



## BUILDER CONSTRUCTION CONTRACT

THIS AGREEMENT, made this 26th day of April in the Year of 2023,

Between the Owner:

**Patty & Michael Cheikin**  
**34820 Capstan Lane**  
**Lewes, DE 19958**

And the Builder:

**ProCoast/Coastal Home Services**  
**32292 Nassau Road Unit C**  
**Lewes, DE 19958**

Project Address:

**34820 Capstan Lane**  
**Lewes, DE 19958**

### ARTICLE 1. CONTRACT DOCUMENTS

- 1.1. The contract documents consist of this agreement and the following attachments: A Project Budget as presented to the Owner March 21<sup>st</sup> 2023.

### ARTICLE 2. SCOPE OF WORK

- 2.1. The Builder agrees to function as an agent of the Owner to provide Management, Supervision and Skilled Labor Services to construct the above-mentioned structure and fixtures attached thereto according to the construction documents.
- 2.2. The Builder will work with the existing architectural/engineering team to complete the architectural and engineering plans.
- 2.3. The Builder provided a Project Budget March 21, 2023.

Initialed by: Owner \_\_\_\_\_ The Builder \_\_\_\_\_

Cheikanm Construction Contract 4/26/23

Page 2 of 7

- 2.4.** The Builder will coordinate with the Owner and the Builder will gather all pertinent and valuable information from the Owner's & the Owner's Architect to define each sub-contractor's scope of work, clarify the contract drawings and documents, and resolve sub-contractors' questions and concerns so that they have a thorough understanding of the project. *The Builder is the only direct contact between the Designer & Architect and Trades/Vendors unless agreed to otherwise by the Builder, and is solely responsible for the dissemination of all information relative to the completion of all work as defined by these parties.*
- 2.5.** The Builder will obtain qualified bids for each phase of work from prequalified trade-contractors. The Builder will write all contract agreements and obtain all the necessary certificates of insurance naming the Owner as additionally insured.
- 2.6.** If during the course of construction unforeseen construction conditions are encountered, the Builder will investigate and suggest recommendations to the Owner utilizing current knowledge of building costs, methods, and means.
- 2.7.** The Builder, as the Owner's agent, is responsible for the preparation, processing, and flow of all paperwork. This is to include: subcontract agreements, purchase orders and change orders; shop drawings and manufacturers' cut sheet submittals; and monthly applications for payment, construction sworn statements, waivers of lien.
- 2.8.** The Builder will conduct project meetings with the Owner as outlined in the construction schedule
- 2.9.** ProCoast has a "total quality" approach to doing business which includes the use of an on-line management portal - Builder-Trend, which the Owner will be provided access to.
- 2.10.** The Builder will prepare a CPM Schedule, which identifies all construction activities. All scheduling is derived from computer-processed logic based on data from similar projects and is available to Owner via Builder-Trend.
- ProCoast uses the latest systems and methods that we know are cost-effective. Our honesty and integrity are synonymous with our ability to provide the best value to our clients. All project savings are the Owner's.
- 2.11.** The Builder reveals all costs to the Owner; and bills only at the rates as set forth in Section 4.1 and as billed by trade-partners.
- 2.12.** The Builder acknowledges that the Owner may supply certain fixtures, and other various items. The Owner agrees that the Builder may have fees associated with the installation of said items and the Owner agrees to reasonable and agreed Installation Fees as set out prior to installation. *The Owner understands that all fixtures provided by the Owner and or their representative unless purchased directly by the Builder may be void of any warranty implied or intended.*

### ARTICLE 3. TIME OF CONSTRUCTION

Initialed by: Owner \_\_\_\_\_ The Builder \_\_\_\_\_

Cheikanm Construction Contract 4/26/23

Page 3 of 7

3.1. All dates for construction are included in the Construction Schedule attached hereto.

#### ARTICLE 4. CONSTRUCTION FEES & PAYMENTS

4.1. Fees related to this Construction Contract shall be per the attached Budget any additional scope will be billed and calculated on a Cost-Plus basis, with Project Management, Sub-Contract Costs, Direct Labor, Materials, Permits and Liability Insurance assumed as a portion of Cost.

Additional Field Labor is billed at;

\$55.50 hourly – for Laborers

\$68.50 hourly – for Carpenters

\$72.50 hourly - Project Management

**Overhead & Profit** on additional work is also billed at 20% as shown in the base contract budget.

4.2. The current Construction Budget is **Two Hundred Three Thousand Eight Hundred Seventy Nine & 56/100 (\$203,879.56)**, based upon Costs as outlined and more fully described in the attached **Budget dated March 21, 2023.**

4.3. The Owner and the Builder acknowledge that the Owner will pay a sum equal to 15% Deposit upon contract signing, 30% upon completion of drywall, 30% at installation of cabinetry, 20% upon completion of interior trims with final 5% due and payable upon completion outstanding punch list items. The Retained 5% will be settled within 14 Days of Substantial Completion. Should Cabinetry for this project be available prior to the sequenced draw schedule, an additional payment to cover cost will need to be defined.

4.4. All payments shall be made by check or bank wire using the following instructions:

RECEIVING BANK:

PNC BANK ABA:

BENEFICIARY:

BENEFICIARY ACCOUNT:

INTERNATIONAL WIRE SWIFT CODE (BIC):

Initialed by: Owner \_\_\_\_\_ The Builder \_\_\_\_\_

Cheikanm Construction Contract 4/26/23

Page 4 of 7

- 4.5.** If the Builder does not receive payment within **Fourteen (14)** days after delivery of payment demand for services satisfactorily completed, the Builder shall have the right to stop construction and/or terminate the contract at his option. Termination by the Builder under the provisions of this paragraph shall not relieve the Owner of the obligations of payments to the Builder for that part of the services performed prior to such termination. Termination by the Owner under the provisions of this paragraph shall not relieve the Owner of the obligations of payments to the Builder for that part of the services performed prior to such termination.

## **ARTICLE 5. DUTIES OF THE BUILDER**

- 5.1.** All construction shall be completed in a workman like manner, and shall comply with all applicable national, state and local building codes and laws.
- 5.2.** Appropriately licensed individuals to perform their said work, as outlined by law, shall perform all construction.
- 5.3.** The Builder shall obtain all permits necessary for the work to be completed and bill owner according to all terms herein.

## **ARTICLE 6. CHANGE ORDERS AND FINISH SCHEDULES**

- 6.1.** Change Orders
- 6.1.1.** All Change Orders need to be agreed to in writing by the Owner and the Builder, including cost, additional time considerations, approximate dates when the work will begin and be completed, a legal description of the location where the work will be done and signed by both parties.
- 6.1.2.** Change Order cost shall be billed on a Cost-Plus basis using rates as articulated in these Contract Documents.
- 6.1.3.** Additional time needed to complete change orders shall be taken into consideration in the project completion date.
- 6.2.** Finish Schedules
- 7.2.1.** Selection Schedules shall be submitted to the Builder as designated by the Construction Schedule.
- 6.3.** Any delays or changes in finish selection schedules will delay the projected completion date.

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Cheikanm Construction Contract 4/26/23

Page 5 of 7

## **ARTICLE 7. INSURANCE**

- 7.1. The Owner will keep in force a Home Owners Insurance Policy which includes expanding coverage during construction on the said property to protect both Owner's and the Builder's interests until construction is completed.
- 7.2. The Builder shall purchase and maintain needed Liability & Other Business insurance coverage as required by law and deemed necessary for his own protection.

## **ARTICLE 8. GENERAL PROVISIONS**

- 8.1. If conditions are encountered at the construction site which are subsurface or otherwise concealed physical conditions or unknown physical conditions of an unusual nature, which differ naturally from those ordinarily found to exist and generally recognized as inherent in construction activities, the Owner will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Builder's cost of, and/or time required for, performance of any part of the work, will negotiate with the Builder an equitable adjustment in the contract sum, contract time or both.

## **ARTICLE 9. HAZARDOUS MATERIALS, WASTE AND ASBESTOS**

- 9.1. Both parties agree that dealing with hazardous materials, waste or asbestos requires specialized training, processes, precautions and licenses. Therefore, unless the scope of this agreement includes the specific handling, disturbance, removal or transportation of hazardous materials, waste or asbestos, upon discovery of such hazardous materials the Builder shall notify the Owner immediately and allow the Owner to contract with a properly licensed and qualified hazardous material the Builder. Any such work shall be treated as a Change Order resulting in additional costs and time considerations.

## **ARTICLE 10. ARBITRATION OF DISPUTES**

- 10.1. Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

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Cheikanm Construction Contract 4/26/23

Page 6 of 7

## **ARTICLE 11. WARRANTY**

- 11.1.** Warranty of the construction project against defects in workmanship or materials utilized shall be handled between the Owner and the Builder directly. The manufacturer's warranty will prevail. All work is warranted for a minimum of one (1) year for all materials and labor.

## **ARTICLE 12. TERMINATION OF THE CONTRACT**

- 12.1.** Should the Owner or the Builder fail to carry out this contract, with all of its provisions, the following options and stipulations shall apply:

**13.1.1** If the Owner or the Builder shall default on the contract, the non-defaulting party may declare the contract is in default and proceed against the defaulting party for the recovery of all damages incurred as a result of said breach of contract, including a reasonable attorney's fee. In the case of a defaulting Owner, the Earnest money herein mentioned shall be applied to the legally ascertained damages.

**13.1.2** In the event of a default by the Owner or the Builder, the non-defaulting party may state his intention to comply with the contract and proceed for specific performance.

**13.1.3** In the case of a defaulting Owner, the Builder may accept, at his option the earnest money as shown herein as liquidated damages, should earnest money not cover the expenses to date, the Builder may make claim to the Owner for all work executed and for proven loss with respect to equipment, materials, tools, construction equipment and machinery, including reasonable overhead, profit and damages applicable to the property less the earnest money.

## **ARTICLE 13. ATTORNEY FEES**

- 13.1.** In the event of any arbitration or litigation relating to the project, project performance or this contract, the prevailing party shall be entitled to reasonable attorney fees, costs and expenses.

## **ARTICLE 14. ACCEPTANCE AND OCCUPANCY**

- 14.1.** Upon completion, the Owner and the Builder shall inspect the project, and the Builder shall make any repairs necessary to comply with the contract documents.
- 14.2.** The Owner shall not occupy the property until the Builder has received final payment and a Certificate of Occupancy has been obtained.

**Initialed by:** Owner \_\_\_\_\_ The Builder \_\_\_\_\_

