

SINGLE-FAMILY HOME BUILDING CONTRACT ON OWNER'S LOT

This agreement is made this _____ day of _____ by and between __ (Owner name and address _____, heren called the owner and **Martin Construction, Inc. 5944 Mourning Dove Dr., Baton Rouge, LA** herein called the Contractor for a project at _____ **Building Location** _____ in East Baton Rouge Parish, Louisiana herein called the Home. The Contractor and the Owner agree as follows:

ARTICLE I CONTRACT DOCUMENTS

- 1.1. **Contract Documents.** The Contract Documents consists of this Agreement, Plans, Specification, Allowance Schedule, Customer Maintenance Manual & New Home Owner Warranty Act and addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications and Change Orders issued after the execution of this Agreement; these form the Contract and are incorporated herein by reference. The terms of this Agreement shall prevail over any conflicting provisions in the documents incorporated by reference. If a conflict exists between the Plans and the Specifications, the Specifications shall govern.
- 1.2. **Change Orders.** Without invalidating this contract, the Owner may request changes in the work and at the contractor's discretion the contractor may perform the work. Changes or overages to the home should be in writing and agreed upon by the owner and the contractor. Overages, if any, will be due at the time of authorization of the change. In the event that the owner makes changes without knowledge or agreement of the cost of the change or without the Contractors knowledge of the change or the amount of the change, the owner will be responsible for the change.

If the change reduces the cost, the Owner will receive a credit, but the Contractor's supervision and overhead expenses and profit will not be reduced. Any additional cost shall be paid for prior to installation, and the construction loan account may not be used to pay for changes. The Owner agrees to make requests concerning any changes, additions, or alterations in the work to the Contractor, and the Owner agrees not to issue any instructions to or otherwise negotiate for additional work with, the Contractor's subcontractors or employees. Any Owner may sign the change order on his or her behalf and on behalf of the other, and the signature shall be binding on all Owners.

ARTICLE II SCOPE OF THE WORK

- 2.1 **The Work and Construction Standards.** The Home to be built pursuant to this Agreement will be built according to the Plans and Specifications provided by the Contractor and will comply with the building code that is in affect at the time this agreement is signed. Any changes to the Contract Documents required as a result of any changes in applicable codes shall be the responsibility of the Owner.
- 2.2 **Owner's Work.** Owner agrees not to perform any work at the Home until after contractors' completion and final payment.
- 2.3 **Changes by Government Order.** Any changes in plans or specification required by any government or inspector which increases the cost of construction will be an additional cost and will be paid for by the Owner. Any Order of any government prohibiting or stopping construction will excuse the obligation of contractor to compete the work. If the entry of the government order was not the fault of Contractor, Owner will pay to Contractor the actual costs plus profit and overhead for any work contracted or performed by the Contractor at the time of the government order.

**ARTICLE III
CONTRACT PRICE AND PAYMENTS**

- 3.1 **Contract Price.** The Owner agrees to pay the total Contract Price for all labor and materials furnished and work performed by the Contractor Contract Price subject to additions and deletions by Change Order.
- 3.2 **Allowances.** The allowances include both materials delivery, installation, and sales tax unless expressly noted otherwise. The parties agree that the allowances are not to be construed as bids by the Contractor and that the allowances may vary from the actual cost based on the Owner's selections. If the cost of the Owner-selected materials or their installations exceeds the material or installation allowance, the amount of the excess will be due upon selection. If the amount is less than the allowance amount, the amount will be subtracted from the final payment. See allowance sheet (Attachment I) and Specification sheet (Attachment II).
- 3.3 **Payments.** The contract price will be paid as follows:
Home owner will provide letter of commitment from Bank/Mortgage company with agreement to take loan over at completion of construction. If owner's home in Indiana is not sold, Owner must be cleared to close with company that issued letter of commitment. Contractor will provide financing of construction project.

Deposit: Owner will make deposit of (\$2000) Two Thousand Dollars at contract signing and an additional (\$2000) Two Thousand Dollars prior to construction beginning. The total deposit of (\$4000) Four Thousand Dollars is non refundable after contract is signed and will go against contract price at closing. Closing must be completed within 10 calendar days after final building inspection.
- 3.3.1 The Owner agrees to make the progress payments within N/A days of request by contractor. Payments due and unpaid shall bear interest (at the maximum legal rate) payable to the Contractor from the date the payment is due. If the Owner fails to pay the Contractor within _____ days of the date the payment is due, the Contractor may stop the work. The Contractor may keep the job idle until such time as payments that are due to the Contractor are paid in full.
- 3.4 **Acceptance, Final Payment, and Occupancy.** Upon Substantial Completion owner agrees to execute a certificate of substantial completion. Owner agrees not to occupy the Home until the contractor is paid in full.
- 3.5 **Partial Payment.** In the event Contractor has substantially performed the work necessary to make a particular stage draw, but one or more items have not been completed, then the contractor shall be entitled to a partial draw in the amount equal to the percentage of such stage completed by contractor.
- 3.6 **Escrow Agreement.** If the Owner is not financing the construction cost of the Home, the Owner and Builder agree to escrow the price of this Contract with any town bank (hereinafter the "Bank"). Bank will place the funds in an interest-bearing account and will pay the Builder from that account as called for by this Contract. The escrow agreement will be signed when the Owner deposits the price of this Contract with Bank. Builder is not obligated to commence work until the deposit is made and the escrow agreement is signed.

**ARTICLE IV
TIME AND COMPLETION**

- 4.1 **Commencement.** The Contractor will commence work after execution of this agreement, after owner satisfies documentation of loan commitment and deposit as required by contractor when applicable. Substantially completion to be **within ____ calendar** days, which start the day concrete slab is poured.

- 4.2 **Substantial Completion.** Substantial completion occurs when a certificate of occupancy is issued by the local building official.
- 4.3 **Delays.** In the event that there is a delay in work due to a government agency, weather conditions, labor shortages, material shortages, change orders, Owner delays, acts of war, acts of terrorism or acts of God, the date of completion shall be extended accordingly.
- 4.4 **Punch List.** Owners are to give a punch list to Contractor **within 10 working days** after substantial completion, or upon notification by the Contractor. Thereafter, Owners and Contractor shall agree on a final punch list within **30 working days of Owners Occupancy**. Any and all items not listed on the final punch list will be deemed accepted and thereafter are only subject to the New Home Warranty Act.
- 4.5 **Occupancy.** Occupancy of the Home by the Owner shall be deemed to be unconditional acceptance of the Home by Owner and shall release the Contractor from any further obligations pursuant to this agreement EXCEPT 1) completion of Punch List items which could not be completed within the time allowed, and, 2) warranty obligations.

ARTICLE V WARRANTY

- 5.1 **Limited Warranty.** The New Home Warranty Act, LA. R.S. 9:3141, et seq, defines the scope of limited warranty provided under this Agreement. A copy of which is attached hereto. The Owner waives any claim against Contractor for any loss or damage caused by soil conditions or soil movement, including but not limited to cracks in concrete, mortar, bricks or tile, and/ or damage to plumbing.
- 5.2 **Exclusion for Damage by Fungus or Spores.** In addition to the warranty exclusions set forth in the Act, the Contractor's warranty shall exclude any loss or damage to a home caused by:
- (a) Any "fungus (es)" or "spore(s)", or
 - (b) Any substance, vapor or gas produced by or arising out of any "fungus(es)" or "spore(s)", or
 - (c) Any material, product, building component, building or structure that contains, harbors, nurtures or acts as a medium for any "fungus(es)" or "spore(s)"
- "Fungus(es)" includes, but is not limited to, any form or type of mold, mushroom or mildew. "Spore(s)" means any reproductive body produced by or arising out of any "fungus(es)".
- 5.3 **No implied Warranties.** The Owner acknowledges that the Contractor has made no guarantees, warranties, understanding, nor representations (nor have any been made by any representatives of the Contractor) that are not included in the contract documents. _____ / _____ (Owner's initials).
- 5.4 **No Liability for Work Constructed According to Plans.** In no event shall the Contractor be liable for destruction or deterioration of or defects in any work constructed, or under construction, by him if he constructed, or is constructing, the work according to plans or specifications furnished to him which he did not make or cause to be made and if the destruction, deterioration, or defect was due to any fault or insufficiency of the plans or specifications.

**ARTICLE VI
MISCELLANEOUS PROVISIONS**

- 6.1 **Selections.** (see Attachment I, Selection Guide) Owner agrees to make selection in accordance with the attached Selection Guide. If the Owner does not make selections within the allotted time frames, the contractor at his option may make the selection for the owner or hold the job idle until selections are made. Owner agrees if contractor holds job idle, Owner will pay contractor the percentage complete of the current draw and will pay contractor any cost associated with the delay.
- 6.2 **Permits, Fees, and Tests.** The Contractor shall secure and pay for building permits, licenses and other similar approvals necessary for the proper execution and completion of the work. If necessary, the Owner agrees to assist the Contractor in obtaining any such permits and licenses by completing all necessary applications and forms. However, if a covenant or an architectural review committee requires the approval of plans and specification, the Owner shall be responsible for obtaining these approvals and paying for any fees connected with them.
- 6.3 **Insurance. The Contractor shall keep in effect workman's compensation, commercial general liability coverage and builders risk.** The Owner may elect to purchase and maintain his own liability insurance, including Builders risk, flood, fire and casualty insurance upon the residence, to the full insurable value.
- 6.4 **Owner's Obligations.** The Owner shall (a) furnish all surveys describing the physical characteristics, and utility locations for the residence and (b) secure and pay for easements necessary for the completion of the work. The Owner shall furnish information and services under their control to the Contractor promptly to avoid delay. The Owner warrants that the property upon which the residence is to be built conforms to all zoning, planning, environmental, and other building and soil requirements. The Owner warrants that all utilities necessary for the completion of construction are to the property line.
- 6.5 **Concealed Conditions.** The Contractor is not responsible for subsurface or latent physical conditions at the site or in an existing structure that differ from those (a) indicated or referred to in the contract documents or (b) ordinarily encountered and generally recognized as inherent in the work of the character provided for in this contract.

After receiving notice of the conditions, the Owner shall investigate the condition within five (5) working days. If the parties agree that the condition will increase (a) the Contractor's cost of performance of any part of the work under this contract or (b) the time required for that work, the parties may sign a change order agreement incorporating the necessary revisions, or the Owner may terminate the contract. If the Owner terminates the contract, the Contractor will be entitled to recover from the Owner payment for all work performed, including normal overhead, and a reasonable profit.

- 6.6 **Disputes.** The parties shall endeavor to resolve their claims by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Contract and the American Arbitration Association. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforced as settlement agreements in any court having jurisdiction thereof.

- 6.7 **Signage.** Until the Owner makes the final payment and takes possession, the Owner agrees that the Contractor shall have the right to place signs on or about the property and to show the residence to other prospective clients and customers.
- 6.8 **Governing Law and Assignment.** This Agreement will be construed, interpreted, and applied according to the law of the State of Louisiana. This Agreement shall not be assigned without the written consent of all parties.
- 6.9 **Effective Date and Signature.** This Agreement shall become effective on the day it is signed by both parties.
- 6.10 **Ambiguous.** Any ambiguous terms or contents of this agreement shall not be construed against the Contractor.
- 6.11 **Attorney's fees.** If either party to this contract defaults, the defaulting or non prevailing party shall be liable to the other party for all cost, including reasonable attorneys fees, incurred in enforcing or defending any rights or obligations created by this agreement.
- 6.12 **Heirs, Assigns and Successors.** All agreements and stipulations herein contended, and all obligations herein assumed, shall inure to the benefit of and be binding upon the Heirs, Assigns and Successors of the respective parties hereto.
- 6.13 **Indemnity.** Purchaser agrees to indemnify and hold harmless contractor in event any claim, demand, suit, right of action is brought, by any person, firm or corporation arising out of this contract. Such indemnification and hold harmless shall include any and all costs, including attorney's fees and court cost, related to the defense of such action.

We the undersigned, have read, understand, and agree to each of the provision of this Agreement and hereby acknowledge receipt of a copy of this contract.

Martin Construction, Inc.
 5944 Mourning Dove Dr.
 Baton Rouge, LA 70817
 225-752-7437

By _____ President, Ryan K. Martin	Date _____
By _____ Secretary/Treasurer, Willie E. Martin	Date _____
By _____ Owner	Date _____
By _____ Owner	Date _____