

## WARNING

IF YOU DO DESIGN BUILD, MAKE SURE YOU REVIEW YOUR POLICIES WITH YOUR INSURANCE AGENT TO MAKE SURE YOU HAVE THE PROPERTY INSURANCE COVERAGE FOR THE DESIGN PORTION OF THE PROJECT.

THE STANDARD BUILDER'S GENERAL LIABILITY POLICY DOES NOT COVER THE DESIGN PORTION OF A DESIGN BUILD CONTRACT. THE STANDARD GENERAL LIABILITY POLICY GENERALLY ONLY COVERS BODILY INJURY AND PROPERTY DAMAGE CAUSED BY THE CONSTRUCTION OF THE PROJECT. THE STANDARD GENERAL LIABILITY POLICY USUALLY EXCLUDES COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE CAUSED BY THE NEGLIGENT / IMPROPER DESIGN OF THE PROJECT.

THE WBA STRONGLY RECOMMENDS THAT IF A WBA BUILDER MEMBER IS GOING TO UTILIZE THIS OR ANY OTHER SPECIFIC DESIGN / BUILD CONTRACT, THAT BUILDER CONFIRM THAT IT HAS EITHER AN "ARCHITECT'S OR ENGINEER'S – ERRORS AND OMISSIONS" POLICY, IF APPLICABLE, OR A "CONTRACTOR'S PROFESSIONAL LIABILITY" POLICY IN PLACE PRIOR TO USING THIS HOME DESIGN CONTRACT OR ANY OTHER DESIGN / BUILD CONTRACT.

MAKE SURE YOU CONFIRM THAT YOU HAVE THE CORRECT COVERAGE WITH YOUR INSURANCE AGENT.

SUCH COVERAGE MAY BE OBTAINED THROUGH THE WBA-INSURANCE SERVICES.

**Note: If this Contract is intended to be enforced against a married couple, it should be signed by both spouses.**



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In consideration of the mutual covenants and obligations, Seller and Buyer enter into this Home Design Contract (the "**Contract**").

## 1. SELLER/BUYER

| SELLER:  |  | BUYER:                             |  |
|--|--|------------------------------------|--|
| Seller's Company Name:                               |  | Name (print):                      |  |
| Seller's Representative and Title:                   |  | Name (spouse or additional buyer): |  |
| Phone Number:  |  | Phone Number:                      |  |
| Email:   |  | Email:                             |  |
| Date:  |  | Date:                              |  |
| Address:   |  | Address:                           |  |
| Project Address (if different than Buyer's Address): |  |                                    |  |

## 2. DESIGN FEE (CLEARLY MARK APPLICABLE BOX(ES))

Buyer shall pay Seller for the Design Services as follows:

A lump sum payment of \$ \_\_\_\_\_

A time and materials fee equal to Seller's hourly rate for its services and all expenses incurred by Seller. Seller's hourly rate for this project is \$ \_\_\_\_\_

Other: \_\_\_\_\_

Seller agrees to credit \$ \_\_\_\_\_ of the Design Fee toward the construction price of a construction contract entered into by and between Seller and Buyer for the work contemplated by the Concept Plans.

## 3. DESIGN SERVICES

Seller shall prepare for Buyer a concept drawing (the "**Concept Plans**") of the proposed new home construction or home improvement (the "**Project**") that includes: (i) floor drawings showing the placement of walls, doors and windows, and the dimensions of rooms; and (ii) elevation drawings of the front, sides and rear of the house showing the façade of the house exterior materials, roof pitches, etc.

The Concept Plan is only intended to provide a schematic layout of the proposed home, and to include enough detail to obtain bids for construction. **THE CONCEPT PLANS ARE NOT FOR CONSTRUCTION AND ARE NOT CONSTRUCTION DOCUMENTS.**

#### 4. COPYRIGHT

A. Seller shall be deemed the author and owner of all design elements included in any drafts, plans and drawings prepared by Seller in connection with the Design Services provided under this Contract, and Seller shall retain the copyright for the design and the rights to publish the design and all other common law, statutory and other reserved rights. **NOTE:** It is the intent of the parties that Buyer shall enter into a separate construction contract with Seller to construct the project contemplated by the Concept Plans. Said construction contract should contain a license from Seller to Buyer regarding the use of the Concept Plans as part of said construction. This Contract DOES NOT create a license of any type in favor of Buyer to use the Concept Plans for any reason, and Seller specifically denies to Buyer any rights to use the Concept Plans unless a subsequent construction contract or license is granted by a separate agreement.

B. Buyer represents and warrants to Seller that any plans, specifications, drawings and/or blueprints submitted to Seller by Buyer for use to prepare the Concept Plans or any work that is the subject of this Contract are either owned by the Buyer or have been properly obtained by the Buyer for use by the Seller. Buyer agrees to indemnify, defend and hold harmless the Seller against any and all claims, debts, obligations, costs, expenses, including without limitation, reasonable, actual attorneys' fees arising out of or in any way related to any claims relating to said materials or their use, including, but not limited to, copyright infringement, unfair competition and unjust enrichment.

#### 5. WARNING AND LIMITATION OF LIABILITY

**WARNING:** SELLER HEREBY DISCLOSES TO BUYER AND BUYER HEREBY ACKNOWLEDGES THAT SELLER IS NOT AN ARCHITECT OR ENGINEER. THE CONCEPT PLANS ARE NOT FOR CONSTRUCTION AND ARE NOT CONSTRUCTION DOCUMENTS. THE CONCEPT PLANS PROVIDED UNDER THIS CONTRACT WILL NOT INCLUDE THE DETAILS NECESSARY FOR OBTAINING THE BUILDING PERMITS FROM THE APPLICABLE GOVERNMENT AUTHORITY FOR CONSTRUCTION. THE CONCEPT PLANS DO NOT CONTAIN THE NECESSARY DETAILS FOR THE CONSTRUCTION PHASE OF THE PROJECT. THE CONSTRUCTION PHASE OF THE PROJECT WILL REQUIRE ADDITIONAL PLANS NOT INCLUDED IN THE CONCEPT PLANS, WHICH MAY INCLUDE, WITHOUT LIMITATION, THE DETAILS RELATING TO MATERIALS, MECHANICALS, PLUMBING, ELECTRICAL, CONSTRUCTION METHODS, GRADING, DRAINAGE / EROSION, UTILITIES, BUILDING STRUCTURE, FRAMING, WALL AND ROOF ASSEMBLY, FOUNDATION, STRUCTURAL ENGINEERING, AND DOOR AND WINDOW INSTALLATION. PRIOR TO CONSTRUCTION OF THE PROJECT, BUYER (OR BUYER'S CONTRACTOR) WILL NEED TO OBTAIN THE NECESSARY CONSTRUCTION DOCUMENTS THAT PROVIDE THE DETAILS FOR CONSTRUCTION.

**LIMITATION ON LIABILITY:** BUYER HEREBY AGREES THAT THE SELLER'S, AND SELLER'S CONSULTANTS', PARTNERS', AGENTS' AND EMPLOYEES', LIABILITY TO BUYER, WHETHER JOINTLY, SEVERALLY OR INDIVIDUALLY UNDER THIS CONTRACT AS A RESULT OF ANY ACT OR OMISSION SHALL BE LIMITED TO AN AMOUNT NOT TO EXCEED THE DESIGN FEE ACTUALLY PAID TO SELLER UNDER THIS CONTRACT.

IN THE EVENT THAT SELLER PREVAILS IN ANY LITIGATION INVOLVING THIS CONTRACT, THE BUYER SHALL PAY SELLER'S COSTS INCURRED IN SUCH LITIGATION INCLUDING, WITHOUT LIMITATION, SELLER'S REASONABLE ATTORNEYS' FEES.

THIS LIMITATION OF LIABILITY REFLECTS THE LIMITED SCOPE OF SERVICES BEING PROVIDED BY SELLER FOR THE FEE BEING CHARGED. BUYER ACKNOWLEDGES THAT PRIOR TO SIGNING THIS CONTRACT, HE OR SHE HAD THE OPPORTUNITY TO DISCUSS AND/OR BARGAIN REGARDING ANY OF THE TERMS SET FORTH HEREIN.

#### 6. SIGNATURES

**WARNING:** DO NOT SIGN PRIOR TO READING THE ENTIRE CONTRACT. THIS CONTRACT IS LEGALLY BINDING ON THE SELLER AND THE BUYER, AND EACH PARTY AGREES TO THE TERMS AND CONDITIONS SET FORTH HEREIN.

| SELLER:                        | BUYER:            |
|--------------------------------|-------------------|
| Company Name: _____            | Signature: _____  |
| Signature: _____               | Print Name: _____ |
| Print Name<br>and Title: _____ | Signature: _____  |
|                                | Print Name: _____ |



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