

RESIDENTIAL CONSTRUCTION AGREEMENT

This agreement is entered into between _____, husband and wife of the following address: _____ hereafter referred to as "OWNER", and **CURTISS HOMES, LLC**, hereafter referred to as "BUILDER."

It is mutually agreed that BUILDER will construct for OWNER certain improvements upon property owned by OWNER known as _____ (address) in the Township/City/Village (circle one) of _____, County of _____, and State of Michigan.

1. BUILDER shall provide all materials and labor necessary to construct a single-family residence in accordance with this Construction Agreement, the Construction Drawings, hereafter collectively referred to as "Addendum A" attached hereto and referred to collectively as "Contract Documents." Such residence shall conform as closely as possible to specifications put forth in the Construction Documents.

2. Contract Amount. OWNER agrees to pay BUILDER for the construction of the residence for labor, materials, overhead, permit fees, inspection fees, and contractor's fees the base amount of \$ _____ dollars and additional sums for such extra items that are listed on attached "Addendum B" as extras and for such other additional extra items that are agreed upon between the parties before, during and following construction, which extras shall be memorialized by a change order entered into between the parties specifying the work to be done and the contract price for the items in addition to the base price and the items listed on "Addendum A." The price for extras shall be based on the following formula: cost to BUILDER for labor (including labor costs of BUILDER'S employees, excluding Chris Curtiss), materials, overhead, permit fees, inspection fees, and expenses, plus fifteen percent (15%) for contractor's fee.

3. Deposit. OWNER hereby deposits the sum of \$ _____ as an earnest money deposit to be applied toward the construction price, receipt of which is acknowledged by the BUILDER. This amount shall be returned to OWNER if the contract is canceled or rescinded pursuant to Section 19 of this Agreement.

4. Draw Schedule. In addition to the deposit described in Section 3 above, the OWNER shall make additional payments to the BUILDER in accordance with the following schedule:

BUILDER shall be entitled to receive from OWNER, a total of five (5) draws. The timing of the five (5) draws shall be at the discretion of the BUILDER, subject to the following:

a. The first draw shall take place after the footing inspection approval;

- b. The second draw shall take place upon completion of the basement;
- c. The third draw shall take place after the rough construction inspection is approved;
- d. The entire remaining unpaid amount due to BUILDER shall be paid upon BUILDER'S tender of the certificate of occupancy to OWNER;
- e. The amount to which BUILDER is entitled at each draw shall be based upon the amount of the costs of labor, materials, overhead, permit fees and inspection fees incurred by the BUILDER at the point when the draw is requested. When a draw request is made, BUILDER will submit appropriate lien waivers and a sworn statement(s);
- f. It is further understood and agreed that when the building is reasonably ready for occupancy but lacks full completion in minor detail, or should climate or other conditions beyond the control of the BUILDER prevent the completion of cement walks, grading and similar outside work, OWNER agrees to close the purchase in accordance with the price and terms outlined above providing BUILDER gives OWNER a work order in writing for satisfactory completion of such uncompleted items and the purchase price is prorated to take into account the uncompleted items.

5. Building Standards. The residence shall conform as close as possible to specifications in Construction Documents. BUILDER may substitute materials of equal value and quality in accordance with local building code and in conformity to that code.

6. Timing of Completion. BUILDER agrees to commence construction immediately and to continue construction in an expeditious manner in an effort to complete construction without delay. The BUILDER estimates that the work required of the BUILDER under this Agreement will take approximately _____ **days** from start of construction to complete, however, the BUILDER shall not be liable for work stoppages or delays occasioned by labor or material shortages, or shortages or circumstances which the BUILDER is unable to avoid with the exercise of reasonable diligence, or delay in the performance of work to be performed by OWNER or third parties not retained by the BUILDER, or delays occasioned by additional work requested by OWNER, delays occasioned by change orders which require more time to complete than the terms of the original Agreement, delays caused by the neglect, omission or conduct of OWNER, delays caused by legal process, or delays caused by fire, windstorm or other casualty.

7. Change Orders. OWNER shall have the right to order work changes in the nature of additions, deletions, or modifications without invalidating this contract, and further agrees to make

corresponding adjustments in the contract price, including any adjustments to compensate BUILDER for any delay in completion caused by those changes. All changes must be authorized by written change orders and shall be signed by BUILDER and OWNER. Subject to the compensation formula in Section 2 above, change orders shall also provide for payment of any additional cost by way of labor, materials, overhead, permit fees, inspection fees and utilities and contractor's fee due the BUILDER as the result of additional work set forth in the change order and shall be in addition to the contract price and any additions already agreed to by the parties. Any savings that result from any change order involving any deletion of work already agreed to shall be a credit to the OWNER.

8. Insurance. BUILDER has secured a BUILDER'S risk insurance policy and will pay premiums for said policy during construction period.

9. Limited Express Warranty. BUILDER makes the following warranties to the OWNER: Except as otherwise provided in this Section 9, the BUILDER warrants that for **eighteen (18)** months from the closing date, the home will be free from defects due to noncompliance with approved standards, consisting of locally applicable building codes and performance standards in this area. The "closing date" is the date when the certificate of occupancy is tendered to OWNER. All other warranties, express or implied, whether arising under State law or the Magnuson-Moss Warranty Act, common or specific, including all implied warranties of fitness, merchantability or habitability are expressly disclaimed and excluded, to the full extent such disclaimers or exclusions are permitted by law.

Manufacturers warranties apply on the mechanical items and appliances in the home and no other express warrants are provided.

The BUILDER shall not be liable for consequential damages resulting from a breach of the Agreement and the attached list of conditions are not warrantable.

a. Non-warrantable Conditions:

This statement of conditions that are not subject to BUILDER'S warranties explains some of the changes and maintenance items that may occur in your new home over the first year or so of occupancy. Your home will require more maintenance and care than most products since it is made up of many different components, each with its own special characteristics. Also OWNER understands that like other products made by humans, a house is not perfect. It will show some minor flaws and unforeseeable defects, and it may require some adjustments and touching up.

The following list is an outline of some of the conditions that are not warranted by the BUILDER. Please be sure you understand this list. Ask your BUILDER if you have any questions before signing this Agreement.

- 1) Concrete Structures: Concrete foundations, walks, drives, and patios can develop hairline cracks not affecting the structural integrity of the building. This is caused by

characteristics of expansion and contraction. It does not affect the strength of the building and is not a condition covered by any warranty.

- 2) Masonry and Mortar: Masonry and mortar can develop cracks due to the shrinkage in either mortar or brick. This is normal and should not be considered a defect. It is not covered by any warranty.
- 3) Wood: Wood will sometimes crack or “spread apart” due to the drying-out process. This is most often caused by the heat inside of the house or the exposure to the sun outside. This is normal and considered a maintenance item to be cared for by the OWNER.
- 4) Drywall: Drywall (sheetrock) will sometimes develop nail pops or settlement cracks. This is a normal part of the drying process and an item that can easily be handled by the OWNER with spackling during redecorating. However, if the OWNER wishes, BUILDER will send a repairman at the end of one year after the closing date and make necessary repairs. BUILDER’S repairs will not include repainting.
- 5) Floor Squeaks: Floor squeaks are not covered by the BUILDER’S warranties. Generally, they will appear and disappear over time with changes in weather.
- 6) Floors: OWNER’S floors are not warranted for damage caused by neglect or the incidents of use. Wood, tile, and carpet all require maintenance. Floor casters are recommended to prevent scratching or chipping of wood or tile; clean stains from carpet or wood or tile immediately to prevent or minimize discoloration. Carpet has a tendency to loosen in damp weather and will stretch tight again in dryer weather.
- 7) Caulking: Exterior and interior caulking in bathtubs, shower stalls, and ceramic tile surfaces will crack or bleed somewhat in the months after installation. This is normal and should not be considered a problem. This is not covered by the warranty and is a minor occurrence to be maintained by the OWNER.
- 8) Brick Discoloration: Most bricks may discolor due to the elements, rain run-off, weathering or bleaching. Thus, the color of the bricks is not considered a warranty item.
- 9) Stained Wood: All items that are stained will normally have a variation of colors, due to the different textures of the woods. Doors that have panels will sometimes dry out and leave a small crack of bare wood. This is due to weather changes. These are not warrantable conditions.
- 10) Paint: Good quality paint will be used internally and externally on OWNER’S home. Nevertheless, exterior paint can sometimes crack or check. This is not a defect in the

paint but is most often caused by other sources. OWNER should avoid allowing lawn sprinklers to hit painted areas, etc. Inside, OWNER should not scrub latex-painted walls and should be aware of the newly painted walls when moving furniture. Even the best paint will be stained and chipped if it is not cared for properly. Any defects in painting that are not noted at final inspection are non-warrantable conditions.

- 11) Cosmetic Items: The upkeep of cosmetic aspects of the home is the OWNER'S responsibility. You have not contracted with the BUILDER to cover ordinary wear and tear or other occurrences subsequent to construction that affect the condition of features on your home. Chips, scratches or mars in tile, woodwork, walls, porcelain, brick, mirrors, plumbing, fixtures, marble and Formica tops, lighting fixtures, kitchen and other appliances, doors paneling, siding, screens, windows, carpet, vinyl floors, cabinets, etc., which are not recognized and noted by you at final inspection, are non-warrantable conditions.
- 12) Plumbing: Dripping faucets, toilet adjustments, and toilet seats are covered by BUILDER'S warranty for a 30 day period only. After that, they are the OWNER'S responsibility. If the plumbing is "stopped up" during the warranty period and the person servicing the plumbing finds foreign material in the line, the OWNER will be billed for the call.
- 13) Alterations to Grading: The OWNER'S lot has been graded to insure proper drainage away from the house. Should OWNER wish to change the drainage pattern due to landscaping, installation of patios or service walks, or other reasons, be sure a proper drainage slope is retained. BUILDER assumes no responsibility for grading, subsequent flooding, or stagnant pool formation if the established pattern is altered.
- 14) Roof Damage: The warranty on your roof is for materials only and is prorated over the period of the lifetime use of the roof. Warranty claims for any defects in materials will be handled with the manufacturer with our assistance. The BUILDER will not be responsible for any damages caused by walking on the roof or by installing a TV antenna or other items on a roof.
- 15) Heating and Air Conditioning: Your heating and air conditioning units are covered by a manufacturer's warranty. It is the OWNERS responsibility to be sure that filters are kept clean and changed on a 30 day basis. Failure to timely change filters may void your warranty. It is also a good policy to have the equipment serviced or checked at least yearly.
- 16) Indoor Air Quality and Water Quality: Indoor air quality including radon, argon and/or formaldehyde contamination is not warranted by the BUILDER. BUILDER also does not warrant the quality of drinking water and/or the contents of well water other than those which are a direct result of improper well installation.

- 17) Owner's Acknowledgment. OWNER has read the Limited Express Warranty (Section 9) and understands it is OWNER'S responsibility for the up-keep of the OWNER'S home and is not the BUILDER'S responsibility. OWNER understands that due to the environmental changes and weather, the home will have stress cracks in the drywall, concrete, caulking, and other areas of the home and it will be OWNER'S responsibility to fix these problems, not the BUILDER'S.
10. Permits. BUILDER shall secure and as part of the contract price, pay for all permits necessary to complete the contracted improvements under this Agreement.
11. Possession. Except as otherwise provided in this paragraph, BUILDER shall have exclusive possession of the premises during construction, however, OWNER shall have access to the premises at all times for the purpose of inspection, but such access shall not interfere with the work of the BUILDER. BUILDER and OWNER agree that once the premises are closed in that they shall remain locked when work is not in progress. BUILDER shall have access to premises for the purpose of demonstration to other prospective buyers of homes. Exclusive possession of premises shall be given to OWNER four (4) days after execution of this Agreement, unless it is canceled pursuant to Section 19 below, and shall continue until issuance of a certificate of occupancy. The closing shall take place at a place mutually agreed upon by BUILDER and OWNER, except no later than ten (10) days after BUILDER notifies OWNER that BUILDER is prepared to tender the certificate of occupancy. OWNER shall have access to the premises at all times for the purpose of inspection, but such access shall not interfere with the work of the BUILDER. This provision is designed so that BUILDER can maintain proper safety measures on the Property and have appropriate notice when persons not employed or retained by the BUILDER will be present on the Property. OWNER shall not occupy or reside on the Property until final payment is made and BUILDER tenders the certificate of occupancy to OWNER.
12. Unusual Soil Conditions. BUILDER shall not be responsible for the costs associated with any unusual sub-soil conditions including, but not limited to, water flows, buried fill or foreign materials or flood zones.
13. Owner Expenses. The OWNER shall be responsible for the provision of the following services, expenses and materials: all utilities (including gas, electric, cable service, and telephone service), TV, cable and antenna hook-ups, alarm systems, appliance installation (contract does provide for allowance for appliance purchase).
14. Licensing Disclosures.

- a. A residential builder or a residential maintenance and alteration contractor is required to be licensed under article 24 of Act 299 of the Public Acts of 1980, as amended, being sections 339.2401 to 339.2412 of the Michigan Compiled Laws. An electrician is required to be licensed under Act No. 217 of the Public Acts of 1956, as amended, being sections 338.881 to 338.892 of the Michigan Compiled Laws. A plumber is required to be licensed under Act No. 266 of the Public Acts of 1929, as amended, being sections 338.901 to 338.917 of the Michigan Compiled Laws.
- b. The BUILDER or the BUILDER'S subcontractors have the appropriate licenses necessary to complete the contracted improvements. BUILDER'S license number is: 2101100133.

15. Notices. All notices, deliveries, and tenders given or made in connection with this agreement shall be deemed complete and legally sufficient if mailed or delivered to the party for whom the notice, delivery, or tendered is intended at the address of the party. All communications are sufficient if sent by regular mail.

16. Assignment. Neither this Agreement, nor any rights of the OWNER hereunder, are assignable by OWNER without the prior written consent of BUILDER. Any assignment of this Agreement, or any of OWNER'S rights hereunder, made in violation of this Agreement shall be void.

17. Binding Effect. Except as expressly set forth in this Agreement, the covenants, agreements, rights and elections hereunder shall bind the heirs, personal representatives, administrators, executors, successors and/or permitted assigns of the BUILDER and OWNER, respectively.

18. Entire Agreement. This Agreement constitutes the complete agreement of the parties and any prior oral representations are hereby superceded.

19. Rights of Cancellation. You may cancel this transaction, without any penalty or obligation, within three (3) business days from the above date of the execution of this Agreement.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN TEN (10) BUSINESS DAYS FOLLOWING RECEIPT BY THE BUILDER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE BUILDER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE BUILDER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE BUILDER'S EXPENSE AND RISK.

IF YOU MAKE THE GOODS AVAILABLE TO THE BUILDER AND THE BUILDER DOES NOT PICK THEM UP WITHIN TWENTY (20) DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE BUILDER OR IF YOU AGREE TO RETURN THE GOODS TO THE BUILDER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THE CANCELLATION NOTICE ATTACHED HERETO AS ADDENDUM C OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM TO THE BUILDER AT 4358 GENESEE ROAD, LAPEER, MICHIGAN 48446 NOT LATER THAN MIDNIGHT ON: _____ (IF NO DATE IS INSERTED IN THIS BLANK, THE APPLICABLE DATE IS THREE (3) BUSINESS DAYS AFTER THE EXECUTION OF THIS AGREEMENT).

This Agreement is executed this _____ day of _____, _____.

BUILDER: CURTISS HOMES, LLC

By: Chris Curtiss
Its: President/Member

OWNER

OWNER