210317	70953	70953-00210317	002	06/18/12	PT	29431	06/28/12	3166.1	-3166.1	709530261 - 9 Dartford Court	LENO	(
	OV	211654	70953	3717189 LOT 261	000	10/25/12	PT	37782	11/01/12	112.4	-112.4	709530261 - 9 Dartford Court	LENO	(
	OV	210878	70953	3710764 LOT 261	000	07/27/12	PT	31935	08/09/12	12	-12	709530261 - 9 Dartford Court	LENO	(
	OV	210318	70953	70953-00210318	001	06/18/12	PT	29431	06/28/12	256.25	-256.25	709530261 - 9 Dartford Court	LENO	(
	OV	210318	70953	70953-00210318	002	06/18/12	PT	29431	06/28/12	15.38	-15.38	709530261 - 9 Dartford Court	LENO	(
	OV	211481	70953	70953-	001	09/27/12	PT	35766	10/04/12	1013.27	-1013.27	709530261 - 9 Dartford Court	LENO	(
	OV	211481	70953	70953-	002	09/27/12	PT	35766	10/04/12	5761.8	-5761.8	709530261 - 9 Dartford Court	LENO	(
	OV	211577	70953	200266 261	000	10/16/12	PT	36633	10/18/12	1963.5	-1963.5	709530261 - 9 Dartford Court	LENO	(
	OV	211576	70953	200304 261	000	10/16/12	PT	36633	10/18/12	400	-400	709530261 - 9 Dartford Court	LENO	(
	OV	211570	70953	200293 LOT 261	000	10/12/12	PT	36633	10/18/12	775.2	-775.2	709530261 - 9 Dartford Court	LENO	(
	OV	211569	70953	200294 LOT 261	000	10/12/12	PT	36633	10/18/12	180.2	-180.2	709530261 - 9 Dartford Court	LENO	(
	OV	215062	70953	3722807 LOT 261	000	04/02/13	PT	51390	04/04/13	75	-75	709530261 - 9 Dartford Court	LENO	(
	OV	220472	70953	3727874 LOT 262	000	06/14/13	PT	59519	06/20/13	300	-300	709530262 - 8 Dartford Court	FIEL	(
	OV	220476	70953	3728084 LOT 262	000	06/14/13	PT	59519	06/20/13	15.2	-15.2	709530262 - 8 Dartford Court	FIEL	(
	OV	217256	70953	70953-00217256	001	05/06/13	PT	54950	05/09/13	19.55	-19.55	709530262 - 8 Dartford Court	FIEL	(
	OV	217256	70953	70953-00217256	002	05/06/13	PT	54950	05/09/13	34	-34	709530262 - 8 Dartford Court	FIEL	(
	OV	217256	70953	70953-00217256	003	05/06/13	PT	54950	05/09/13	2300.9	-2300.9	709530262 - 8 Dartford Court	FIEL	(
	OV	216658	70953	70953-00216658	001	04/29/13	PT	54950	05/09/13	281.25	-281.25	709530262 - 8 Dartford Court	FIEL	(
	OV	216658	70953	70953-00216658	002	04/29/13	PT	54950	05/09/13	16.88	-16.88	709530262 - 8 Dartford Court	FIEL	(
	OV	219720	70953	70953-	001	06/03/13	PT	57782	06/06/13	1848.83	-1848.83	709530262 - 8 Dartford Court	FIEL	(
	OV	219720	70953	70953-	002	06/03/13	PT	57782	06/06/13	5411.34	-5411.34	709530262 - 8 Dartford Court	FIEL	(

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	OV	222882	70953	3728697 LOT 262	000	07/08/13	PT	61954	07/11/13	253.93	-253.93	709530262 - 8 Dartford Court	FIEL	(
	OV	226479	70953	201136 LOT 262	000	08/27/13	PT	67554	08/29/13	400	-400	709530262 - 8 Dartford Court	FIEL	(
	OV	224054	70953	3729860 LOT 262	000	07/23/13	PT	63577	07/25/13	120.15	-120.15	709530262 - 8 Dartford Court	FIEL	(
	OV	222331	70953	201123 LOT 262	000	07/05/13	PT	61954	07/11/13	477.7	-477.7	709530262 - 8 Dartford Court	FIEL	(
	OV	222332	70953	201124 LOT 262	000	07/05/13	PT	61954	07/11/13	180.2	-180.2	709530262 - 8 Dartford Court	FIEL	(
	OV	215775	70953	3725924 LOT 263	000	04/16/13	PT	52710	04/18/13	325	-325	709530263 - 6 Dartford Court	WSLY	(
	OV	222884	70953	3728698 LOT 263	000	07/08/13	PT	61954	07/11/13	202	-202	709530263 - 6 Dartford Court	WSLY	(
	OV	214650	70953	70953-00214650	001	03/25/13	PT	51390	04/04/13	34	-34	709530263 - 6 Dartford Court	WSLY	(
	OV	214650	70953	70953-00214650	002	03/25/13	PT	51390	04/04/13	2991.3	-2991.3	709530263 - 6 Dartford Court	WSLY	(
	OV	214147	70953	70953-00214147	001	03/11/13	PT	49582	03/21/13	262.5	-262.5	709530263 - 6 Dartford Court	WSLY	(
	OV	214147	70953	70953-00214147	002	03/11/13	PT	49582	03/21/13	15.75	-15.75	709530263 - 6 Dartford Court	WSLY	(
	OV	220473	70953	3727882 LOT 263	000	06/14/13	PT	59519	06/20/13	2728.44	-2728.44	709530263 - 6 Dartford Court	WSLY	(
	OV	215575	70953	70953-00015575	001	04/15/13	PT	52710	04/18/13	5013.36	-5013.36	709530263 - 6 Dartford Court	WSLY	(
	OV	218833	70953	200675 LOT 263	000	05/21/13	PT	56168	05/23/13	382.5	-382.5	709530263 - 6 Dartford Court	WSLY	(
	OV	224048	70953	3729526 LOT 263	000	07/23/13	PT	63577	07/25/13	102	-102	709530263 - 6 Dartford Court	WSLY	(
	OV	218834	70953	200714 LOT 263	000	05/21/13	PT	56168	05/23/13	400	-400	709530263 - 6 Dartford Court	WSLY	(
	OV	220471	70953	200699 LOT 263	000	06/14/13	PT	59519	06/20/13	477.7	-477.7	709530263 - 6 Dartford Court	WSLY	(
	OV	222881	70953	3728699 LOT 263	000	07/08/13	PT	61954	07/11/13	377.6	-377.6	709530263 - 6 Dartford Court	WSLY	(
	OV	220470	70953	200700 LOT 263	000	06/14/13	PT	59519	06/20/13	180.2	-180.2	709530263 - 6 Dartford Court	WSLY	(
	OV	210125	70953	200113 264	000	02/17/12	PT	21742	02/23/12	325	-325	709530264 - 4 Dartford Court	FIEL	(
	OV	210123	70953	200190 LOT 264	000	02/16/12	PT	21742	02/23/12	19.55	-19.55	709530264 - 4 Dartford Court	FIEL	(
	OV	210123	70953	200190 LOT 264	001	02/16/12	PT	21742	02/23/12	34	-34	709530264 - 4 Dartford Court	FIEL	(

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	OV	210123	70953	200190 LOT 264	002	02/16/12	PT	21742	02/23/12	2434.7	-2434.7	709530264 - 4 Dartford Court	FIEL	(
	OV	210879	70953	3710700 LOT 264	000	07/27/12	PT	31935	08/09/12	813.95	-813.95	709530264 - 4 Dartford Court	FIEL	(
	OV	210124	70953	200116 264	000	02/17/12	PT	21742	02/23/12	281.25	-281.25	709530264 - 4 Dartford Court	FIEL	(
	OV	210124	70953	200116 264	001	02/17/12	PT	21742	02/23/12	16.88	-16.88	709530264 - 4 Dartford Court	FIEL	(
	OV	211567	70953	3716565 LOT 264	000	10/12/12	PT	36633	10/18/12	382.61	-382.61	709530264 - 4 Dartford Court	FIEL	(
	OV	210150	70953	200202 264	000	03/15/12	PT	23226	03/22/12	4163.94	-4163.94	709530264 - 4 Dartford Court	FIEL	(
	OV	210955	70953	3710691 LOT 264	000	08/01/12	PT	31935	08/09/12	1974.06	-1974.06	709530264 - 4 Dartford Court	FIEL	(
	OV	210954	70953	3710703 LOT 264	000	08/01/12	PT	31935	08/09/12	250	-250	709530264 - 4 Dartford Court	FIEL	(
	OV	210148	70953	200152 264	000	03/15/12	PT	23226	03/22/12	2635	-2635	709530264 - 4 Dartford Court	FIEL	(
	OV	210149	70953	200193 264	000	03/15/12	PT	23226	03/22/12	400	-400	709530264 - 4 Dartford Court	FIEL	(
	OV	211568	70953	200179 LOT 264	000	10/12/12	PT	36633	10/18/12	477.7	-477.7	709530264 - 4 Dartford Court	FIEL	(
	OV	211568	70953	200179 LOT 264	001	10/12/12	PT	36633	10/18/12	76.5	-76.5	709530264 - 4 Dartford Court	FIEL	(
	OV	211568	70953	200179 LOT 264	002	10/12/12	PT	36633	10/18/12	442	-442	709530264 - 4 Dartford Court	FIEL	(
	OV	212672	70953	70953-	001	01/22/13	PT	44169	01/24/13	325	-325	709530265 - 2 Dartford Court	BROO	(
	OV	212716	70953	3720948 LOT 265	000	01/28/13	PT	45137	02/07/13	350	-350	709530265 - 2 Dartford Court	BROO	(
	OV	212624	70953	3720225 LOT 265	000	01/18/13	PT	44169	01/24/13	300	-300	709530265 - 2 Dartford Court	BROO	(
	OV	212756	70953	70953-00212756	001	01/29/13	PT	45137	02/07/13	34	-34	709530265 - 2 Dartford Court	BROO	(
	OV	212756	70953	70953-00212756	002	01/29/13	PT	45137	02/07/13	2374.9	-2374.9	709530265 - 2 Dartford Court	BROO	(
	OV	212580	70953	70953-00212580	001	01/14/13	PT	44169	01/24/13	181.25	-181.25	709530265 - 2 Dartford Court	BROO	(
	OV	212580	70953	70953-00212580	002	01/14/13	PT	44169	01/24/13	10.88	-10.88	709530265 - 2 Dartford Court	BROO	(
	OV	217901	70953	70953-00217901	001	05/15/13	PT	56168	05/23/13	578	-578	709530266 - 104 Sturbridge Court	WSLY	(
	OV	217901	70953	70953-00217901	002	05/15/13	PT	56168	05/23/13	34	-34	709530266 - 104 Sturbridge Court	WSLY	(

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	OV	217901	70953	70953-00217901	003	05/15/13	PT	56168	05/23/13	2991.3	-2991.3	709530266 - 104 Sturbridge Court	WSLY	(
	OV	217263	70953	70953-00217263	001	05/06/13	PT	54950	05/09/13	262.5	-262.5	709530266 - 104 Sturbridge Court	WSLY	(
	OV	217263	70953	70953-00217263	002	05/06/13	PT	54950	05/09/13	15.75	-15.75	709530266 - 104 Sturbridge Court	WSLY	(
	OV	212409	70959	70959-00212409	001	06/03/14	PK	647009	06/04/14	38	-38	709590045 - 501 CARDIFF CT	BROO	(
	OV	212409	70959	70959-00212409	002	06/03/14	PK	647009	06/04/14	2643.68	-2643.68	709590045 - 501 CARDIFF CT	BROO	(
	OV	210997	70959	70959-00210997	001	05/20/14	PT	101888	05/22/14	217.5	-217.5	709590045 - 501 CARDIFF CT	BROO	(
	OV	210997	70959	70959-00210997	002	05/20/14	PT	101888	05/22/14	13.05	-13.05	709590045 - 501 CARDIFF CT	BROO	(
	OV	215231	70959	70959-	001	07/01/14	PT	108137	07/02/14	903.87	-903.87	709590045 - 501 CARDIFF CT	BROO	(
	OV	217673	70959	37520160045	000	07/23/14	PT	112733	07/31/14	105.93	-105.93	709590045 - 501 CARDIFF CT	BROO	(
	OV	218233	70959	37525730045	000	07/30/14	PT	113457	08/07/14	156.75	-156.75	709590045 - 501 CARDIFF CT	BROO	(
	OV	217302	70959	70959-00217302	001	07/21/14	PT	111403	07/24/14	533.9	-533.9	709590045 - 501 CARDIFF CT	BROO	(
	OV	216650	70959	70959-00216650	001	07/14/14	PT	110515	07/17/14	125.4	-125.4	709590045 - 501 CARDIFF CT	BROO	(
	OV	213085	70959	70959-00213085	001	06/10/14	PT	104887	06/12/14	21.76	-21.76	709590047 - 505 CARDIFF CT	FIEL	(
	OV	213085	70959	70959-00213085	002	06/10/14	PT	104887	06/12/14	38	-38	709590047 - 505 CARDIFF CT	FIEL	(
	OV	213085	70959	70959-00213085	003	06/10/14	PT	104887	06/12/14	2664.04	-2664.04	709590047 - 505 CARDIFF CT	FIEL	(
	OV	211726	70959	70959-00211726	001	05/27/14	PT	102779	05/29/14	337.5	-337.5	709590047 - 505 CARDIFF CT	FIEL	(
	OV	211726	70959	70959-00211726	002	05/27/14	PT	102779	05/29/14	20.25	-20.25	709590047 - 505 CARDIFF CT	FIEL	(
	OV	216654	70959	70959-	001	07/14/14	PT	110515	07/17/14	579.15	-579.15	709590047 - 505 CARDIFF CT	FIEL	(
	OV	217904	70959	70959-00217904	001	07/28/14	PT	112733	07/31/14	217.5	-217.5	709590048 - 507 CARDIFF CT	BROO	(
	OV	217904	70959	70959-00217904	002	07/28/14	PT	112733	07/31/14	13.05	-13.05	709590048 - 507 CARDIFF CT	BROO	(
	OV	213096	70959	70959-00213096	002	06/10/14	PT	104887	06/12/14	2643.68	-2643.68	709590049 - 509 CARDIFF CT	BROO	(
	OV	213096	70959	70959-00213096	001	06/10/14	PT	104887	06/12/14	38	-38	709590049 - 509 CARDIFF CT	BROO	(
	OV	211738	70959	70959-00211738	001	05/27/14	PT	102779	05/29/14	217.5	-217.5	709590049 - 509 CARDIFF CT	BROO	(

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	OV	211738	70959	70959-00211738	002	05/27/14	PT	102779	05/29/14	13.05	-13.05	709590049 - 509 CARDIFF CT	BROO	(
	OV	213100	70959	70959-00213100	001	06/10/14	PT	104887	06/12/14	38	-38	709590050 - 508 CARDIFF CT	FIEL	(
	OV	213100	70959	70959-00213100	002	06/10/14	PT	104887	06/12/14	2531.04	-2531.04	709590050 - 508 CARDIFF CT	FIEL	(
	OV	212433	70959	70959-00212433	001	06/03/14	PK	647009	06/04/14	337.5	-337.5	709590050 - 508 CARDIFF CT	FIEL	(
	OV	212433	70959	70959-00212433	002	06/03/14	PK	647009	06/04/14	20.25	-20.25	709590050 - 508 CARDIFF CT	FIEL	(
	OV	214498	70959	70959-00214498	001	06/24/14	PT	107076	06/26/14	1336.01	-1336.01	709590050 - 508 CARDIFF CT	FIEL	(
	OV	217674	70959	37520180050	000	07/23/14	PT	112733	07/31/14	356.89	-356.89	709590050 - 508 CARDIFF CT	FIEL	(
	OV	216667	70959	70959-00216667	001	07/14/14	PT	110515	07/17/14	533.9	-533.9	709590050 - 508 CARDIFF CT	FIEL	(
	OV	216668	70959	70959-00216668	001	07/14/14	PT	110515	07/17/14	125.4	-125.4	709590050 - 508 CARDIFF CT	FIEL	(
	OV	211747	70959	70959-00211747	003	05/27/14	PT	102779	05/29/14	2643.68	-2643.68	709590051 - 506 CARDIFF CT	BROO	(
	OV	211747	70959	70959-00211747	002	05/27/14	PT	102779	05/29/14	38	-38	709590051 - 506 CARDIFF CT	BROO	(
	OV	211747	70959	70959-00211747	001	05/27/14	PT	102779	05/29/14	193.8	-193.8	709590051 - 506 CARDIFF CT	BROO	(
	OV	211029	70959	70959-00211029	002	05/20/14	PT	101888	05/22/14	13.05	-13.05	709590051 - 506 CARDIFF CT	BROO	(
	OV	211029	70959	70959-00211029	001	05/20/14	PT	101888	05/22/14	217.5	-217.5	709590051 - 506 CARDIFF CT	BROO	(
	OV	218235	70959	37525670051	000	07/30/14	PT	113457	08/07/14	255	-255	709590051 - 506 CARDIFF CT	BROO	(
	OV	217319	70959	70959-00217319	001	07/21/14	PT	111403	07/24/14	533.9	-533.9	709590051 - 506 CARDIFF CT	BROO	(
	OV	218234	70959	37525650051	000	07/30/14	PT	113457	08/07/14	349.6	-349.6	709590051 - 506 CARDIFF CT	BROO	(
	OV	217320	70959	70959-00217320	001	07/21/14	PT	111403	07/24/14	125.4	-125.4	709590051 - 506 CARDIFF CT	BROO	(
	OV	217321	70959	70959-00217321	001	07/21/14	PT	111403	07/24/14	3619.41	-3619.41	709590052 - 504 CARDIFF CT	GLNH	(
	OV	216673	70959	70959-00216673	001	07/14/14	PT	110515	07/17/14	337.5	-337.5	709590052 - 504 CARDIFF CT	GLNH	(
	OV	216673	70959	70959-00216673	002	07/14/14	PT	110515	07/17/14	20.25	-20.25	709590052 - 504 CARDIFF CT	GLNH	(
	OV	213107	70959	70959-00213107	001	06/10/14	PT	104887	06/12/14	192.85	-192.85	709590054 - 500 CARDIFF CT	GLNH	(
	OV	213107	70959	70959-00213107	002	06/10/14	PT	104887	06/12/14	148.54	-148.54	709590054 - 500 CARDIFF CT	GLNH	(

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	OV	215936	70959	70959-00215936	001	07/07/14	PT	109061	07/10/14	3312.64	-3312.64	709590054 - 500 CARDIFF CT	GLNH	(
	OV	215937	70959	70959-00215937	001	07/07/14	PT	109061	07/10/14	337.5	-337.5	709590054 - 500 CARDIFF CT	GLNH	(
	OV	215937	70959	70959-00215937	002	07/07/14	PT	109061	07/10/14	20.25	-20.25	709590054 - 500 CARDIFF CT	GLNH	(
	OV	216680	70959	70959-00216680	001	07/14/14	PT	110515	07/17/14	38	-38	709590061 - 410 ROWLEY CT	BROO	(
	OV	216680	70959	70959-00216680	002	07/14/14	PT	110515	07/17/14	2643.68	-2643.68	709590061 - 410 ROWLEY CT	BROO	(
	OV	215264	70959	70959-00215264	001	07/01/14	PT	108137	07/02/14	217.5	-217.5	709590061 - 410 ROWLEY CT	BROO	(
	OV	215264	70959	70959-00215264	002	07/01/14	PT	108137	07/02/14	13.05	-13.05	709590061 - 410 ROWLEY CT	BROO	(
	OV	210639	70951	200757 141	000	05/10/12	PT	26807	05/17/12	325	-325	709510141 - 27 Duxbury Lane	BYRO	(
	OV	210679	70951	200832 LOT 141	000	05/11/12	PT	26807	05/17/12	2595.7	-2595.7	709510141 - 27 Duxbury Lane	BYRO	(
	OV	214531	70951	3710695 LOT 141	000	07/27/12	PT	31935	08/09/12	24.3	-24.3	709510141 - 27 Duxbury Lane	BYRO	(
	OV	221107	70951	3717180 LOT 141	000	10/25/12	PT	37782	11/01/12	276.6	-276.6	709510141 - 27 Duxbury Lane	BYRO	(
	OV	210678	70951	200760 LOT 141	000	05/11/12	PT	26807	05/17/12	200	-200	709510141 - 27 Duxbury Lane	BYRO	(
	OV	210678	70951	200760 LOT 141	001	05/11/12	PT	26807	05/17/12	12	-12	709510141 - 27 Duxbury Lane	BYRO	(
	OV	212840	70951	200792 141	000	07/06/12	PT	30229	07/12/12	867	-867	709510141 - 27 Duxbury Lane	BYRO	(
	OV	212867	70951	200817 LOT 141	000	07/06/12	PT	30229	07/12/12	477.7	-477.7	709510141 - 27 Duxbury Lane	BYRO	(
	OV	225358	70951	3719753 LOT 141	000	12/28/12	PT	43005	01/10/13	220.4	-220.4	709510141 - 27 Duxbury Lane	BYRO	(
	OV	215516	70951	70951-	001	08/06/12	PT	31935	08/09/12	325	-325	709510142 - 29 Duxbury Lane	EVER	(
	OV	215517	70951	70951-00215517	001	08/06/12	PT	31935	08/09/12	1615.9	-1615.9	709510142 - 29 Duxbury Lane	EVER	(
	OV	221108	70951	3717180 LOT 142	000	10/25/12	PT	37782	11/01/12	8	-8	709510142 - 29 Duxbury Lane	EVER	(
	OV	221108	70951	3717180 LOT 142	001	10/25/12	PT	37782	11/01/12	152.15	-152.15	709510142 - 29 Duxbury Lane	EVER	(
	OV	215518	70951	70951-00215518	001	08/06/12	PT	31935	08/09/12	156.25	-156.25	709510142 - 29 Duxbury Lane	EVER	(
	OV	215518	70951	70951-00215518	003	08/06/12	PT	31935	08/09/12	9.38	-9.38	709510142 - 29 Duxbury Lane	EVER	(
	OV	212839	70951	200538 142	000	07/06/12	PT	30229	07/12/12	867	-867	709510142 - 29 Duxbury Lane	EVER	(

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	OV	225357	70951	3719753 LOT 142	000	12/28/12	PT	43005	01/10/13	95.95	-95.95	709510142 - 29 Duxbury Lane	EVER	(
	OV	212866	70951	200564 LOT 142	000	07/06/12	PT	30229	07/12/12	477.7	-477.7	709510142 - 29 Duxbury Lane	EVER	(
	OV	211151	70951	70951-	001	06/18/12	PT	29431	06/28/12	325	-325	709510145 - 28 Duxbury Lane	SHER	(
	OV	220033	70951	201085 LOT 145	000	10/12/12	PT	36633	10/18/12	1858.55	-1858.55	709510145 - 28 Duxbury Lane	SHER	(
	OV	235942	70951	3727873 LOT 145	000	06/14/13	PT	59519	06/20/13	709.8	-709.8	709510145 - 28 Duxbury Lane	SHER	(
	OV	220071	70951	201016 145	000	10/16/12	PT	36633	10/18/12	212.5	-212.5	709510145 - 28 Duxbury Lane	SHER	(
	OV	220071	70951	201016 145	001	10/16/12	PT	36633	10/18/12	12.75	-12.75	709510145 - 28 Duxbury Lane	SHER	(
	OV	228544	70951	3721486 LOT 145	000	02/18/13	PT	46719	02/21/13	300	-300	709510145 - 28 Duxbury Lane	SHER	(
	OV	220072	70951	201049 145	000	10/16/12	PT	36633	10/18/12	2558.5	-2558.5	709510145 - 28 Duxbury Lane	SHER	(
	OV	220034	70951	201073 LOT 145	000	10/12/12	PT	36633	10/18/12	477.7	-477.7	709510145 - 28 Duxbury Lane	SHER	(
	OV	210710	70951	3703292 LOT 147	000	05/23/12	PT	27534	05/31/12	153.1	-153.1	709510147 - 24 Duxbury Lane	MILL	(
	OV	210749	70951	3702763 147	000	05/24/12	PT	27534	05/31/12	221	-221	709510147 - 24 Duxbury Lane	MILL	(
	OV	210199	70951	200127 LOT 147	000	12/30/11	PT	19368	01/05/12	1581	-1581	709510147 - 24 Duxbury Lane	MILL	(
	OV	210303	70951	200153 141	000	01/19/12	PT	20352	01/26/12	477.7	-477.7	709510147 - 24 Duxbury Lane	MILL	(
	OV	238757	70951	70951-00238757	001	07/15/13	PT	63577	07/25/13	2298.08	-2298.08	709510151 - 101 Yount Court	SHER	(
	OV	237495	70951	70951-00237495	001	07/01/13	PT	61954	07/11/13	262.5	-262.5	709510151 - 101 Yount Court	SHER	(
	OV	237495	70951	70951-00237495	002	07/01/13	PT	61954	07/11/13	15.75	-15.75	709510151 - 101 Yount Court	SHER	(
	OV	243231	70951	70951-	001	09/03/13	PT	68428	09/05/13	472.23	-472.23	709510151 - 101 Yount Court	SHER	(
	OV	245979	70951	3735121 LOT 151	000	10/18/13	PT	74499	10/24/13	210.87	-210.87	709510151 - 101 Yount Court	SHER	(
	OV	243529	70951	202965 LOT 151	000	09/03/13	PT	68428	09/05/13	533.9	-533.9	709510151 - 101 Yount Court	SHER	(
	OV	244119	70951	3733595 LOT 151	000	09/13/13	PT	70154	09/19/13	353.4	-353.4	709510151 - 101 Yount Court	SHER	(
	OV	245978	70951	202771 LOT 157	000	10/18/13	PT	74499	10/24/13	960.5	-960.5	709510157 - 110 Yount Court	BYRO	(

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	OV	245980	70951	3735122 LOT 157	000	10/18/13	PT	74499	10/24/13	267.9	-267.9	709510157 - 110 Yount Court	BYRO	(
	OV	225832	70951	3719986 LOT 158	000	01/04/13	PT	43005	01/10/13	200	-200	709510158 - 108 Yount Court	MILL	(
	OV	221112	70951	3717181 LOT 158	000	10/25/12	PT	37782	11/01/12	208	-208	709510158 - 108 Yount Court	MILL	(
	OV	221112	70951	3717181 LOT 158	001	10/25/12	PT	37782	11/01/12	56.2	-56.2	709510158 - 108 Yount Court	MILL	(
	OV	230951	70951	70951-	001	04/01/13	PT	51390	04/04/13	325	-325	709510160 - 104 Yount Court	BYRO	(
	OV	231147	70951	202184 LOT 160	000	04/02/13	PT	51390	04/04/13	2595.7	-2595.7	709510160 - 104 Yount Court	BYRO	(
	OV	231559	70951	3725060 LOT 160	000	04/12/13	PT	52710	04/18/13	8	-8	709510160 - 104 Yount Court	BYRO	(
	OV	230953	70951	70951-00230953	001	04/01/13	PT	51390	04/04/13	200	-200	709510160 - 104 Yount Court	BYRO	(
	OV	230953	70951	70951-00230953	002	04/01/13	PT	51390	04/04/13	12	-12	709510160 - 104 Yount Court	BYRO	(
	OV	233086	70951	70951-	001	05/06/13	PT	54950	05/09/13	509.36	-509.36	709510160 - 104 Yount Court	BYRO	(
	OV	235939	70951	3727878 LOT 160	000	06/14/13	PT	59519	06/20/13	84.64	-84.64	709510160 - 104 Yount Court	BYRO	(
	OV	234788	70951	202170 LOT 160	000	05/28/13	PT	57782	06/06/13	477.7	-477.7	709510160 - 104 Yount Court	BYRO	(
	OV	238394	70951	3728696 LOT 160	000	07/08/13	PT	61954	07/11/13	158.8	-158.8	709510160 - 104 Yount Court	BYRO	(
	OV	244346	70951	70951-00244346	001	09/16/13	PT	70154	09/19/13	8.55	-8.55	709510170 - 16 Harwick Court	BYRO	(
	OV	244346	70951	70951-00244346	002	09/16/13	PT	70154	09/19/13	60.8	-60.8	709510170 - 16 Harwick Court	BYRO	(
	OV	244346	70951	70951-00244346	003	09/16/13	PT	70154	09/19/13	2889.44	-2889.44	709510170 - 16 Harwick Court	BYRO	(
	OV	246330	70951	70951-00246330	001	10/28/13	PT	76020	11/07/13	240	-240	709510170 - 16 Harwick Court	BYRO	(
	OV	246330	70951	70951-00246330	002	10/28/13	PT	76020	11/07/13	14.4	-14.4	709510170 - 16 Harwick Court	BYRO	(
	OV	244347	70951	70951-00244347	001	09/16/13	PT	70154	09/19/13	240	-240	709510170 - 16 Harwick Court	BYRO	(
	OV	244347	70951	70951-00244347	002	09/16/13	PT	70154	09/19/13	14.4	-14.4	709510170 - 16 Harwick Court	BYRO	(
	OV	247612	70951	203227 LOT 170	000	12/03/13	PT	79436	12/05/13	960.5	-960.5	709510170 - 16 Harwick Court	BYRO	(
	OV	246689	70951	3736647 LOT 170	000	11/04/13	PT	76020	11/07/13	178.5	-178.5	709510170 - 16 Harwick Court	BYRO	(
	OV	246686	70951	3736646 LOT 170	000	11/04/13	PT	76020	11/07/13	197.6	-197.6	709510170 - 16 Harwick Court	BYRO	(

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	OV	247592	70951	3737822 LOT 170	000	12/03/13	PT	79436	12/05/13	300	-300	709510170 - 16 Harwick Court	BYRO	(
	OV	246683	70951	203251 LOT 170	000	11/04/13	PT	76020	11/07/13	533.9	-533.9	709510170 - 16 Harwick Court	BYRO	(
	OV	248726	70951	3739429 LOT 170	000	01/14/14	PT	84470	01/16/14	450	-450	709510170 - 16 Harwick Court	BYRO	(
	OV	222584	70951	70951-	001	11/13/12	PT	38599	11/15/12	325	-325	709510171 - 14 Harwick Court	SHER	(
	OV	222585	70951	70951-00222585	001	11/13/12	PT	38599	11/15/12	1991.95	-1991.95	709510171 - 14 Harwick Court	SHER	(
	OV	220902	70951	70951-00220902	001	10/24/12	PT	37782	11/01/12	212.5	-212.5	709510171 - 14 Harwick Court	SHER	(
	OV	220902	70951	70951-00220902	002	10/24/12	PT	37782	11/01/12	12.75	-12.75	709510171 - 14 Harwick Court	SHER	(
	OV	225834	70951	201774 LOT 171	000	01/04/13	PT	43005	01/10/13	2558.5	-2558.5	709510171 - 14 Harwick Court	SHER	(
	OV	225835	70951	201799 LOT 171	000	01/04/13	PT	43005	01/10/13	477.7	-477.7	709510171 - 14 Harwick Court	SHER	(
	OV	226971	70951	3720221 LOT 171	000	01/18/13	PT	44169	01/24/13	181.45	-181.45	709510171 - 14 Harwick Court	SHER	(
	OV	226972	70951	3720222 LOT 171	000	01/18/13	PT	44169	01/24/13	56.2	-56.2	709510171 - 14 Harwick Court	SHER	(
	OV	230959	70951	70951-	001	04/01/13	PT	51390	04/04/13	325	-325	709510172 - 12 Harwick Court	MILL	(
	OV	231146	70951	202277 LOT 172	000	04/02/13	PT	51390	04/04/13	1779.2	-1779.2	709510172 - 12 Harwick Court	MILL	(
	OV	231558	70951	3725060 LOT 172	000	04/12/13	PT	52710	04/18/13	8	-8	709510172 - 12 Harwick Court	MILL	(
	OV	230961	70951	70951-00230961	001	04/01/13	PT	51390	04/04/13	168.75	-168.75	709510172 - 12 Harwick Court	MILL	(
	OV	230961	70951	70951-00230961	002	04/01/13	PT	51390	04/04/13	10.13	-10.13	709510172 - 12 Harwick Court	MILL	(
	OV	239437	70951	70951-00239437	001	07/22/13	PT	63577	07/25/13	1980.64	-1980.64	709510174 - 8 Harwick Court	MILL	(
	OV	239438	70951	70951-00239438	001	07/22/13	PT	63577	07/25/13	202.5	-202.5	709510174 - 8 Harwick Court	MILL	(
	OV	239438	70951	70951-00239438	002	07/22/13	PT	63577	07/25/13	12.15	-12.15	709510174 - 8 Harwick Court	MILL	(
	OV	242651	70951	70951-	001	08/26/13	PT	67554	08/29/13	532.62	-532.62	709510174 - 8 Harwick Court	MILL	(
	OV	245972	70951	3735124 LOT 174	000	10/18/13	PT	74499	10/24/13	151	-151	709510174 - 8 Harwick Court	MILL	(
	OV	244117	70951	203071 LOT 174	000	09/13/13	PT	70154	09/19/13	533.9	-533.9	709510174 - 8 Harwick Court	MILL	(

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	OV	245971	70951	3735125 LOT 174	000	10/18/13	PT	74499	10/24/13	247.95	-247.95	709510174 - 8 Harwick Court	MILL	(
	OV	242652	70951	70951-00242652	001	08/26/13	PT	67554	08/29/13	2909.92	-2909.92	709510175 - 6 Harwick Court	ABIN	(
	OV	241510	70951	70951-00241510	001	08/12/13	PT	66924	08/22/13	232.5	-232.5	709510175 - 6 Harwick Court	ABIN	(
	OV	241510	70951	70951-00241510	002	08/12/13	PT	66924	08/22/13	13.95	-13.95	709510175 - 6 Harwick Court	ABIN	(
	OV	247613	70951	203312 LOT 175	000	12/03/13	PT	79436	12/05/13	1011.5	-1011.5	709510175 - 6 Harwick Court	ABIN	(
	OV	245968	70951	203336 LOT 175	000	10/18/13	PT	74499	10/24/13	533.9	-533.9	709510175 - 6 Harwick Court	ABIN	(
	OV	245975	70951	3736063 LOT 175	000	10/18/13	PT	74499	10/24/13	252.7	-252.7	709510175 - 6 Harwick Court	ABIN	(
	OV	249162	70951	37403290180	000	02/10/14	PT	87786	02/13/14	500	-500	709510180 - 105 Amherst Way	HERR	(
	OV	248362	70951	70951-00248362	001	01/06/14	PT	83672	01/09/14	2111.2	-2111.2	709510180 - 105 Amherst Way	HERR	(
	OV	247484	70951	70951-00247484	001	12/02/13	PT	79436	12/05/13	225	-225	709510180 - 105 Amherst Way	HERR	(
	OV	247484	70951	70951-00247484	002	12/02/13	PT	79436	12/05/13	13.5	-13.5	709510180 - 105 Amherst Way	HERR	(
	OV	252228	70951	2036460180	000	04/23/14	PT	98843	05/01/14	1708.5	-1708.5	709510180 - 105 Amherst Way	HERR	(
	PD	238258	70951	37453900180	000	04/17/14	PT	98029	04/24/14	926.5	-926.5	709510180 - 105 Amherst Way	HERR	(
	OV	249783	70951	2036710180	000	03/05/14	PT	91763	03/13/14	533.9	-533.9	709510180 - 105 Amherst Way	HERR	(
	OV	250424	70951	37447120180	000	03/26/14	PT	94630	04/03/14	226.1	-226.1	709510180 - 105 Amherst Way	HERR	(
	OV	250426	70951	37447440180	000	03/27/14	PT	94630	04/03/14	226.1	-226.1	709510180 - 105 Amherst Way	HERR	(
	OV	253751	70951	70951-00253751	001	05/13/14	PT	100839	05/15/14	2298.08	-2298.08	709510186 - 112 Amherst Way	SHER	(
	OV	253148	70951	70951-00253148	001	05/05/14	PT	99831	05/08/14	262.5	-262.5	709510186 - 112 Amherst Way	SHER	(
	OV	253148	70951	70951-00253148	002	05/05/14	PT	99831	05/08/14	15.75	-15.75	709510186 - 112 Amherst Way	SHER	(
	OV	255306	70951	70951-00255306	001	06/03/14	PK	647009	06/04/14	472.23	-472.23	709510186 - 112 Amherst Way	SHER	(
	OV	256063	70951	37490250186	000	06/12/14	PT	105886	06/19/14	92.07	-92.07	709510186 - 112 Amherst Way	SHER	(
	OV	256897	70951	70951-00256897	001	06/24/14	PT	107076	06/26/14	533.9	-533.9	709510186 - 112 Amherst Way	SHER	(

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	OV	259211	70951	37525740186	000	07/30/14	PT	113457	08/07/14	192.85	-192.85	709510186 - 112 Amherst Way	SHER	(
	OV	253754	70951	70951-00253754	001	05/13/14	PT	100839	05/15/14	2889.44	-2889.44	709510187 - 110 Amherst Way	BYRO	(
	OV	253152	70951	70951-00253152	001	05/05/14	PT	99831	05/08/14	240	-240	709510187 - 110 Amherst Way	BYRO	(
	OV	253152	70951	70951-00253152	002	05/05/14	PT	99831	05/08/14	14.4	-14.4	709510187 - 110 Amherst Way	BYRO	(
	OV	253469	70951	37470290187	000	05/07/14	PT	100839	05/15/14	300	-300	709510187 - 110 Amherst Way	BYRO	(
	OV	256899	70951	70951-00256899	001	06/24/14	PT	107076	06/26/14	533.9	-533.9	709510187 - 110 Amherst Way	BYRO	(
	OV	257670	70951	37500080187	000	07/02/14	PT	109061	07/10/14	226.1	-226.1	709510187 - 110 Amherst Way	BYRO	(
	OV	253757	70951	70951-00253757	001	05/13/14	PT	100839	05/15/14	1980.64	-1980.64	709510188 - 108 Amherst Way	MILL	(
	OV	253156	70951	70951-00253156	001	05/05/14	PT	99831	05/08/14	202.5	-202.5	709510188 - 108 Amherst Way	MILL	(
	OV	253156	70951	70951-00253156	002	05/05/14	PT	99831	05/08/14	12.15	-12.15	709510188 - 108 Amherst Way	MILL	(
	OV	255806	70951	70951-	001	06/10/14	PT	104887	06/12/14	812.3	-812.3	709510188 - 108 Amherst Way	MILL	(
	OV	257672	70951	37504690188	000	07/02/14	PT	109061	07/10/14	247	-247	709510188 - 108 Amherst Way	MILL	(
	OV	256345	70951	70951-00256345	001	06/17/14	PT	105886	06/19/14	533.9	-533.9	709510188 - 108 Amherst Way	MILL	(
	OV	257671	70951	37500100188	000	07/02/14	PT	109061	07/10/14	230.85	-230.85	709510188 - 108 Amherst Way	MILL	(
	OV	254811	70951	70951-00254811	001	05/27/14	PT	102779	05/29/14	98.8	-98.8	709510192 - 100 Amherst Way	ABIN	(
	OV	254811	70951	70951-00254811	002	05/27/14	PT	102779	05/29/14	2909.92	-2909.92	709510192 - 100 Amherst Way	ABIN	(
	OV	254310	70951	70951-00254310	001	05/20/14	PT	101888	05/22/14	232.5	-232.5	709510192 - 100 Amherst Way	ABIN	(
	OV	254310	70951	70951-00254310	002	05/20/14	PT	101888	05/22/14	13.95	-13.95	709510192 - 100 Amherst Way	ABIN	(
	OV	210012	70952	200008 2	000	10/17/11	PK	362193	10/20/11	325	-325	709520002 - 103 Berwick Court	CYTH	(
	OV	210010	70952	200082 2	000	10/17/11	PK	362193	10/20/11	87.4	-87.4	709520002 - 103 Berwick Court	CYTH	(
	OV	210010	70952	200082 2	001	10/17/11	PK	362193	10/20/11	3311.55	-3311.55	709520002 - 103 Berwick Court	CYTH	(
	OV	210011	70952	200011 2	000	10/17/11	PK	362193	10/20/11	281.25	-281.25	709520002 - 103 Berwick Court	CYTH	(

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	OV	210011	70952	200011 2	001	10/17/11	PK	362193	10/20/11	16.88	-16.88	709520002 - 103 Berwick Court	CYTH
	OV	210162	70952	200046 LOT 2	000	12/30/11	PT	19368	01/05/12	2380	-2380	709520002 - 103 Berwick Court	CYTH
	OV	210294	70952	200073 2	000	01/19/12	PT	20352	01/26/12	477.7	-477.7	709520002 - 103 Berwick Court	CYTH
	OV	210392	70952	200073 LOT 2	000	02/16/12	PT	21742	02/23/12	119	-119	709520002 - 103 Berwick Court	CYTH
	OV	210295	70952	200074 2	000	01/19/12	PT	20352	01/26/12	112.2	-112.2	709520002 - 103 Berwick Court	CYTH
	OV	210161	70952	200220 LOT 3	000	12/30/11	PT	19368	01/05/12	903.87	-903.87	709520003 - 105 Berwick Court	BROO
	OV	210292	70952	200248 3	000	01/19/12	PT	20352	01/26/12	477.7	-477.7	709520003 - 105 Berwick Court	BROO
	OV	210291	70952	200249 3	000	01/19/12	PT	20352	01/26/12	112.2	-112.2	709520003 - 105 Berwick Court	BROO
	OV	229397	70952	203122 LOT 4	000	02/28/13	PT	48162	03/07/13	325	-325	709520004 - 107 Berwick Court	FIEL
	OV	229399	70952	203200 LOT 4	000	02/28/13	PT	48162	03/07/13	2434.7	-2434.7	709520004 - 107 Berwick Court	FIEL
	OV	229398	70952	203125 LOT 4	000	02/28/13	PT	48162	03/07/13	281.25	-281.25	709520004 - 107 Berwick Court	FIEL
	OV	229398	70952	203125 LOT 4	001	02/28/13	PT	48162	03/07/13	16.88	-16.88	709520004 - 107 Berwick Court	FIEL
	OV	210552	70952	201252 21	000	03/15/12	PT	23226	03/22/12	325	-325	709520021 - 125 Berwick Court	BROO
	OV	210656	70952	201331 LOT 21	000	03/16/12	PT	23226	03/22/12	2374.9	-2374.9	709520021 - 125 Berwick Court	BROO
	OV	210553	70952	201255 21	000	03/15/12	PT	23226	03/22/12	181.25	-181.25	709520021 - 125 Berwick Court	BROO
	OV	210553	70952	201255 21	001	03/15/12	PT	23226	03/22/12	10.88	-10.88	709520021 - 125 Berwick Court	BROO
	OV	210563	70952	201166 25	000	03/15/12	PT	23226	03/22/12	325	-325	709520025 - 138 Berwick Court	MCDA
	OV	210654	70952	201244 LOT 25	000	03/16/12	PT	23226	03/22/12	2960.25	-2960.25	709520025 - 138 Berwick Court	MCDA
	OV	210562	70952	201169 25	000	03/15/12	PT	23226	03/22/12	256.25	-256.25	709520025 - 138 Berwick Court	MCDA
	OV	210562	70952	201169 25	001	03/15/12	PT	23226	03/22/12	15.38	-15.38	709520025 - 138 Berwick Court	MCDA
	OV	231542	70953	70953-00231542	001	04/01/14	PT	94630	04/03/14	217.5	-217.5	709530200 - 2 Duxbury Lane	BROO
	OV	231542	70953	70953-00231542	002	04/01/14	PT	94630	04/03/14	13.05	-13.05	709530200 - 2 Duxbury Lane	BROO
	OV	220229	70953	70953-	001	06/10/13	PT	59519	06/20/13	758.34	-758.34	709530245 - 11 Kettering Court	BROO
	OV	220229	70953	70953-	002	06/10/13	PT	59519	06/20/13	4472.82	-4472.82	709530245 - 11 Kettering Court	BROO
	OV	214141	70953	70953-	001	03/11/13	PT	49582	03/21/13	325	-325	709530247 - 17 Kettering Court	FIEL

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	OV	214142	70953	70953-00214142	001	03/11/13	PT	49582	03/21/13	19.55	-19.55	709530247 - 17 Kettering Court	FIEL	(
	OV	214142	70953	70953-00214142	002	03/11/13	PT	49582	03/21/13	34	-34	709530247 - 17 Kettering Court	FIEL	(
	OV	214142	70953	70953-00214142	003	03/11/13	PT	49582	03/21/13	2273.7	-2273.7	709530247 - 17 Kettering Court	FIEL	(
	OV	214142	70953	70953-00214142	004	03/11/13	PT	49582	03/21/13	203.55	-203.55	709530247 - 17 Kettering Court	FIEL	(
	OV	220475	70953	3728084 LOT 247	000	06/14/13	PT	59519	06/20/13	292.6	-292.6	709530247 - 17 Kettering Court	FIEL	(
	OV	220475	70953	3728084 LOT 247	001	06/14/13	PT	59519	06/20/13	120.2	-120.2	709530247 - 17 Kettering Court	FIEL	(
	OV	214143	70953	70953-00214143	001	03/11/13	PT	49582	03/21/13	281.25	-281.25	709530247 - 17 Kettering Court	FIEL	(
	OV	214143	70953	70953-00214143	002	03/11/13	PT	49582	03/21/13	16.88	-16.88	709530247 - 17 Kettering Court	FIEL	(
	OV	214143	70953	70953-00214143	003	03/11/13	PT	49582	03/21/13	18.75	-18.75	709530247 - 17 Kettering Court	FIEL	(
	OV	214143	70953	70953-00214143	004	03/11/13	PT	49582	03/21/13	1.13	-1.13	709530247 - 17 Kettering Court	FIEL	(
	OV	215225	70953	70953-	001	04/08/13	PT	52710	04/18/13	1336.01	-1336.01	709530247 - 17 Kettering Court	FIEL	(
	OV	215225	70953	70953-	002	04/08/13	PT	52710	04/18/13	225.72	-225.72	709530247 - 17 Kettering Court	FIEL	(
	OV	215225	70953	70953-	003	04/08/13	PT	52710	04/18/13	225.72	-225.72	709530247 - 17 Kettering Court	FIEL	(
	OV	215225	70953	70953-	004	04/08/13	PT	52710	04/18/13	5411.34	-5411.34	709530247 - 17 Kettering Court	FIEL	(
	OV	219427	70953	200625 LOT 247	000	05/28/13	PT	57782	06/06/13	400	-400	709530247 - 17 Kettering Court	FIEL	(
	OV	216900	70953	200612 LOT 247	000	04/29/13	PT	54950	05/09/13	477.7	-477.7	709530247 - 17 Kettering Court	FIEL	(
	OV	216900	70953	200612 LOT 247	001	04/29/13	PT	54950	05/09/13	442	-442	709530247 - 17 Kettering Court	FIEL	(
	OV	216900	70953	200612 LOT 247	002	04/29/13	PT	54950	05/09/13	102	-102	709530247 - 17 Kettering Court	FIEL	(
	OV	228720	70953	3735129 LOT 248	000	10/18/13	PT	74499	10/24/13	816.75	-816.75	709530248 - 19 Kettering Court	WSLY	(
	OV	230814	70953	37423110248	000	02/19/14	PT	89669	02/27/14	100	-100	709530248 - 19 Kettering Court	WSLY	(
	OV	230381	70953	201676 LOT 248	000	01/14/14	PT	84470	01/16/14	400	-400	709530248 - 19 Kettering Court	WSLY	(
	OV	229574	70953	201661 0248	000	11/19/13	PT	77788	11/21/13	533.9	-533.9	709530248 - 19 Kettering Court	WSLY	(
	OV	229831	70953	3737819 LOT 248	000	12/03/13	PT	79436	12/05/13	680.2	-680.2	709530248 - 19 Kettering Court	WSLY	(

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	OV	230085	70953	3738613 LOT 248	000	12/16/13	PT	81475	12/19/13	500	-500	709530248 - 19 Kettering Court	WSLY	(
	OV	229573	70953	201662 0248	000	11/19/13	PT	77788	11/21/13	201.4	-201.4	709530248 - 19 Kettering Court	WSLY	(
	OV	232695	70953	37470330254	000	05/07/14	PT	100839	05/15/14	2667.06	-2667.06	709530254 - 6 Kettering Court	FIEL	(
	OV	232694	70953	37470280254	000	05/07/14	PT	100839	05/15/14	510	-510	709530254 - 6 Kettering Court	FIEL	(
	OV	232693	70953	37470270254	000	05/07/14	PT	100839	05/15/14	295.45	-295.45	709530254 - 6 Kettering Court	FIEL	(
	OV	229260	70953	3736645 LOT 256	000	11/04/13	PT	76020	11/07/13	400	-400	709530256 - 2 Kettering Court	BROO	(
	OV	228078	70953	70953-	001	09/30/13	PT	72677	10/10/13	4953.96	-4953.96	709530256 - 2 Kettering Court	BROO	(
	OV	228078	70953	70953-	002	09/30/13	PT	72677	10/10/13	7031.48	-7031.48	709530256 - 2 Kettering Court	BROO	(
	OV	228078	70953	70953-	003	09/30/13	PT	72677	10/10/13	-7031.48	7031.48	709530256 - 2 Kettering Court	BROO	(
	OV	228723	70953	3736066 LOT 256	000	10/18/13	PT	74499	10/24/13	1877.04	-1877.04	709530256 - 2 Kettering Court	BROO	(
	OV	229262	70953	3736644 LOT 256	000	11/04/13	PT	76020	11/07/13	1000	-1000	709530256 - 2 Kettering Court	BROO	(
	OV	229847	70953	202049 0256	000	12/03/13	PT	79436	12/05/13	2635	-2635	709530256 - 2 Kettering Court	BROO	(
	OV	229847	70953	202049 0256	001	12/03/13	PT	79436	12/05/13	646	-646	709530256 - 2 Kettering Court	BROO	(
	OV	229847	70953	202049 0256	002	12/03/13	PT	79436	12/05/13	535.5	-535.5	709530256 - 2 Kettering Court	BROO	(
	OV	229844	70953	201348 LOT 256	000	12/03/13	PT	79436	12/05/13	400	-400	709530256 - 2 Kettering Court	BROO	(
	OV	228722	70953	201331 LOT 256	000	10/18/13	PT	74499	10/24/13	533.9	-533.9	709530256 - 2 Kettering Court	BROO	(
	OV	228722	70953	201331 LOT 256	001	10/18/13	PT	74499	10/24/13	494	-494	709530256 - 2 Kettering Court	BROO	(
	OV	228722	70953	201331 LOT 256	002	10/18/13	PT	74499	10/24/13	8.55	-8.55	709530256 - 2 Kettering Court	BROO	(
	OV	229261	70953	3736649 LOT 256	000	11/04/13	PT	76020	11/07/13	333.45	-333.45	709530256 - 2 Kettering Court	BROO	(
	OV	231096	70953	70953-00231096	001	03/10/14	PT	91763	03/13/14	201.4	-201.4	709530256 - 2 Kettering Court	BROO	(
	OV	229830	70953	3737818 LOT 256	000	12/03/13	PT	79436	12/05/13	450	-450	709530256 - 2 Kettering Court	BROO	(
	OV	228718	70953	3736074 LOT 256	000	10/18/13	PT	74499	10/24/13	1300	-1300	709530256 - 2 Kettering Court	BROO	(

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	OV	226043	70953	3732042 LOT 261	000	08/23/13	PT	67554	08/29/13	200	-200	709530261 - 9 Dartford Court	LENO	(
	OV	210325	70953	70953-00210325	001	06/18/12	PT	29431	06/28/12	180.2	-180.2	709530264 - 4 Dartford Court	FIEL	(
	OV	215344	70953	3725058 LOT 265	000	04/12/13	PT	52710	04/18/13	1500	-1500	709530265 - 2 Dartford Court	BROO	(
	OV	215061	70953	3723874 LOT 265	000	04/02/13	PT	51390	04/04/13	452.2	-452.2	709530265 - 2 Dartford Court	BROO	(
	OV	215057	70953	3723875 LOT 265	000	04/02/13	PT	51390	04/04/13	77.4	-77.4	709530265 - 2 Dartford Court	BROO	(
	OV	213490	70953	70953-	001	02/25/13	PT	48162	03/07/13	4472.82	-4472.82	709530265 - 2 Dartford Court	BROO	(
	OV	215059	70953	200380 LOT 265	000	04/02/13	PT	51390	04/04/13	1572.5	-1572.5	709530265 - 2 Dartford Court	BROO	(
	OV	215056	70953	3723876 LOT 265	000	04/02/13	PT	51390	04/04/13	1079.5	-1079.5	709530265 - 2 Dartford Court	BROO	(
	OV	215060	70953	200419 LOT 265	000	04/02/13	PT	51390	04/04/13	400	-400	709530265 - 2 Dartford Court	BROO	(
	OV	215063	70953	200405 LOT 265	000	04/02/13	PT	51390	04/04/13	477.7	-477.7	709530265 - 2 Dartford Court	BROO	(
	OV	215058	70953	200406 LOT 265	000	04/02/13	PT	51390	04/04/13	180.2	-180.2	709530265 - 2 Dartford Court	BROO	(
	OV	219723	70953	70953-	001	06/03/13	PT	57782	06/06/13	8323.92	-8323.92	709530266 - 104 Sturbridge Court	WSLY	(
	OV	222883	70953	3728700 LOT 266	000	07/08/13	PT	61954	07/11/13	1467.18	-1467.18	709530266 - 104 Sturbridge Court	WSLY	(
	OV	226482	70953	201000 LOT 266	000	08/27/13	PT	67554	08/29/13	382.5	-382.5	709530266 - 104 Sturbridge Court	WSLY	(
	OV	226482	70953	201000 LOT 266	001	08/27/13	PT	67554	08/29/13	408	-408	709530266 - 104 Sturbridge Court	WSLY	(
	OV	226483	70953	201037 LOT 266	000	08/27/13	PT	67554	08/29/13	400	-400	709530266 - 104 Sturbridge Court	WSLY	(
	OV	222335	70953	201024 LOT 266	000	07/05/13	PT	61954	07/11/13	477.7	-477.7	709530266 - 104 Sturbridge Court	WSLY	(
	OV	222335	70953	201024 LOT 266	001	07/05/13	PT	61954	07/11/13	197.2	-197.2	709530266 - 104 Sturbridge Court	WSLY	(
	OV	224055	70953	3729860 LOT 266	000	07/23/13	PT	63577	07/25/13	1189.3	-1189.3	709530266 - 104 Sturbridge Court	WSLY	(

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	OV	222334	70953	201025 LOT 266	000	07/05/13	PT	61954	07/11/13	180.2	-180.2	709530266 - 104 Sturbridge Court	WSLY	(C
	OV	212413	70959	70959-00212413	001	06/03/14	PK	647009	06/04/14	97.28	-97.28	709590046 - 503 CARDIFF CT	CYTH	(C
	OV	212413	70959	70959-00212413	002	06/03/14	PK	647009	06/04/14	3686.85	-3686.85	709590046 - 503 CARDIFF CT	CYTH	(C
	OV	211002	70959	70959-00211002	001	05/20/14	PT	101888	05/22/14	337.5	-337.5	709590046 - 503 CARDIFF CT	CYTH	(C
	OV	211002	70959	70959-00211002	002	05/20/14	PT	101888	05/22/14	20.25	-20.25	709590046 - 503 CARDIFF CT	CYTH	(C
1392314 - JLS MASONRY INC								845 Invoices		763621.78	-763621.78			
1392318 - ALPHA OMEGA CONSTRUCTION														

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PODoc Type	Purchase Order	Sub Account	Po Header Description	Sub Account Description	Contract Note
				Standard Business Unit	
DN	00201163	30	FENCING-star builder	General Liability	
DN	00201149	30	FENCING-star builder	General Liability	
DN	00201149	30	FENCING-star builder	General Liability	
DN	00201149	30	FENCING-star builder	General Liability	
DP	03717013	32140	repair mailbox	Theft/Vandal-Stndg IND	Labor and material to repair mailbox
DN	00200444	42051.02	EXTERIOR DOORS- PROBUILD	Ext Door Materials	
DN	00200501	10	PIT GRAVEL-jls	Workers Comp	
DN	00200504	10	FOUNDATION STEEL - jls	Workers Comp	
DN	00200504	10	FOUNDATION STEEL - jls	Workers Comp	
DN	00200589	10	FOUNDATION STEEL - jls	Workers Comp	
DN	00200589	10	FOUNDATION STEEL - jls	Workers Comp	

DN	00200564	10	SLAB/FLATWORK LABOR-jls	Workers Comp	
DN	00200576	10	SLAB/FLATWORK LABOR-jls	Workers Comp	
DN	00200586	10	PIT GRAVEL-jls	Workers Comp	
DN	00200538	10	STONE-jls (annatole stone)	Workers Comp	
DN	00200932	10	FOUNDATION STEEL - jls	Workers Comp	
DN	00200932	10	FOUNDATION STEEL - jls	Workers Comp	
DN	00200792	10	STONE-jls (annatole stone)	Workers Comp	
DN	00200817	10	SLAB/FLATWORK LABOR-jls	Workers Comp	
DN	00200922	10	SLAB/FLATWORK LABOR-jls	Workers Comp	
DN	00200922	10	SLAB/FLATWORK LABOR-jls	Workers Comp	
DN	00200929	10	PIT GRAVEL-jls	Workers Comp	
DN	00201003	10	SLAB/FLATWORK LABOR-jls	Workers Comp	
DN	00201102	10	FOUNDATION STEEL - jls	Workers Comp	
DN	00201102	10	FOUNDATION STEEL - jls	Workers Comp	
DN	00201099	10	PIT GRAVEL-jls	Workers Comp	
DN	00201178	10	SLAB/FLATWORK LABOR-jls	Workers Comp	
DN	00201178	10	SLAB/FLATWORK LABOR-jls	Workers Comp	
DP	03710680	10	Riddley, Labor Cost Error	Workers Comp	Flatwork labor cost error
DP	03710690	10	Riddley, Labor Error	Workers Comp	.10 at 80sf
DP	03710695	10	Riddley, Labor Error	Workers Comp	.10 at 243sf
				Standard Business Unit	
				Standard Business Unit	
				Standard Business Unit	
DN	00201316	10	SLAB/FLATWORK LABOR-jls	Workers Comp	

DN	00201445	10	SLAB/FLATWORK LABOR-jls	Workers Comp	
DN	00201533	10	SLAB/FLATWORK LABOR-jls	Workers Comp	
DN	00201595	10	MASONRY LABOR-jls	Workers Comp	
DN	00201700	10	STONE-jls (annatole stone)	Workers Comp	
DN	00201742	10	STONE-jls (annatole stone)	Workers Comp	
DN	00201896	10	STONE-jls (annatole stone)	Workers Comp	stone grill island
DN	00201919	10	FOUNDATION STEEL - jls	Workers Comp	
DN	00201919	10	FOUNDATION STEEL - jls	Workers Comp	
DN	00201916	10	PIT GRAVEL-jls	Workers Comp	
DN	00201996	10	SLAB/FLATWORK LABOR-jls	Workers Comp	
DN	00201996	10	SLAB/FLATWORK LABOR-jls	Workers Comp	
DP	03710663	10	Riddley, Labor error	Workers Comp	.10 at 562 sf .10 at 132 sf
DP	03710682	10	Riddley, Brick Labor	Workers Comp	.495 at 424 ea
DP	03710683	10	Riddley, Flatwork Labor	Workers Comp	.10 at 562 sf
DP	03710684	10	Riddley, Labor Error	Workers Comp	.10 at 562 sf .95 at 390 sf
DP	03710685	10	Riddley, Labor Error	Workers Comp	.10 at 120 sf .10 at 562 sf .95 at 324 sf
DP	03710686	10	Riddley, Labor Error	Workers Comp	.10 at 243sf
DP	03710693	10	Riddley, Brick Repair	Workers Comp	Repair at Water Heater Pipe
DP	03710694	10	Riddley, Labor Error	Workers Comp	.10 at 80sf
DP	03710696	10	Riddley, Cost Error	Workers Comp	8.50 at 34sf
DP	03710697	10	Riddley, Cost Error	Workers Comp	8.50 at 100sf
DP	03710702	10	Riddley, Driveway Repair	Workers Comp	Replace wing on Driveway and Fix Cracks in Patio
DP	03710765	10	Riddley, Labor Error	Workers Comp	.10 at 80sf
				Standard Business Unit	
DP	03710691	10	Riddley, Labor Error	Workers Comp	.495 at 3988

DP	03710700	10	Riddley, Labor Error	Workers Comp	.95 at 711sf, .10 at 90sf, .10 at 1082sf, .10 at 212sf
DP	03710703	10	Riddley, Repair Stone	Workers Comp	Repair Stone damaged by Siding Vendor
DP	03710764	10	Riddley, Labor Error	Workers Comp	.10 at 120 sf
DN	00200363	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00200441	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200366	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200366	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200400	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200428	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03710680	45530.01	Riddley, Labor Cost Error	Driveway/Lead walk-Turnkey	Flatwork labor cost error
DN	00200586	40023.07	PIT GRAVEL-jls	Pit Gravel	
DP	03717180	40025.03	slab difference	Slab Pour	slab difference #5629
DP	03717181	40025.03	slab difference	Slab Pour	slab difference #6026
DP	03716566	40025.03	short materials	Slab Pour	short materials
DN	00200664	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200589	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200589	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200623	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00200649	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00200671	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00200747	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03710690	40025.03	Riddley, Labor Error	Slab Pour	.10 at 80sf
DN	00200674	40026.02	FOUNDATION STEEL - jls	Foundation Steel	

DN	00200674	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200708	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200735	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00200090	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00200163	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03701464	40025.03	cordwell, concrete	Slab Pour	flatwork labor PO short
DN	00200093	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200093	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200173	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00200252	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03701464	40025.03	cordwell, concrete	Slab Pour	flatwork labor PO short
DP	03703292	40025.03	Original PO incorrect	Slab Pour	Pricing should have been .950 not .850 per square foot
DN	00200176	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200176	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200210	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200238	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03704293	45530.01	cut and repour drive	Driveway/Lead walk-Turnkey	cut out section of drive and repour due to having to move water tap
DN	00200009	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00200083	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03703292	40025.03	Original PO incorrect	Slab Pour	Pricing should have been .950 not .850 per square foot

DP	03703293	40025.03	inclement weather	Slab Pour	cover all flat work with poly and straw due to freezing temperatures to help protect freshly poured concrete
DP	03701464	40025.03	cordwell, concrete	Slab Pour	flatwork labor PO short
DN	00200012	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200012	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200045	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00200070	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03704292	45530.01	cut and repour drive	Driveway/Lead walk-Turnkey	cut out section of drive and repour so water tap could be moved
DN	00200259	40023.07	PIT GRAVEL-jls	Pit Gravel	
DP	03703292	40025.03	Original PO incorrect	Slab Pour	Pricing should have been .950 not .850 per square foot
DP	03703293	40025.03	inclement weather	Slab Pour	cover fresh flatwork with poly and straw due to freezing temperatures
DP	03701464	40025.03	cordwell, concrete	Slab Pour	flatwork labor PO short
DN	00200332	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200262	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200262	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200295	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00200320	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03704291	45530.01	cut and repour drive	Driveway/Lead walk-Turnkey	cut out section of drive to move water tap and repour
DN	00201099	40023.07	PIT GRAVEL-jls	Pit Gravel	

DP	03714943	40025.03	crash pole at WH	Slab Pour	crash pole needed to protect gas line at water heater.
DN	00201178	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201178	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201178	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201102	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201102	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201136	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00201163	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00201377	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00201452	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03717181	40025.03	slab difference	Slab Pour	slab difference #6043
DN	00201380	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201380	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201412	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00201437	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00200873	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00200922	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200922	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200922	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200876	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200876	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200906	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00200917	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	

DN	00200917	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00201820	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00201893	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201823	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201823	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201882	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DP	03721925	45530.01	drive	Driveway/Lead walk- Turnkey	additional 385 SQ. Ft. @ .95 per ft.
DP	03721926	45530.01	price correction	Driveway/Lead walk- Turnkey	OP was 0.10 short on (0.85 per ft.) Additional 0.10 per foot for 562 sq. ft. of concrete
DN	00201857	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00202295	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202295	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202366	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202329	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03730762	43040.01	price correction	Masonry Labor 1	labor for additional 699 brick @ \$0.495 per brick
DP	03739580	43040.02	window sill	Masonry Labor 2	labor and material to repair damaged window sill/ row lock
DP	03732039	45530.01	correction	Driveway/Lead walk- Turnkey	additional labor for footage and price correction
DN	00202356	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00202808	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202808	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202739	40026.02	FOUNDATION STEEL - jls	Foundation Steel	

DN	00202739	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202795	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00201213	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00201288	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201216	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201216	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201248	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00201275	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00201296	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00201367	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03717181	40025.03	slab difference	Slab Pour	slab price difference #6042
DN	00201299	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201299	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201331	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DP	03727879	43060.01	fireplace grill stone	Stone Turnkey 1	labor and material for fireplace grill
DN	00201356	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00201903	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00202498	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201977	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201906	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201906	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201939	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DP	03721925	45530.01	drive	Driveway/Lead walk-Turnkey	Additional 202 sq. ft of concrete drive @ .95 per ft.

DP	03721926	45530.01	price correction	Driveway/Lead walk-Turnkey	OP was 0.10 short (at 0.85 per ft.) Additiona 0.10 per ft. for 562 sq. ft.
DN	00201963	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00200929	40023.07	PIT GRAVEL-jls	Pit Gravel	
DP	03717181	40025.03	slab difference	Slab Pour	slab difference #5868
DP	03717181	40025.03	slab difference	Slab Pour	slab difference #6052
DP	03717181	40025.03	slab difference	Slab Pour	slab difference #6080
DP	03714942	40025.03	crash pole for WH	Slab Pour	crach pole to protect gas line at water heater in garage.
DN	00201003	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200932	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200932	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200966	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200993	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00201569	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00201644	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201572	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201572	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201606	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00201633	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00201633	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00201998	40023.07	PIT GRAVEL-jls	Pit Gravel	
DP	03721487	40023.99	footings	Retention - Excavation	labor and material for addtional footing requirements
DN	00202077	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	

JN	00202001	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202001	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202035	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JP	03723440	43040.01	brick labor	Masonry Labor 1	346 bbrick short on labor estimate at 0.495 per brick
JP	03724570	45530.01	price correction	Driveway/Lead walk-Turnkey	additional labor for 176' at \$0.95 per foot.
JP	03724571	45530.01	price correction	Driveway/Lead walk-Turnkey	additional \$0.10 labor for 562' of concrete
JN	00202062	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JN	00202464	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JP	03727873	40025.03	concrete	Slab Pour	additional \$0.10 per foot
JP	03730507	40025.03	price correction	Slab Pour	additional labor (208 ft) and \$0.10 price correction
JN	00202391	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202391	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JP	03730505	43040.01	remove brick	Masonry Labor 1	labor to remove brick
JP	03730506	43040.02	brick labor	Masonry Labor 2	laabor to lay brick
JN	00202425	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00202450	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JN	00202584	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202584	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202518	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202518	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202550	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00202576	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	

JN	00202684	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202610	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202610	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00201730	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JP	03727873	40025.03	concrete	Slab Pour	price and footage correction
JN	00201688	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00201651	40023.07	PIT GRAVEL-jls	Pit Gravel	
JN	00202668	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JP	03733596	45530.01	driveway	Driveway/Lead walk- Turnkey	additional labor for 720' of concrete and price correction
JN	00201654	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00201654	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00201715	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JP	03726080	45530.01	price correction	Driveway/Lead walk- Turnkey	\$0.10 per ft. labor increase for driveway. 562'
JN	00203483	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00203484	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00203484	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00203518	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00203543	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JP	03737831	45530.01	driveay	Driveway/Lead walk- Turnkey	614 additional feet of concrete
JP	03729525	45530.01	driveway	Driveway/Lead walk- Turnkey	PO for 562' of concrete at 0.85 per ft.... poured 1030' at 0.95 per foot
JN	00202263	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	

JN	00202855	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JP	03727878	43040.01	additional brick	Masonry Labor 1	additioanl labor for additional 229 brick
JN	00202236	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00202823	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202823	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202894	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202879	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JP	03735123	45530.02	additioanl labor	City Sidewalk - Turnkey	additional labor for 263sf
JP	03736639	45530.99	driveway repair	Retention Flatwork	labor and material to repair driveway
JN	00203174	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00203104	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00203104	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00203136	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00203169	45050.07	STONE-jls (annatole stone)	Fireplace Surround-Stone	
JN	00203160	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JP	03735126	45530.02	additional labor	City Sidewalk - Turnkey	additional labor for 150 sf
JP	03735127	40023.99	additional footing labot	Retention - Excavation	additional labor to dig right side of home per engineer
JN	00203444	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00203444	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00203376	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00203376	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00203407	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JP	03742273	43040.01	threshold support	Masonry Labor 1	labor and material for brick threshold

DP	03736064	43040.01	additional brick	Masonry Labor 1	(1175) brick to finish
DN	00203434	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DP	03736648	45530.01	flat work	Driveway/Lead walk- Turnkey	additional 114' of concrete labor
DP	03736639	45530.99	driveway repair	Retention Flatwork	labor and material to repair garage due to incorrect blue prints
DN	00203835	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00203836	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203836	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DP	03750005	45530.01	driveway	Driveway/Lead walk- Turnkey	additional labor for 263' of concrete
DN	00203895	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00203924	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00203924	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00203925	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203925	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DP	03746992	40026.04	flip house	Foundation Materials	labor and material to flip foundation
DN	00203957	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03748472	43040.01	additional labor	Masonry Labor 1	additional labor for 285 brick @ 0.495 per
DP	03749035	45530.01	additional labor	Driveway/Lead walk- Turnkey	additional labor for 200'
DN	00203984	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DP	03742274	40023.99	engineering requirement	Retention - Excavation	labor to dig deeper footings due to compaction results
DN	00203707	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00203708	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203708	40026.02	FOUNDATION STEEL - jls	Foundation Steel	

JN	00203742	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JP	03744745	43040.01	brick	Masonry Labor 1	additional labor for 214 brick
JN	00203769	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JP	03746993	45530.01	driveway	Driveway/Lead walk-Turnkey	labor for additional 216' of concrete
JN	00204019	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00204020	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00204020	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00204054	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00204079	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JP	03749035	45530.01	additional labor	Driveway/Lead walk-Turnkey	additional labor for 248'
JP	03750007	40023.99	additional digging	Retention - Excavation	additional labor to dig footers for compaction
JN	00204520	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00204521	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00204521	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JP	03750006	40026.04	flip swing of garage	Foundation Materials	labor and material to flip house after boxing
JN	00204988	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00204983	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00204983	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00204983	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00204983	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00204621	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00204621	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	

JN	00204622	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00204622	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00204711	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00204712	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00204712	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JP	03749034	40023.99	extra footing depth	Retention - Excavation	additional cost to dig deeper footing to achieve compaction
JN	00204440	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00204466	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JP	03752020	45530.01	additional concrete	Driveway/Lead walk-Turnkey	additional labor for 388' of concrete
JN	00201916	40023.07	PIT GRAVEL-jls	Pit Gravel	
JN	00201996	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201996	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201919	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00201919	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JP	03717344	40026.07	additional concrete	Foundation Concrete	additional concrete #5884
JP	03717195	40026.07	incorrect plans	Foundation Concrete	incorrect home plan
JN	00201953	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00201956	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00201999	45050.07	STONE-jls (annatole stone)	Fireplace Surround-Stone	
JN	00201982	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JN	00201982	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JP	03719535	45530.99	patio repair	Retention Flatwork	labor and material to repair damaged Patio
JP	03717349	45531.12	crash pole	Flatwork Materials	labor and material for crash pole (gas line safety)

Parameters:
Description:
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DP	03701467	40025.03	cordwell, concrete	Slab Pour	re-form house
DP	03701462	40025.03	cordwell, concrete	Slab Pour	flatwork labor PO short
DP	03703291	40025.03	wrong pricing on the original	Slab Pour	pricing should have been .950 not .850 per square foot
DP	03702762	43040.01	cordwell, labor	Masonry Labor 1	brick PO short
DP	03704294	45530.01	patio extension	Driveway/Lead walk-Turnkey	patio extension
DN	00200183	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00200264	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03703291	40025.03	wrong pricing on the original	Slab Pour	pricing should have been .950 not .850 per square foot
DP	03701462	40025.03	cordwell, concrete	Slab Pour	flatwork labor PO short
DN	00200186	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200186	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DP	03702762	43040.01	cordwell, labor	Masonry Labor 1	brick PO short
DN	00203158	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00203184	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03727872	45530.01	price correction	Driveway/Lead walk-Turnkey	additional charge due to price correction
DN	00203185	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00202915	40023.07	PIT GRAVEL-jls	Pit Gravel	
DP	03720947	40023.99	compaction requirements	Retention - Excavation	additional labor and materiel to satisfy engineering requirements
DN	00202987	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202987	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202918	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202918	40026.02	FOUNDATION STEEL - jls	Foundation Steel	

Parameters:
Description:
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DN	00202951	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00202989	45050.07	STONE-jls (annatole stone)	Fireplace Surround-Stone	
DN	00202977	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00202978	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00200779	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00200859	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03710663	40025.03	Riddley, Labor error	Slab Pour	.10 at 562 sf .10 at 132 sf
DN	00200782	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200782	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200816	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200843	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00200844	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00200603	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00200685	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03703291	40025.03	wrong pricing on the original	Slab Pour	Original PO had wrong sq ft pricing should have been .950 not .850
DP	03703291	40025.03	wrong pricing on the original	Slab Pour	pricing was .850 should have been .950 per square foot
DN	00200606	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200606	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200641	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00200667	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00200668	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00200483	40023.07	PIT GRAVEL-jls	Pit Gravel	

JN	00200536	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JP	03703291	40025.03	wrong pricing on the original	Slab Pour	pricing should have been .950 not .850 per square foot
JN	00200486	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200486	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200517	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00201896	43060.02	STONE-jls (annatole stone)	Stone Turnkey 2	stone grill island
JN	00200531	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JN	00200532	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00202812	40023.07	PIT GRAVEL-jls	Pit Gravel	
JN	00202896	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00203111	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202815	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202815	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202849	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00202852	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JP	03724568	45530.01	concrete	Driveway/Lead walk- Turnkey	additional labor charge for 440' on concrete at \$0.95 per foot
JN	00202878	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JN	00202879	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JP	03724569	45531.12	price correction	Flatwork Materials	additional \$0.10 per foot for 694' of concrete
JN	00201558	40023.07	PIT GRAVEL-jls	Pit Gravel	
JN	00201638	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201561	40026.02	FOUNDATION STEEL - jls	Foundation Steel	

DN	00201561	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DP	03717196	40026.07	slab difference	Foundation Concrete	slab difference #5628
DP	03717196	40026.07	slab difference	Foundation Concrete	Driveway difference #5909
DN	00201595	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00201623	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00201624	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00202009	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00202082	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202082	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202012	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202012	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DP	03717196	40026.07	slab difference	Foundation Concrete	slab difference #6044
DN	00202046	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03719536	43040.01	labor	Masonry Labor 1	additional labor to finish. 460 brick at .495 each #6255
DP	03717348	43040.01	additional labor	Masonry Labor 1	additional labor (1) cube
DP	03719754	45530.01	driveways	Driveway/Lead walk-Turnkey	additional labor for concrete 563'
DN	00202075	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03722804	45530.99	driveway damage	Retention Flatwork	labor and matertial to replace damaged concrete at curb
DN	00201466	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00201546	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201469	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201469	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201503	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00201506	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	

JN	00201533	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JN	00201534	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00200273	40023.07	PIT GRAVEL-jls	Pit Gravel	
JN	00200354	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JP	03701462	40025.03	cordwell, concrete	Slab Pour	flatwork labor PO short
JP	03703291	40025.03	wrong pricing on the original	Slab Pour	pricing should have been .950 not .850 per square foot
JN	00200276	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200276	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200310	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00200310	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JP	03702762	43040.01	cordwell, labor	Masonry Labor 1	brick PO short
JN	00200338	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JN	00200339	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00200096	40023.07	PIT GRAVEL-jls	Pit Gravel	
JN	00200175	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JP	03701462	40025.03	cordwell, concrete	Slab Pour	flatwork labor PO short
JN	00200099	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200099	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200131	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00200157	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JN	00200158	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00201289	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00201316	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JN	00201317	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	

JN	00203024	40023.07	PIT GRAVEL-jls	Pit Gravel	
JN	00203101	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00203027	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00203027	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00203059	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00203059	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00203059	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JP	03727872	45530.01	price correction	Driveway/Lead walk- Turnkey	additional charge due to price correction
JN	00203084	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JN	00203085	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00200893	40023.07	PIT GRAVEL-jls	Pit Gravel	
JN	00200972	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00200972	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JP	03710685	40025.03	Riddley, Labor Error	Slab Pour	.10 at 120 sf .10 at 562 sf .95 at 324 sf
JN	00200896	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200896	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200930	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00200974	45050.07	STONE-jls (annatole stone)	Fireplace Surround- Stone	
JN	00200960	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JN	00200960	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JP	03710702	45530.01	Riddley, Driveway Repair	Driveway/Lead walk- Turnkey	Replace wing on Driveway and Fix Cracks in Patio
JN	00200961	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00200984	40023.07	PIT GRAVEL-jls	Pit Gravel	
JP	03710684	40025.03	Riddley, Labor Error	Slab Pour	.10 at 562 sf .95 at 390 sf

DN	00201056	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201056	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200987	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200987	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DP	03717196	40026.07	slab difference	Foundation Concrete	slab difference #5603
DN	00201022	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DP	03710697	43060.01	Riddley, Cost Error	Stone Turnkey 1	8.50 at 100sf
DN	00201049	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DP	03717197	40025.03	slab difference	Slab Pour	slab difference #5605
DN	00201202	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03710682	43040.01	Riddley, Brick Labor	Masonry Labor 1	.495 at 424 ea
DN	00201205	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DP	03710696	43060.01	Riddley, Cost Error	Stone Turnkey 1	8.50 at 34sf
DN	00201232	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DP	03710683	45530.01	Riddley, Flatwork Labor	Driveway/Lead walk- Turnkey	.10 at 562 sf
DN	00202096	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00202168	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202168	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03717197	40025.03	slab difference	Slab Pour	slab difference #6045
DN	00202099	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202099	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202132	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03717348	43040.01	additional labor	Masonry Labor 1	Additional labor (2) cubes
DP	03719536	43040.01	labor	Masonry Labor 1	additional labor to complete 1380 brick at .495 each. #6254
DN	00202170	45050.07	STONE-jls (annatole stone)	Fireplace Surround- Stone	

0N	00202159	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
0N	00202159	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
0P	03719754	45530.01	driveways	Driveway/Lead walk- Turnkey	additional concrete labor 293'
0N	00200544	40023.07	PIT GRAVEL-jls	Pit Gravel	
0N	00200596	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
0N	00200547	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
0N	00200547	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
0P	03710693	43040.01	Riddley, Brick Repair	Masonry Labor 1	Repair at Water Heater Pipe
0N	00200578	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
0N	00200591	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
0N	00200592	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
0N	00201380	40023.07	PIT GRAVEL-jls	Pit Gravel	
0N	00201453	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
0N	00201453	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
0P	03710686	40025.03	Riddley, Labor Error	Slab Pour	.10 at 243sf
0N	00201383	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
0N	00201383	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
0N	00201418	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
0N	00201445	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
0N	00201446	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
0N	00202300	40023.07	PIT GRAVEL-jls	Pit Gravel	
0N	00202375	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
0P	03717197	40025.03	slab difference	Slab Pour	slab difference #6032
0N	00202303	40026.02	FOUNDATION STEEL - jls	Foundation Steel	

JN	00202303	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202336	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00202338	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00202365	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JP	03719754	45530.01	driveways	Driveway/Lead walk-Turnkey	additional labor for 67' of concrete
JN	00202623	40023.07	PIT GRAVEL-jls	Pit Gravel	
JN	00202704	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202626	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202626	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202660	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00202686	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JN	00202687	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00202202	40023.07	PIT GRAVEL-jls	Pit Gravel	
JN	00202277	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202277	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202808	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JP	03717197	40025.03	slab difference	Slab Pour	slab difference #6033
JN	00202205	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202205	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202239	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00202280	45050.07	STONE-jls (annatole stone)	Fireplace Surround-Stone	
JN	00202265	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JP	03719773	45530.01	driveway, patio, extension	Driveway/Lead walk-Turnkey	additional labor for 510' of concrete

DP	03719537	45531.01	crash pole	Flatwork Concrete Material	labor and material to install crash pole for tankless waterheater #6250
DP	03717350	45531.01	crash pole	Flatwork Concrete Material	labor and material for crash pole
DN	00202718	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00203205	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202794	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202794	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202721	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202721	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202755	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00202783	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03722805	45530.01	parking pad	Driveway/Lead walk-Turnkey	additional labor and material to pour and finish side parking pad of 311 sq. ft.
DP	03722806	45530.01	price correction	Driveway/Lead walk-Turnkey	price correction for labor. PO was for 0.85 per ft. price is 0.95. \$0.10 for 884 sq. ft
DN	00202784	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00202389	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00202462	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202462	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03717197	40025.03	slab difference	Slab Pour	slab difference #6091
DN	00202392	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202392	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DP	03716567	40026.04	short	Foundation Materials	materials for drive
DP	03719785	43041.02	stone	Masonry Materials	additional stone to finish 30' at 8.50

JN	00202426	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00202467	45050.07	STONE-jls (annatole stone)	Fireplace Surround-Stone	
JN	00202452	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JN	00202452	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JP	03719754	45530.01	driveways	Driveway/Lead walk-Turnkey	additional labor for 123' of concrete drive
JP	03730761	40023.99	comapaction	Retention - Excavation	labor to dig 1/2 of foundation 2-3' deep for compaction
JN	00203322	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00203246	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00203246	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00203279	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JP	03735119	43040.01	additional brick labor	Masonry Labor 1	additioanl 206 brick @ \$0.495 per brick
JN	00203306	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JP	03735118	45530.01	driveway overage	Driveway/Lead walk-Turnkey	188 sf additional convrete labor
JP	03735120	45530.02	additional labor footage	City Sidewalk - Turnkey	additional 44 sf of labor
JN	00203410	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00203410	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00203419	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00203419	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JP	03735128	43060.01	additional stone	Stone Turnkey 1	additional 30 sf
JN	00203374	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00203400	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JN	00203401	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00202535	40023.07	PIT GRAVEL-jls	Pit Gravel	

Parameters:
Description:
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DN	00202612	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202538	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202538	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DP	03719527	40026.04	crash pole	Foundation Materials	labor and material to install crash pole for tankless waterheater
DP	03720994	43040.01	additional brick	Masonry Labor 1	additional brick labor for 150 brick
DN	00202572	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00202609	45050.07	STONE-jls (annatole stone)	Fireplace Surround- Stone	
DP	03720223	45530.01	extra labor	Driveway/Lead walk- Turnkey	additional labor for 76' of concrete
DP	03720224	45530.01	price correction	Driveway/Lead walk- Turnkey	price correction: origional PO was priced at 0.85 per foot.the correct price in 0.95 per foot. the home was for 830'
DN	00202598	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00202598	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00202599	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00201764	40023.07	PIT GRAVEL-jls	Pit Gravel	
DP	03710765	40025.03	Riddley, Labor Error	Slab Pour	.10 at 80sf
DN	00201843	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201767	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201767	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201801	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00201829	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00201829	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00201830	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	

DN	00201663	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00201744	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03710694	40025.03	Riddley, Labor Error	Slab Pour	.10 at 80sf
DN	00201666	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201666	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201700	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00201742	45050.07	STONE-jls (annatole stone)	Fireplace Surround- Stone	
DN	00201727	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00201728	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00201072	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00201152	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201075	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201075	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201109	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00201136	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00201137	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00201561	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201561	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201569	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201569	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201573	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00201524	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DP	03735333	43060.01	additional stone	Stone Turnkey 1	assitional 150 sf of stone per community specs

JN	00201550	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JN	00201551	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00202499	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202499	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202500	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202500	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202238	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202238	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202238	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202589	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202324	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JP	03748474	43040.01	brick labor	Masonry Labor 1	additional labor for 1084 brick at \$0.495 per brick
JN	00202274	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JP	03748473	43060.01	stone	Stone Turnkey 1	additional labor and material for 115' of stone at \$8.50 per ft.
JN	00202317	45050.07	STONE-jls (annatole stone)	Fireplace Surround- Stone	
JN	00202299	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JP	03748475	45530.01	additional labor	Driveway/Lead walk- Turnkey	additional labor for 484' of concrete at 0.95 per foot. reference CO # 3 for detail
JN	00202300	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00200041	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00200041	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00200007	40026.02	FOUNDATION STEEL - jls	Foundation Steel	

DN	00200007	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200088	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200088	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200088	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03701466	40025.03	cordwell, concrete	Slab Pour	re-form house
DP	03701463	40025.03	cordwell, concrete	Slab Pour	flatwork labor PO short
DP	03702292	40025.03	flatwork	Slab Pour	extra brick for model
DP	03702292	40025.03	flatwork	Slab Pour	parking lot labor
DP	03702292	40025.03	flatwork	Slab Pour	extra flat work
DN	00200004	40023.07	PIT GRAVEL-jls	Lot Grade-Extras	
DN	00200091	45050.07	STONE-jls (annatole stone)	Fireplace Surround-Stone	
DN	00200071	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00200071	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00200072	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00202347	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202347	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202348	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202348	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202423	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00202423	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00202423	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00201939	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201939	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201940	40026.02	FOUNDATION STEEL - jls	Foundation Steel	

Parameters:
Description:
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JN	00201940	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00201975	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00201975	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00201975	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00201975	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JP	03737333	43040.01	additional labor	Masonry Labor 1	additional labor for 2294 brick
JN	00202019	45050.07	STONE-jls (annatole stone)	Fireplace Surround-Stone	
JP	03739430	45530.01	drive/ walkway	Driveway/Lead walk-Turnkey	additional labor for 746' of concrete
JN	00202003	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JN	00202003	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JN	00202004	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00201451	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201451	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201451	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201374	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00201374	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00201409	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00201409	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00201412	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JP	03738783	45300.01	float sub floor	Hardwood Flooring	lkabor and material to float out unlevel slab for hardwoods. Back Charge Reason: unlevel sub floors Back Charge Contact and Date: mauricio 12/03
JN	00201439	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	

JN	00201440	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00200842	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00200842	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JP	03728084	40025.03	price correction	Slab Pour	price correction
JN	00200763	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200763	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JP	03729861	43040.01	brick labor	Masonry Labor 1	additional labor for 1484 brick
JN	00200801	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00200840	45050.07	STONE-jls (annatole stone)	Fireplace Surround- Stone	
JP	03729860	45530.01	driveways	Driveway/Lead walk- Turnkey	0.10 price correction for 774 ' of concrete
JN	00200826	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JN	00200827	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00200944	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00200944	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202486	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00200873	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200873	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JP	03729855	43040.01	brick labor	Masonry Labor 1	additional labor for 2135 brick
JN	00200906	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00200906	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00200946	45050.07	STONE-jls (annatole stone)	Fireplace Surround- Stone	
JP	03739431	45530.01	driveway repair	Driveway/Lead walk- Turnkey	additional labor to repair 2 section of concrete

Parameters:
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DP	03729860	45530.01	driveways	Driveway/Lead walk-Turnkey	price correction for footage and PO amount per foot. poured1418 SQ Ft
DN	00200934	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03752021	45530.99	equipment rental	Retention Flatwork	equipment rental for a ' Georgia buggy' to haul concrete due to the lot condition
DP	03733146	40023.99	engineering requirement	Retention - Excavation	additional labor for engineering requirement.
DN	00201677	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201677	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201682	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201682	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201635	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00201635	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03732114	40023.99	compaction requirement	Retention - Excavation	additional labor to meet compaction requirements
DN	00201813	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201813	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201813	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201814	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201814	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201848	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00201848	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03736065	43040.01	additioanl brick	Masonry Labor 1	(1266) additional brick labor
DN	00201851	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00201893	45050.07	STONE-jls (annatole stone)	Fireplace Surround-Stone	

Parameters:
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0N	00201876	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
0N	00201877	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
0N	00201231	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
0N	00201231	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
0N	00201231	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
0N	00201231	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
0N	00201231	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
0N	00201153	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
0N	00201153	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
0N	00201153	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
0N	00201153	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
0N	00201187	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
0N	00201187	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
0N	00201187	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
0N	00201187	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
0P	03732041	43040.01	additional labor	Masonry Labor 1	additional labor for 504 brick
0N	00201215	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
0N	00201215	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
0N	00201215	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
0P	03729527	45530.01	patio	Driveway/Lead walk- Turnkey	additional concrete and labor for patio and price correction
0P	03729860	45530.01	driveways	Driveway/Lead walk- Turnkey	price correction for footage and PO amount. Poured 320 sq ft

DP	03732040	45530.01	correction	Driveway/Lead walk-Turnkey	correction for additional footage (683) and incorrect priceon origional PO
DN	00201216	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00202079	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202079	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202079	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202080	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202080	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202080	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202080	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202165	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00202115	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00202158	45050.07	STONE-jls (annatole stone)	Fireplace Surround-Stone	
DN	00202141	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00202141	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00202141	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00202142	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DP	03750011	45530.99	driveway repair	Retention Flatwork	additional labor to replace damaged section of concrete
DN	00201772	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201772	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201772	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201780	40026.02	FOUNDATION STEEL - jls	Foundation Steel	

JN	00201780	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00201785	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JP	03734746	43040.01	additional labor	Masonry Labor 1	additional 6312 brick for rear of home
JP	03736053	43040.02	additional labor	Masonry Labor 2	additional labor for brick on front elevation
JN	00202040	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00201758	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JN	00201758	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JN	00201759	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JP	03735132	45530.02	additional labor	City Sidewalk - Turnkey	labor for additional 300' of concrete
JP	03730752	40023.99	comapction	Retention - Excavation	additional labor to dig footings 5' for compaction and clean footers due to rain
JN	00201350	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201350	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201350	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201350	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201350	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201350	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201350	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201350	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201350	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00202031	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00202031	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200225	40023.07	PIT GRAVEL-jls	Lot Grade-Extras	

Parameters:
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JN	00200306	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00200306	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JP	03717189	40025.03	slab difference	Slab Pour	slab difference #6088
JP	03710764	40025.03	Riddley, Labor Error	Slab Pour	.10 at 120 sf
JN	00200228	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200228	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200263	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00200263	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00200266	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
JN	00200304	45050.07	STONE-jls (annatole stone)	Fireplace Surround- Stone	
JN	00200293	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
JN	00200294	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JP	03722807	45530.99	concrete repair	Retention Flatwork	labor and material to replace damaged concrete at curb
JP	03727874	40023.99	compaction requirement	Retention - Excavation	additional labor for digging footings per engineering requirements
JP	03728084	40025.03	price correction	Slab Pour	price correction
JN	00201134	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201134	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201134	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00201061	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00201061	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00201095	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JN	00201095	43040.01	MASONRY LABOR-jls	Masonry Labor 1	

DP	03728697	43040.01	qty correction	Masonry Labor 1	labor for additional 513 brick
DN	00201136	45050.07	STONE-jls (annatole stone)	Fireplace Surround-Stone	
DP	03729860	45530.01	driveways	Driveway/Lead walk-Turnkey	price correction for price and PO amount. Poured 815 sq ft.
DN	00201123	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00201124	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DP	03725924	40023.07	pit gravel / lot 263	Lot Grade-Extras	ref po 200638 ON#57 stonesp
DP	03728698	40025.03	price correction	Slab Pour	additional labor 120'
DN	00200715	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200715	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200641	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200641	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DP	03727882	43040.01	additional brick	Masonry Labor 1	additional labor for 5512 brick
DN	00200724	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200675	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DP	03729526	43060.01	stone	Stone Turnkey 1	additional 12' of stone
DN	00200714	45050.07	STONE-jls (annatole stone)	Fireplace Surround-Stone	
DN	00200699	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03728699	45530.01	price correction	Driveway/Lead walk-Turnkey	additional labor for additional concrete and price correction of price per ft.
DN	00200700	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00200113	40023.07	PIT GRAVEL-jls	Lot Grade-Extras	
DN	00200190	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200190	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	

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DN	00200190	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03710700	40025.03	Riddley, Labor Error	Slab Pour	.95 at 711sf, .10 at 90sf, .10 at 1082sf, .10 at 212sf
DN	00200116	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200116	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DP	03716565	40026.07	short materials also patio ext	Foundation Concrete	materials plus patio
DN	00200202	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03710691	43040.01	Riddley, Labor Error	Masonry Labor 1	.495 at 3988
DP	03710703	43040.02	Riddley, Repair Stone	Masonry Labor 2	Repair Stone damaged by Siding Vendor
DN	00200152	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00200193	45050.07	STONE-jls (annatole stone)	Fireplace Surround- Stone	
DN	00200179	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00200179	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00200179	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00200345	40023.07	PIT GRAVEL-jls	Lot Grade-Extras	
DP	03720948	40023.99	additional labor	Retention - Excavation	additional labor to meet engineering requirements
DP	03720225	40025.03	move forms	Slab Pour	labor and material to move forms after origional completion
DN	00200421	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200421	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200348	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200348	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201039	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201039	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	

DN	00201039	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200966	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200966	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200144	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200144	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200145	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200145	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200178	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03752016	43040.01	brick labor	Masonry Labor 1	additional labor for 214 brick
DP	03752573	45530.01	driveway	Driveway/Lead walk- Turnkey	labor for additional 165'
DN	00200208	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00200209	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00200428	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200428	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200428	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200429	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200429	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200462	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200710	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200710	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200525	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200525	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200526	40026.02	FOUNDATION STEEL - jls	Foundation Steel	

Parameters:
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JN	00200526	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200333	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00200333	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00200334	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200334	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200367	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
JP	03752018	43040.01	brick	Masonry Labor 1	additional labor for 721 brick
JN	00200398	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JN	00200399	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00200241	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00200241	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00200241	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00200242	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200242	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JP	03752567	43060.01	stone	Stone Turnkey 1	labor and material for additional stone
JN	00200303	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
JP	03752565	45530.01	driveway	Driveway/Lead walk-Turnkey	additional labor for 368'
JN	00200304	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
JN	00200816	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00200817	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200817	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
JN	00200619	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
JN	00200619	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	

DN	00200619	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200620	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200620	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200916	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200916	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200917	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200917	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200757	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00200832	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03710695	40025.03	Riddley, Labor Error	Slab Pour	.10 at 243sf
DP	03717180	40025.03	slab difference	Slab Pour	slab difference #5810
DN	00200760	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200760	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200792	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00200817	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DP	03719753	45530.01	driveway	Driveway/Lead walk- Turnkey	additional labor for 232' of concrete
DN	00200501	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00200576	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03717180	40025.03	slab difference	Slab Pour	slab difference #5630
DP	03717180	40025.03	slab difference	Slab Pour	slab differernce #5811
DN	00200504	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200504	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200538	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	

DP	03719753	45530.01	driveway	Driveway/Lead walk-Turnkey	labor for an additional 101' of concrete
DN	00200564	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00201013	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00201085	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03727873	40025.03	concrete	Slab Pour	price correction and footage correction
DN	00201016	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201016	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DP	03721486	40026.04	move forms	Foundation Materials	labor and material to move forms after box check
DN	00201049	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00201073	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03703292	40025.03	Original PO incorrect	Slab Pour	pricing should have been .950 not.850 per square foot
DP	03702763	43040.01	cordwell, labor	Masonry Labor 1	stone PO short
DN	00200127	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00200153	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00202979	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00202980	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202980	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202938	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03735121	43040.01	additional brick labor	Masonry Labor 1	additional labor for 426 brick
DN	00202965	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03733595	45530.01	driveway	Driveway/Lead walk-Turnkey	additional labor and price correction for 934' of concrete
DN	00202771	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	

DP	03735122	45530.02	additional labor	City Sidewalk - Turnkey	additional 282 sf of material labor
DP	03719986	40025.03	flip foundation	Slab Pour	labor and material to flip foot print
DP	03717181	40025.03	slab difference	Slab Pour	slab difference #5895
DP	03717181	40025.03	slab difference	Slab Pour	slab difference #6098
DN	00202109	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00202184	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03725060	40025.03	price correction	Slab Pour	80' of concrete \$0.10 per foor
DN	00202112	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202112	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202144	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03727878	43040.01	additional brick	Masonry Labor 1	additional labor for additional 171 brick
DN	00202170	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03728696	45530.02	driveway	City Sidewalk - Turnkey	additional labor for additional 108' of concrete
DN	00203264	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00203264	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00203264	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00203592	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203592	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203271	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203271	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203227	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DP	03736647	43060.01	stone	Stone Turnkey 1	additional 21' of stone
DP	03736646	45530.01	driveway	Driveway/Lead walk-Turnkey	additional 208' feet of labor for concrete

DP	03737822	45530.01	extended patio	Driveway/Lead walk-Turnkey	additional labor to extend patio
DN	00203251	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03739429	45530.02	walkway	City Sidewalk - Turnkey	labor for wwalkway to garage service door
DN	00201738	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00201810	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201741	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201741	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201774	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00201799	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03720221	45530.01	flat work	Driveway/Lead walk-Turnkey	labor for additional flat work missing from PO for 191'
DP	03720222	45530.01	price correction	Driveway/Lead walk-Turnkey	price correction (0.10) per foot for 562'. note: should have paid 0.95 per foot. origional PO was for 0.85 per foot.
DN	00202199	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00202277	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03725060	40025.03	price correction	Slab Pour	80' of concrete \$0.10 per foot
DN	00202202	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202202	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203083	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00203010	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203010	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203044	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03735124	43040.01	additional brick labor	Masonry Labor 1	additional 305 brick
DN	00203071	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	

DP	03735125	45530.02	additional labor	City Sidewalk - Turnkey	additional 261 sf
DN	00203351	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00203352	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203352	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203312	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00203336	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03736063	45530.01	drive and patio	Driveway/Lead walk-Turnkey	additional 266' of concrete labor
DP	03740329	40023.99	compaction requirement	Retention - Excavation	labor and equipment to dig 100% of the footings to acheive compaction.
DN	00203611	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00203612	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203612	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203646	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DP	03745390	43060.01	additional stone	Stone Turnkey 1	additional 109' of stone
DN	00203671	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03744712	45530.01	driveway	Driveway/Lead walk-Turnkey	additional labor for 238' of concrete
DP	03744744	45530.01	driveway	Driveway/Lead walk-Turnkey	additional labor for 238'
DN	00204207	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00204208	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00204208	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00204242	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03749025	43040.01	additional brick	Masonry Labor 1	additional 186 brick
DN	00204269	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	

DP	03752574	45530.01	driveway	Driveway/Lead walk-Turnkey	labor for additional 203'
DN	00204122	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00204123	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00204123	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DP	03747029	40026.04	flip house	Foundation Materials	labor and material to flip foundation. light post was in the way
DN	00204179	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03750008	45530.01	driveway	Driveway/Lead walk-Turnkey	additional labor for 238' of concrete
DN	00204300	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00204301	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00204301	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00204335	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03750469	43040.01	extra brick	Masonry Labor 1	addional 499 brick to finish
DN	00204363	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03750010	45530.01	driveway	Driveway/Lead walk-Turnkey	additional labor for additional 243' of concrete
DN	00204407	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00204407	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00204408	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00204408	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200008	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00200082	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200082	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200011	40026.02	FOUNDATION STEEL - jls	Foundation Steel	

DN	00200011	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200046	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00200073	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00200073	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00200074	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00200220	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200248	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00200249	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00203122	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00203200	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00203125	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00203125	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201252	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00201331	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201255	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201255	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201166	40023.07	PIT GRAVEL-jls	Pit Gravel	
DN	00201244	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00201169	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00201169	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202239	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00202239	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200798	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200798	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200547	40023.07	PIT GRAVEL-jls	Lot Grade-Extras	

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DN	00200621	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200621	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200621	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200621	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DP	03728084	40025.03	price correction	Slab Pour	additional concrete and price correction
DP	03728084	40025.03	price correction	Slab Pour	price correction
DN	00200550	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200550	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200550	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200550	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200584	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200584	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200584	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200584	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200625	45050.07	STONE-jls (annatole stone)	Fireplace Surround- Stone	
DN	00200612	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00200612	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00200612	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DP	03735129	43040.01	additional brick labor	Masonry Labor 1	additional 1650 brick
DP	03742311	43040.02	patio threshold	Masonry Labor 2	labor and material to install patio threshold
DN	00201676	45050.07	STONE-jls (annatole stone)	Fireplace Surround- Stone	
DN	00201661	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DP	03737819	45530.01	driveway	Driveway/Lead walk- Turnkey	additional labor for 716' of concrete at \$0.95 per foot

DP	03738613	45530.01	replace driveway	Driveway/Lead walk-Turnkey	labor to remove and replace 2 sectiones of driveway due to sewer damage
DN	00201662	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DP	03747033	43040.01	brick	Masonry Labor 1	additional labor for 5388 brick
DP	03747028	43060.01	stone	Stone Turnkey 1	additional 60' of stone
DP	03747027	45530.02	driveway	City Sidewalk - Turnkey	labor for additional 311'
DP	03736645	40026.06	stoop	Front Stoop Material	labor and material for front stoop
DN	00201356	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00201356	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00201356	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03736066	43040.01	additional brick	Masonry Labor 1	(3792) additional brick
DP	03736644	43040.02	wing wall	Masonry Labor 2	labor to build wing wall
DN	00202049	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00202049	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00202049	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00201348	45050.07	STONE-jls (annatole stone)	Fireplace Surround-Stone	
DN	00201331	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00201331	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DN	00201331	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk-Turnkey	
DP	03736649	45530.01	flat work	Driveway/Lead walk-Turnkey	additional 351' feet of concrete labor
DN	00201332	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DP	03737818	45530.99	extra patio	Retention Flatwork	labor to add patio under deck
DP	03736074	45530.99	parging	Retention Flatwork	labor and material to parge basement walls

DP	03732042	43040.02	repair	Masonry Labor 2	labor and material to repair brick at fireplace vent
DN	00200180	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DP	03725058	43040.01	brick/ stone	Masonry Labor 1	labor and material to add brick and stone at front elevation
DP	03723874	43040.01	price correction	Masonry Labor 1	price correction for 476 sq. ft. of brick to complete work at 0.95 per ft.
DP	03723875	43040.01	price correction	Masonry Labor 1	price correction for incorrect bid amount. 0.10 per foot for 774 sq ft of brick
DN	00200428	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DN	00200380	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DP	03723876	43060.01	price correction	Stone Turnkey 1	127 additional sq. ft. of stone at \$8.50 per sq. ft. to finish
DN	00200419	45050.07	STONE-jls (annatole stone)	Fireplace Surround- Stone	
DN	00200405	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00200406	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00201049	43040.01	MASONRY LABOR-jls	Masonry Labor 1	
DP	03728700	43040.01	additional brick	Masonry Labor 1	additional 2964 brick @ .495
DN	00201000	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00201000	43060.01	STONE-jls (annatole stone)	Stone Turnkey 1	
DN	00201037	45050.07	STONE-jls (annatole stone)	Fireplace Surround- Stone	
DN	00201024	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DN	00201024	45530.01	SLAB/FLATWORK LABOR-jls	Driveway/Lead walk- Turnkey	
DP	03729860	45530.01	driveways	Driveway/Lead walk- Turnkey	price correction for footage and PO amount. Poured 2152 sq ft

DN	00201025	45530.02	SLAB/FLATWORK LABOR-jls	City Sidewalk - Turnkey	
DN	00200049	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200049	40025.03	SLAB/FLATWORK LABOR-jls	Slab Pour	
DN	00200050	40026.02	FOUNDATION STEEL - jls	Foundation Steel	
DN	00200050	40026.02	FOUNDATION STEEL - jls	Foundation Steel	

EXHIBIT D

#	House #	Street	Last payment Date
1	28	Duxbury Lane	8/9/2012
2	29	Duxbury Lane	10/25/2012
3	32	Duxbury Lane	5/11/2012
4	30	Duxbury Lane	11/1/2012
5	28	Duxbury Lane	2/18/2013
6	26	Duxbury Lane	7/27/2012
7	24	Duxbury Lane	1/26/2012
8	22	Duxbury Lane	12/16/2011
9	20	Duxbury Lane	1/26/2012
10	18	Duxbury Lane	1/26/2012
11	10	Duxbury Lane	10/24/2013
12	101	Yount Court	9/19/2013
13	103	Yount Court	8/23/2013
14	105	Yount Court	12/20/2012
15	107	Yount Court	9/6/2012
17	109	Yount Court	2/7/2013
16	111	Yount Court	7/1/2013
17	110	Yount Court	9/19/2013
18	108	Yount Court	11/1/2012
19	106	Yount Court	12/20/2012
20	104	Yount Court	6/20/2013
21	102	Yount Court	5/9/2013
22	100	Yount Court	11/1/2012
23	1	Harwick Court	1/10/2013
24	3	Harwick Court	4/4/2013
25	5	Harwick Court	8/29/2013
26	7	Harwick Court	8/8/2013
27	9	Harwick Court	9/19/2013
28	11	Harwick Court	6/20/2013
29	15	Harwick Court	12/5/2013
30	16	Harwick Court	1/16/2014
31	14	Harwick Court	1/10/2013

EXHIBIT D

32	12	Harwick Court	7/25/2013
33	10	Harwick Court	10/24/2013
34	8	Harwick Court	10/24/2013
35	6	Harwick Court	12/5/2013
36	4	Harwick Court	10/24/2013
37	2	Harwick Court	2/27/2014
38	101	Berwick Court	10/20/2013
39	103	Berwick Court	5/31/2012
40	105	Berwick Court	5/31/2012
41	107	Berwick Court	5/23/2013
42	121	Berwick Court	5/31/2012
43	123	Berwick Court	5/31/2012
44	125	Berwick Court	12/20/2012
45	127	Berwick Court	6/6/2013
46	142	Berwick Court	8/9/2012
47	140	Berwick Court	11/1/2012
48	138	Berwick Court	11/1/2012
49	136	Berwick Court	1/10/2013
50	134	Berwick Court	8/9/2012
51	132	Berwick Court	12/20/2012
52	130	Berwick Court	1/10/2013
53	128	Berwick Court	2/21/2013
54	126	Berwick Court	1/10/2013
55	124	Berwick Court	4/4/2013
56	122	Berwick Court	1/10/2013
57	120	Berwick Court	10/24/2013
58	118	Berwick Court	10/24/2013
59	116	Berwick Court	2/7/2013
60	114	Berwick Court	9/6/2012
61	112	Berwick Court	8/23/2012
62	106	Berwick Court	5/17/2012
63	1	Chatham Court	4/18/2013
64	3	Chatham Court	8/9/2012

EXHIBIT D

65	5	Chatham Court	12/20/2012
66	7	Chatham Court	12/20/2012
67	9	Chatham Court	4/4/2013
68	11	Chatham Court	11/1/2012
69	8	Chatham Court	4/4/2013
70	6	Chatham Court	12/20/2012
71	101	Sturbridge Court	5/31/2012
72	104	Sturbridge Court	8/29/2013
73	17	Kettering Court	6/6/2013
74	2	Kettering Court	12/5/2013
75	4	Kettering Court	12/5/2013
76	6	Kettering Court	2/27/2014
77	8	Kettering Court	8/29/2013
78	16	Kettering Court	12/5/2013
79	19	Kettering Court	2/27/2014
80	15	Kettering Court	8/29/2013
81	11	Kettering Court	8/29/2013
82	9	Kettering Court	10/24/2013
83	7	Kettering Court	2/13/2014
84	9	Dartford Court	8/29/2013
85	8	Dartford Court	8/29/2013
86	6	Dartford Court	7/25/2013
87	4	Dartford Court	10/18/2012
88	2	Dartford Court	4/18/2013

Oct 25 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Hon. R. Scott Sprouse, Circuit Court Judge

CASE NO. 2019-CP-04-01942

Natalie Zitek, individually, and on behalf of others
similarly situated..... Plaintiff,

v.

D.R. Horton, Inc., Jane Doe #1-10; and John Doe #1-50, ...Defendants,

D.R. Horton, Inc., ...Third-Party Plaintiff,

vs

A&J Framing, Inc.;
A-Z, Inc.;
AJ Landscaping & Grading, LLC, A/K/A AJ Landscaping & Grading, LLC;
Allpro Textures, LLC;
Alpha E.M.C.;
Alpha Omega Construction Group, Inc.;
American Concrete And precast, Inc.; A/K/A ACP Concrete, Inc.;
Atlanta Floor Designs Center;
A Grade Above Others, LLC;
BFK Builders, Inc.;
BMC East LLC D/B/A Coleman Floor, LLC;
Brand-Vaughn Lumber Co, Inc.;
Bravo Carpenters, Inc.;
Builders Designhouse, LLC;
Builders FirstSource Southeast Group, LLC, A/K/A Builders FirstSource, Inc.;
Builders Services Group, LLC F/K/A Masco Contractor Services Central Inc. F/K/A Gale
Industries, Inc. D/B/A Gale Contractor Services;
Cannaday Siding & Gutter, Inc.;
Caryl Mechanics II, Inc., A/K/A Caryl Mechanicals, Inc.;
CBU Enterprises, Inc.;
Cortes Painting, LLC;

CPI Security Systems, Inc.;
 Dom Group, LLC;
 Dupree Plumbing Company, Inc.;
 Ferguson Enterprises, Inc.;
 Five Star Construction Inc.;
 Five Star Foundations, LLC;
 Galloway-Bell, Inc. A/K/A Galloway-Bell Inc. II;
 GBS Building Supply – Us LBM, LLC, F/K/A/GBS Building Supply, Inc.;
 General Shale Brick Inc.;
 Get Floored, LLC;
 Greener Pastures, Inc., A/K/A Greener Pastures of Aiken, LLC;
 Installed Building Products, LLC A/K/A Installed Building Products II, LLC;
 IBP Asset, LLC D/B/A Blue Ridge Building Products;
 JLS Masonry, Inc.;
 Kings Landscaping, LLC;
 L&M Electric, Inc.;
 Lade-Danlar, Inc.;
 Landshapers, LLC;
 Lansing Building Products, Inc.;
 Long Heating & Air Conditioning, Inc.;
 M&L General Construction, LLC, A/K/A M&L General Construction, Inc.;
 M&L Reyna Construction, LLC;
 M&M Foundations, LLC;
 Manale Landscaping, LLC;
 MJ Cowboys, LLC;
 Nazareth Builders, LLC;
 NB Contractors, LLC;
 Poinsett Development, LLC;
 Poinsett Homes, LLC;
 P&L Enterprises, LLC;
 P&T Construction, Inc., A/K/A P&T Construction, Inc.;
 Probuild Company, LLC A/K/A Probuild Holdings, Inc.;
 Rite Rug Co.;
 Rodney Howard Grading, Inc. A/K/A Rodney Howard Grading Co.;
 Sandlapper Concrete, LLC;
 Silver Line Building Products Corporation;
 Sodfather Inc., Landscape Contractors;
 Stock Building Supply, LLC;
 Topbuild Home Services., Inc., A/K/A Gale Contractors Service;
 Tucker Materials, Inc., A/K/A Gypsum;
 UTM Enterprises, Inc;
 and
 Willow Tree Landscaping, Inc Third-Party Defendants

 and

 Aaron D. Peris;
 Harrelson Painting, LLC;

Huttig Building Products; et al Fourth and Fifth-Party
Defendants and Plaintiffs

D.R. HORTON, INC.....Appellant

Galloway-Bell, Inc. A/K/A Galloway-Bell Inc. II.....Respondents

NOTICE OF APPEAL

D.R. Horton, Inc. appeals the following Orders of the Honorable R. Scott Sprouse:

Form 4 Order dated and filed September 27, 2023, granting Defendant Galloway-Bell, Inc. A/K/A Galloway-Bell Inc. II's Motion for Summary Judgment filed May 2, 2023, and the expanded Order dated and filed September 27, 2023, granting the same motion titled Order Granting Galloway-Bell, Inc. A/K/A Galloway-Bell, Inc II's Motion for Summary Judgment as To All Claims Asserted by Third-Party Plaintiff D.R. Horton, Inc., as well as the verbal Order on September 1, 2023, to which D.R. Horton, Inc. filed its Motion to Reconsider and/or Alter or Amend the Order Granting Third-Party Defendant Galloway-Bell, Inc. A/K/A Galloway-Bell Inc. II's Motion for Summary Judgment as to D.R. Horton, Inc.'s Third-Party Complaint dated and filed September 11, 2023. Counsel for the Appellant received written notice of entry of the Order effectively denying its motion for reconsideration by virtue of the Court's Orders referenced herein on September 27, 2023.

Dated October 25, 2023

s/ Carl F. Muller

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Attorneys for Third-Party Defendants JLS Masonry, Inc.

RECEIVED

Oct 25 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Hon. R. Scott Sprouse, Circuit Court Judge

CASE NO. 2019-CP-04-01942

Natalie Zitek, individually, and on behalf of others
similarly situated..... Plaintiff,

v.

D.R. Horton, Inc., Jane Doe #1-10; and John Doe #1-50, ...Defendants,

D.R. Horton, Inc., ... Third-Party Plaintiff,

vs

A&J Framing, Inc.;
A-Z, Inc.;
AJ Landscaping & Grading, LLC, A/K/A AJ Landscaping & Grading, LLC;
Allpro Textures, LLC;
Alpha E.M.C.;
Alpha Omega Construction Group, Inc.;
American Concrete And precast, Inc.; A/K/A ACP Concrete, Inc.;
Atlanta Floor Designs Center;
A Grade Above Others, LLC;
BFK Builders, Inc.;
BMC East LLC D/B/A Coleman Floor, LLC;
Brand-Vaughn Lumber Co, Inc.;
Bravo Carpenters, Inc.;
Builders Designhouse, LLC;
Builders FirstSource Southeast Group, LLC, A/K/A Builders FirstSource, Inc.;
Builders Services Group, LLC F/K/A Masco Contractor Services Central Inc. F/K/A Gale Industries, Inc. D/B/A Gale Contractor Services;
Cannaday Siding & Gutter, Inc.;
Caryl Mechanics II, Inc., A/K/A Caryl Mechanicals, Inc.;
CBU Enterprises, Inc.;
Cortes Painting, LLC;
CPI Security Systems, Inc.;
Dom Group, LLC;

Dupree Plumbing Company, Inc.;
 Ferguson Enterprises, Inc.;
 Five Star Construction Inc.;
 Five Star Foundations, LLC;
 Galloway-Bell, Inc. A/K/A Galloway-Bell Inc. II;
 GBS Building Supply – Us LBM, LLC, F/K/A/GBS Building Supply, Inc.;
 General Shale Brick Inc.;
 Get Floored, LLC;
 Greener Pastures, Inc., A/K/A Greener Pastures of Aiken, LLC;
 Installed Building Products, LLC A/K/A Installed Building Products II, LLC;
 IBP Asset, LLC D/B/A Blue Ridge Building Products;
 JLS Masonry, Inc.;
 Kings Landscaping, LLC;
 L&M Electric, Inc.;
 Lade-Danlar, Inc.;
 Landshapers, LLC;
 Lansing Building Products, Inc.;
 Long Heating & Air Conditioning, Inc.;
 M&L General Construction, LLC, A/K/A M&L General Construction, Inc.;
 M&L Reyna Construction, LLC;
 M&M Foundations, LLC;
 Manale Landscaping, LLC;
 MJ Cowboys, LLC;
 Nazareth Builders, LLC;
 NB Contractors, LLC;
 Poinsett Development, LLC;
 Poinsett Homes, LLC;
 P&L Enterprises, LLC;
 P&T Construction, Inc., A/K/A P&T Construction, Inc.;
 Probuild Company, LLC A/K/A Probuild Holdings, Inc.;
 Rite Rug Co.;
 Rodney Howard Grading, Inc. A/K/A Rodney Howard Grading Co.;
 Sandlapper Concrete, LLC;
 Silver Line Building Products Corporation;
 Sodfather Inc., Landscape Contractors;
 Stock Building Supply, LLC;
 Topbuild Home Services., Inc., A/K/A Gale Contractors Service;
 Tucker Materials, Inc., A/K/A Gypsum;
 UTM Enterprises, Inc;
 and
 Willow Tree Landscaping, Inc Third-Party Defendants

and

Aaron D. Peris;
 Harrelson Painting, LLC;
 Huttig Building Products; et al Fourth and Fifth-Party
 Defendants and Plaintiffs

D.R. HORTON, INC.....Appellant

Galloway-Bell, Inc. A/K/A Galloway-Bell Inc. II Respondent

PROOF OF SERVICE

The undersigned does hereby certify that on October 25, 2023, a copy of the Notice of Appeal and all Orders were served by email on all counsel of record as follows and filed with the Clerk of Court for Anderson County Court of Common Pleas via electronic filing.

Dated October 25, 2023

s/Carl F. Muller

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Other Counsel of Record:

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d/b/a Gale Contractor Services*

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Attorneys for Third-Party Defendants JLS Masonry, Inc.

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

Natalie Zitek, individually, and on behalf of
all others similarly situated,

Plaintiff,

v.

D.R. Horton, Inc., Jane Doe #1-10; and, John
Doe #1-50,

Defendants.

D.R. Horton, Inc.,

Third-Party Plaintiff,

v.

AJ Landscaping & Grading, LLC a/k/a A J
Landscaping & Grading, LLC; AllPro
Textures, LLC; Alpha Omega Construction
Group, Inc.; American Concrete and Precast,
Inc.; a/k/a ACP Concrete, Inc.; A&J Framing,
Inc.; Alpha E.M.C.; A-Z, Inc.; Atlanta Floor
Designs Center; A Grade Above Others,
LLC; Brand-Vaughan Lumber Co, Inc.; BKF
Builders, Inc.; Builders Designhouse, LLC;
BMC East LLC d/b/a Coleman Floor, LLC;
Builders Firstsource Southeast Group, LLC,
a/k/a Builders Firstsource, Inc.; Bravo
Carpenters, Inc.; Caryl Mechanics II, Inc.,
a/k/a Caryl Mechanicals, Inc.; Cannaday
Siding & Gutter, Inc.; Cortes Painting, LLC;
CBU Enterprises, Inc.; CPI Security Systems,
Inc.; DOM Group, LLC; Ferguson
Enterprises, Inc.; Five Star Construction Inc.;
Five Star Foundations, LLC; JLS, Inc., a/k/a
JLS, Inc. II; Get Floored, LLC; GBS Building
Supply – US LBM, LLC, f/k/a GBS Building
Supply, Inc.; General Shale Brick Inc.;
Greener Pastures, Inc., a/k/a Green Pastures
of Aiken, LLC; IBS Asset, LLC d/b/a Blue
Ridge Building Products; Installed Building
Products, LLC, a/k/a Installed Building

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT

Case No.: 2019-CP-04-01942

**JLS MASONRY, INC.’S NOTICE OF
MOTION, MOTION TO RECONSIDER,
AND MEMORANDUM IN SUPPORT
THEREOF**

Products II LLC; JLS Masonry, Inc.; Kings Landscaping, LLC; Landshapers, LLC; Lade-Danlar, Inc.; Lansing Building Products, Inc.; Long Heating & Air Conditioning, Inc.; L&M Electric, Inc; Manale Landscaping, LLC; MJ Cowboys, LLC; M&L General Construction, LLC, a/k/a M&L General Construction, Inc.; M&L Reyna Construction, LLC; M&M Foundations, LLC; Nazareth Builders, LLC; NB Contractors, LLC; Poinsett Development, LLC; Poinsett Homes, LLC; P&T Construction, Inc., a/k/a P & T Construction, Inc.; P & L Enterprises, LLC; Probuild Company, LLC a/k/a Probuild Holdings, Inc.; Rite Rug Company, Inc., a/k/a, Rite Rug Co.; Rodney Howard Grading Inc., a/k/a Rodney Howard Grading Co.; Sandlapper Concrete, LLC; Sodfather Inc., Landscape Contractors; Stock Building Supply, LLC; Topbuild Home Services, Inc., a/k/a Gale Contractors Service; Tucker Materials, Inc, a/k/a Gypsum; Silver Line Building Products Corp.; Dupree Plumbing Co., Inc.; UTM Enterprises, Inc; and Willow Tree Landscaping, Inc., and Silver Line Building Products Corporation

Third-Party Defendants.

Pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, Third-Party Defendant JLS Masonry, Inc. (“JLS”) moves this Court to reconsider its November 8, 2023, Order Denying JLS’ Motion for Judgment Notwithstanding the Verdict (the “Order”).

STANDARD OF REVIEW

Rule 59(e) of the South Carolina Rules of Civil Procedure exists to permit requests that a judge “reconsider matters properly encompassed in a decision on the merits.” *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). A party may file a Rule 59(e) motion when the party believes the court misunderstood, failed to fully consider, or failed to rule on an argument or issue. *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 22, 602 S.E.2d 772, 779 (2004)

ARGUMENT

I. The Order did not address JLS' arguments relating to *Stoneledge*,¹ D.R. Horton's standing to bring a claim for breach of implied warranties against a subcontractor,² *Concord & Cumberland*,³ the South Carolina Anti-Indemnity Statute,⁴ the Statute of Limitations,⁵ the Statute of Repose,⁶ that the settlement agreement's terms should have been disclosed to the jury,⁷ or that DR Horton's claims were improperly treated as a de-facto class action claim against JLS.

a. D.R. Horton's claim for breach of implied warranty is conditioned solely on its potential liability for damages to Plaintiff, Natalie Zitek et al., making its implied warranty claims are merely disguised claims for indemnity.

In *Stoneledge at Lake Keowee Owners' Ass'n, Inc. v. Builders FirstSource-Se. Grp., LLC*, 413 S.C. 615, 639, 776 S.E.2d 426, 439 (Ct. App. 2015), and *Stoneledge at Lake Keowee Owners' Ass'n, Inc. v. Clear View Construction, Inc.*, 413 S.C. 615, 624, 776 S.E.2d 426, 431 (Ct. App. 2015), the Court of Appeals held a contractor cannot sue its subcontractor for a cause of action that is merely a disguised indemnification claim. To determine whether D.R. Horton, Inc.'s ("DR Horton") claims are disguised indemnity claims, the court must examine whether DR Horton's claims hinge on its liability to the plaintiff and whether DR Horton can demonstrate damages other than its potential liability to the plaintiff or costs to defend itself in the litigation. *Builders*

¹ *Stoneledge at Lake Keowee Owners' Ass'n, Inc. v. Clear View Construction, Inc.*, 413 S.C. 615, 776 S.E.2d 426 (Ct. App. 2015) and *Stoneledge at Lake Keowee Owners' Ass'n, Inc. v. Builders First Source-Se. Grp.*, 413 S.C. 630, 776 S.E.2d 434 (Ct. App. 2015).

² *Pres. Soc'y of Charleston v. S.C. Dep't of Health & Env't Control*, 430 S.C. 200, 210, 845 S.E.2d 481, 486 (2020); *Youngblood v. S.C. Dep't of Soc. Servs.*, 402 S.C. 311, 317, 741 S.E.2d 515, 518 (2013).

³ *Concord & Cumberland Horizontal Prop. Regime v. Concord & Cumberland, LLC*, 424 S.C. 639, 819 S.E.2d 166 (Ct. App. 2018), reh'g denied (Oct. 19, 2018).

⁴ S.C. Code Ann. § 32-2-10 (2007).

⁵ S.C. Code Ann. § 15-3-530; *Dean v. Ruscon*, 321 S.C. 360, 366, 468 S.E.2d 645, 648 (1996).

⁶ S.C. Code Ann. § 15-3-640; *Lawrence v. General Panel Corp.*, 425 S.C. 398, 405, 822 S.E.2d 800, 803; *see also Ocean Winds Corp. v. Lane Drywall and Plastering*, 347 S.C. 416, 419, 556 S.E.2d 377, (2001).

⁷ *Poston v. Barnes*, 294 S.C. 261, 265, 363 S.E.2d 888, (1987).

FirstSource-Se, 413 S.C. at 635–36, 776 S.E.2d at 437–38; *Clear View Construction*, 413 S.C. at 621, 776 S.E.2d at 429.

In its third-party complaint, DR Horton’s breach of implied warranties claim relies on its liability to the plaintiffs. Third-Party Compl. at ¶¶ 121–124. Horton’s allegations all begin with the plaintiffs’ allegations against DR Horton—defective construction. DR Horton has not made and cannot show any separate or different claims of defective construction against JLS. Therefore, DR Horton’s claims against JLS fail to demonstrate any liability other than DR Horton’s own liability arising out of the Plaintiff’s claims against it.

This Court must also examine whether DR Horton’s alleged damages stem from its liability to the plaintiff. *See Builders FirstSource-Se*, 413 S.C. at 635–36, 776 S.E.2d at 437–38; *Clear View Construction*, 413 S.C. at 622, 776 S.E.2d at 430. DR Horton has not and cannot demonstrate any damages other than its own liability to the plaintiffs. Third-Party Compl. at ¶ 124. DR Horton only pleaded it was “entitled to judgment against [JLS] for breach of express (sic.) warranties, along with costs, expenses, attorneys’ fees, and other damages set forth above.” Third-Party Compl. at ¶ 124. DR Horton did not even make a token attempt to claim damage to harm and reputation in its pleading, and DR Horton has failed to produce any evidence detailing any damage or harm in any way related to any breach of implied warranties other than its own liability to plaintiffs, and attorneys’ fees and costs defending the action.

Therefore, DR Horton’s claim for breach of implied warranty is improper under the *Stoneledge* cases.

b. DR Horton lacks standing to bring a claim for breach of implied warranties against its subcontractor.

A party must have standing to bring a claim. *Youngblood v. S.C. Dep’t of Soc. Servs.*, 402 S.C. 311, 317, 741 S.E.2d 515, 518 (2013). Standing requires a concrete and particularized injury,

traceable to the allegedly unlawful actions of the opposing party, and that is redressable by a favorable judicial decision. *Pres. Soc'y of Charleston v. S.C. Dep't of Health & Env't Control*, 430 S.C. 200, 210, 845 S.E.2d 481, 486 (2020) (setting forth the three elements of constitutional standing).

DR Horton's claim for breach of implied warranties against JLS fails because DR Horton is not the party with a concrete and particularized injury causally connected to JLS that may be redressed by court decision. *See Youngblood*, 402 S.C. at 317, 741 S.E.2d at 518; *Pres. Soc'y of Charleston*, 430 S.C. at 210, 845 S.E.2d at 486. DR Horton does not own the homes at issue and cannot have any injury that is redressable by a favorable judicial decision—the injury was to the homeowners, not DR Horton. *See Youngblood*, 402 S.C. at 317, 741 S.E.2d at 518; *Pres. Soc'y of Charleston*, 430 S.C. at 210, 845 S.E.2d at 486. DR Horton cannot force the homes to be fixed, and monies awarded to DR Horton under this theory do not remedy any harm caused by the alleged conduct, JLS' defective work on the homes. *See Youngblood*, 402 S.C. at 317, 741 S.E.2d at 518; *Pres. Soc'y of Charleston*, 430 S.C. at 210, 845 S.E.2d at 486. The breach of implied warranty cause of action rests solely with the homeowners—not DR Horton—and DR Horton cannot properly bring that cause of action against JLS.

c. DR Horton's contractual indemnity provision is unenforceable under *Concord & Cumberland* and the South Carolina Anti-Indemnity Statute.

S.C. Code Ann. § 32-2-10 does not allow for the indemnification of the indemnitee's sole negligence. When a contract purports to indemnify the indemnitee for its concurrent negligence, it must be "clear and unequivocal" that the parties intended the indemnification of the concurrent negligence of the indemnitee. *Concord & Cumberland Horizontal Prop. Regime v. Concord & Cumberland, LLC*, 424 S.C. 639, 819 S.E.2d 166 (Ct. App. 2018).

JLS' contract with DR Horton contains indemnity provisions throughout the contract. The

provisions set forth multiple confusing and contradictory positions, none of which meet the “clearly and unequivocally” standard to require JLS to indemnify DR Horton for its concurrent negligence. Moreover, those provisions impermissibly require indemnification for DR Horton’s sole negligence as well. *See Concord & Cumberland*, 424 S.C. at 650, 819 S.E.2d at 172. The contract purports to require indemnification for “**all** actions, claims, investigations or other acts to enforce such laws or regulations . . . any and all demands, claims, actions, causes of action . . . arising out of, or resulting from, or related in any way to the work performed and/or the materials supplied under this contract, regardless of **whether or not caused in part** by [DRH] . . . any negligent, grossly negligent, and/or **intentional act** and/or omission of [DRH] related in any way to the work . . . [but] [n]otwithstanding the foregoing, nothing herein shall require indemnity for the losses caused **solely** by the fault or negligence of [DRH].” JLS Contract at ¶ 6.4 & ¶ 10.1. However, “[DRH] shall have the right, at its discretion and choosing, to defend **any and all claims** which may be asserted against, and contractor agrees to reimburse [DRH] for any and all expenditures which indemnitee may make or incur on account of **any** such claim.” JLS Contract at ¶ 10.2.⁸

DR Horton’s contractual indemnity claim fails to meet the “clear and unequivocal” standard set forth under *Concord & Cumberland* and requires indemnification for its sole negligence in violation of the anti-indemnity statute. *See id.*

d. DR Horton’s claims are barred by the Statute of Limitations and/or the Statute of Repose.

⁸ This Court previously determined that identical language contained in DR Horton’s contract with another subcontractor, Galloway-Bell, did not meet the clear and unequivocal standard set forth in *Concord & Cumberland*. While this Court has made the distinction that there was no alleged wrong-doing on the part of Galloway-Bell, that consideration has no bearing whatsoever on the determination of the enforceability of a contractual indemnification provision purporting to indemnify an indemnitee for its own wrongdoing.

The statute of limitations runs from the date the injured party either knows or should have known by the exercise of reasonable diligence that a cause of action arises from wrongful conduct. S.C. Code Ann. § 15-3-530; *Dean v. Ruscon*, 321 S.C. 360, 366, 468 S.E.2d 645, 648 (1996). Furthermore, the statute of repose for substantial completion dates after July 1, 2005, requires claims to be brought within eight years of the date of substantial completion. S.C. Code Ann. § 15-3-640; *Lawrence v. General Panel Corp.*, 425 S.C. 398, 405, 822 S.E.2d 800, 803; *see also Ocean Winds Corp. v. Lane Drywall and Plastering*, 347 S.C. 416, 419, 556 S.E.2d 377, 379 (2001) (holding the substantial completion date for the window installer was the day of the installation of windows was completed).

There is no affidavit of service filed with the Court for JLS; however, JLS filed its answer on March 9, 2022. Natalie Zitek testified that DR Horton attempted multiple repairs to her home's brick, starting as early as 2014. At that time, DR Horton was aware or should have been aware of a potential cause of action regarding its subcontractors who installed brick and stone at Rose Hill, including JLS. *See* S.C. Code Ann. § 15-3-530; *Dean*, 321 S.C. at 366, 468 S.E.2d at 648. March 9, 2022, is over three years from when DR Horton knew or should have known of a potential cause of action against JLS for its work at Rose Hill, and its claims should be barred by the statute of limitations.

As to the statute of repose, eight years prior to the filing of JLS' answer is March 9, 2014, thus setting the lower bound. The following homes have final payments issued to JLS before March 9, 2014:⁹

Duxbury Lane: 10, 18, 20, 22, 24, 26, 28, 29, 30, 32,

⁹ These dates are pulled from the DR Horton Vendor Spend which was admitted into evidence at trial and stipulated to be true and accurate reflection of information contained therein. It is axiomatic that the payment to JLS follows performance of JLS' work at the house to which payment was issued for.

Yount Court: 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111

Harwick Court: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16

Berwick Court: 101, 103, 105, 106, 107, 114, 116, 118, 120, 121, 122, 123, 124, 125, 126, 127, 128, 130, 132, 134, 136, 138, 140, 142

Chatham Court: 1, 3, 5, 6, 7, 8, 9, 11

Sturbridge Court: 101, 104

Kettering Court: 17, 2, 4, 6, 7, 8, 9, 11, 15, 16, 19

Dartford Court: 2, 4, 6, 8, 9

Thus, similar to the window installer in *Ocean Winds*, JLS' work on these homes was substantially completed before May 9, 2014, and claims related to these homes are barred by the statute of repose. See S.C. Code Ann. § 15-3-640; *Lawrence v. General Panel Corp.*, 425 S.C. at 405, 822 S.E.2d at 803; see also *Ocean Winds Corp. v. Lane Drywall and Plastering*, 347 S.C. at 419, 556 S.E.2d at 379.

e. The settlement agreement between Plaintiff and DR Horton should have been disclosed to the jury.

In *Poston v. Barnes*, 294 S.C. 261, 265, 363 S.E.2d 888, 890 (1987), the Supreme Court of South Carolina held that the settlement agreement between Poston and Barnes "should have been allowed into evidence to ensure that an equitable verdict was reached." In *Poston*, the plaintiff was involved in a three-vehicle accident. *Id.* at 262, 363 S.E.2d at 889. Prior to trial, the plaintiff and one defendant, Barnes, executed a covenant not to execute or proceed, which was not disclosed to the jury over the objection of the second defendant. *Id.* This agreement provided payment of \$180,000 over a period of years, and required Barnes to remain a party to the action with the agreement that no judgment would be executed against Barnes for any amount over \$500 the agreed upon settlement amount. *Id.* The Court held the agreement should have been *entered into*

evidence. *Id.* at 265, 363 S.E.2d at 890. The Court relied on a Florida case, where the Florida Supreme Court stated that “[t]he search for truth, in order to give justice to the litigants, is the primary duty of the courts. Secret agreements between plaintiffs and one or more of several multiple defendants can tend to mislead judges and juries, and border on collusion.” *Id.* at 264, 363 S.E.2d at 890 (citing *Ward v. Ochoa*, 284 So. 2d 385, 387 (Fla. 1973)). The Court held that the agreement should have been allowed into evidence to “ensure that an equitable verdict was reached.” *Id.*

Similar to the agreement in *Poston*, the agreement between Plaintiff and DR Horton, including the terms of such agreement, should have been allowed into evidence. The only way to ensure that a fair verdict was reached was for the jury to know the details of the agreement, including the amount paid by DR Horton to Plaintiff and other terms therein. *See id.* at 264, 363 S.E.2d at 890.

f. The Court improperly treated DR Horton’s claims against JLS as a de-facto class action.

This Court certified the class action as to Plaintiff’s claims against DR Horton and those claims alone but allowed DR Horton to present its case against JLS in a de-facto class action manner. DR Horton, relying on Plaintiff’s expert witness Dr. Rhett Whitlock, could only establish damage existing at a handful of the homes—the homes that Dr. Whitlock specifically examined. DR Horton is not entitled to rely on the same presentation of damages as Plaintiff, wherein Plaintiff could extrapolate damages to the class by examination of only a sample of those houses. Dr. Whitlock specifically testified that he was unable to say what houses JLS worked on and the alleged damage at each of those houses. DR Horton failed to establish JLS’ defective work at a majority of the homes throughout the Rose Hill community.

II. The jury's verdict was unduly liberal or excessive and/or so grossly excessive that the amount awarded indicated the jury was moved by passion, caprice, prejudice, or other consideration not in evidence and the class should have been decertified.

a. The jury's verdict was unduly liberal or excessive and/or so grossly excessive that the amount awarded indicated that the jury was moved by passion, caprice, prejudice, or other consideration not in evidence.

When a party moves for a new trial based on a challenge that the verdict is either excessive or inadequate, the trial court alone has the power to reduce the verdict by the granting of a new trial nisi. *Allstate Ins. Co. v. Durham*, 314 S.C. 529, 531, 431 S.E.2d 557, 558 (1993). Where the verdict is so grossly excessive or inadequate that the amount awarded is so shockingly disproportionate to the injuries as to indicate that the jury was moved or actuated by passion, caprice, prejudice, or other consideration not found in the evidence, it is the trial court's duty to set aside the verdict absolutely. *Id.* at 531, 431 S.E.2d at 558.

The jury awarded \$4,000,000 to DR Horton against JLS. DR Horton failed to prove the existence of damage to the homes at Rose Hill. Instead, it improperly treated its claims as a de-facto class action against JLS. During cross examination, Dr. Whitlock testified he *did not know what homes JLS worked on*. T. Vol. II at p. 848:4–5.¹⁰ Dr. Whitlock further testified that he could not say which homes that JLS worked on were basic, moderate, or complex. T. Vol. II at p. 850. Dr. Whitlock could not tell the jury how much his estimate was to fix 101 Sturbridge unless *it happened to be one of the thirty-two he specifically did cost estimates on*. T. Vol. II at p. 848:11–17. Dr. Whitlock was unable to tell the jury what the repairs to JLS' homes would cost. T. Vol. II at pp. 850:11–853:5.

¹⁰ For ease of reference, Transcript Vol. II includes days five through nine of the trial (September 11, 12, 13, 14, and 15, 2023), whereas Transcript Vol. I would include to days one through four of the trial (September 5, 6, 7, and 8, 2023).

The jury had no basis to find any damages against JLS because DR Horton fundamentally failed to meet its burden of proof against JLS—it failed to establish the damages it sustained from the homes JLS performed work on. Therefore, the jury’s verdict was grossly excessive, and/or so shockingly disproportionate as to indicate that the jury was moved or actuated by passion, caprice, prejudice, or other considerations not found in evidence. *Id.* at 531, 431 S.E.2d at 558.

b. The class should have been decertified.

While no class existed against JLS, to the extent that claims were treated as a class against JLS, the class should have been decertified. The houses at Rose Hill are all subject to different defenses—including, without limitation, the statute of repose and statute of limitations—with different contractors performing work at each house. The houses at Rose Hill feature different alleged damage, and are dissimilar to other houses in the neighborhood, including the class representative’s house. The class had fatal defects in its commonality, typicality, and adequacy of representation by the class representative—the alleged defects in the homes, the causation of those defects, and the damages/repairs were not uniform among the homes at Rose Hill. *See Gardner v. S.C. Dept. Rev.*, 353 S.C. 1, 20-21, 577 S.E.2d 190, 200 (2003). Furthermore, the class representative was not properly able to represent the class. *See id.* Finally, the statute of limitations and statute of repose defense are intensely fact-specific and are not uniform among the homes at Rose Hill. *See id.* Therefore, the class failed to meet the requirements for a claim to be class action, and therefore, the class should have been decertified.

CONCLUSION

Accordingly, for the reasons set forth above, the Court should reconsider the Order and grant judgment notwithstanding the verdict and/or a new trial and/or a new trial *nisi* to JLS.

(Signature Page to Follow)

Respectfully submitted,

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