**DANE BUILDING CONCEPTS**

**GENERAL CONTRACTOR**

**GENERAL TERMS AND CONDITIONS OF**

**CONTRACT**

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**GENERAL TERMS AND CONDITIONS**

**OF CONSTRUCTION AGREEMENT**

This Construction Agreement made as of \_\_\_\_\_\_\_\_ by and between Dane Building Concepts, hereinafter referred to as “Builder” and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereinafter referred to as “Owner”.

WHEREAS, Builder, a corporation organized under the laws of the State of Wisconsin, whose place of business is 603 Post Road., Madison, WI 53713, and whose principal business activity is residential construction; and

WHEREAS, property is located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and

WHEREAS, Owner has or will take title to said property; and

WHEREAS, Owner has agreed to contract with Builder for the purpose of remodeling Owner’s home according to the general terms and conditions of this Contract and the Estimate Cost Breakdown; and

NOW THEREFORE in consideration of the covenants contained herein, the parties agree as follows:

# Article 1

# Contract Documents

The entire Construction Contract as defined herein consists of this Agreement, plans, and Cost Breakdown as signed and dated for approval by the Owner, and any Modifications approved by the Builder and Owner documented as Change Orders (or via acknowledged email) after the parties have executed this Agreement. These documents form the Construction Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral.

# Article 2

# Construction Specifications

The parties to this Construction Agreement agree to the specifications detailed in Addendum A, the Cost Breakdown, of this Agreement. The Builder shall be the authority for the proper usage, arrangement, and placement of fixtures, equipment, and materials in accordance with recognized standards.

# Article 3

# Date of Commencement and Substantial Completion

3.1. Commencement Date: Shall mean the date agreed between the Owner and the Builder. Builder will provide Building permit and schedule necessary inspections.

3.2. Substantial Completion: Shall mean the stage of the progress of work when the work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the work for its intended use. Said work shall be substantially complete not more than \_\_\_\_\_\_\_days after date of Start. However, substantial completion shall be extended for a reasonable period beyond the initial \_\_\_\_\_ days due to any of the following: (1) change in plans or specifications requested by the Owner or required by other regulating agency; (2) other acts of the Owner; (3) strikes; (4) shortages of labor or material; (5) weather conditions, storms, lightning, flood; (6) governmental regulation or decree; (7) riot, civil commotion, vandalism, theft, war, fire; (8) or any other conditions or occurrences, whether similar to the foregoing or not, which are not within the control of the Builder. In a case that the Builder does not finish the work in timely manner and can be proven none of the above acts were in compliance, a penalty of $100 per day will be against Builder after \_\_\_\_\_ days.

# Article 4

# Contract Sum

4.1 The total cost for construction under the terms and conditions and in accordance with the Estimated Cost Breakdown is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Article 5

# Changes in the Work

5.1 Change orders: The parties agree that changes to this Agreement, the Cost Breakdown, are null and void, unless both parties agree in writing to the changes. The parties further agree to document the changes on the Change Order form. Change Orders must contain a detailed description of the change, addition or deletion, and the cost or credit thereof. Change Orders must be signed by Builder and Owner, or done via email, at a cost of $125 each. Change orders may be executed by agreement through email or text message.

5.2 Changes due to Public Body: Any changes, alterations, or extras not included on Reconciliation Worksheet, which may be required by any public body or inspector, not due to any noncompliance by Builder, and which increases the overall cost, shall constitute an extra and shall be paid by Owner. Such costs shall require written approval from Owner(s), as state above.

5.3 Fee: Builder shall be entitled to contracting fee of 25% of the actual cost of the change: Owner shall be entitled to a credit against the contracting fees of 25% of any credit given as a result of a change order.

# Article 6

# Subcontractors, Vendor Allowance Contractors, and Parties’ Relationship to Builder

6.1 Subcontractors: Owner understands that portions of the work that the Builder does not customarily perform with Builder’s own personnel will be performed under subcontracts with the builder.

6.2 Relationship to Subcontractors: Subject to Article 6.3., Owner agrees that the direction and supervision of the working forces, including subcontractors, rest exclusively with the Builder, and the Owner agrees not to issue any instruction to, or otherwise interfere with same. The Owner shall, at all reasonable times during working hours, have the right to inspect the work. Builder shall not be responsible for any injury to Owner during said inspection. The Owner further agrees neither to negotiate for additional work with the subcontractors nor to engage other builders or subcontractors, except with the Builder's prior consent and in such manner as will not interfere with the Builder's completion of work under this agreement.

6.3 Vendor Allowance Subcontractors: Shall mean those subcontractors who Owner, at Owner’s sole discretion, has hired to perform work pursuant to the Construction Documents and for which the work will be paid from the Owner’s allowance as specified in the Estimate Cost Breakdown. The Vendor Allowance Subcontractors include but are not limited to flooring, plumbing, painting, electrical, landscaping, kitchen and countertops, and appliance subcontractors. Owner shall communicate to Builder any changes that Owner has made with Vendor Allowance Subcontractor so that Builder may perform work according to the terms of the Construction Contract.

6.4 Vendor Allowance Subcontractor Workmanship: Builder does not warrant the workmanship of Vendor Allowance Subcontractor’s beyond Builder’s standard one-year (1) limited warranty. Owner understands and agrees to look solely to the Vendor Allowance Subcontractor to cure any damage, faulty workmanship, or product quality deficiency that is discovered beyond the one-year (1) warranty, despite when such damage, faulty workmanship, or product quality deficiency occurred.

# Article 7

# Disbursements

7.1 Initial Disbursement: Owner shall disburse to Builder \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of building contract signing in Agreement. Deposit shall be subtracted from the total contract sum.

7.2 Progress Payments: Progress payments shall be in 3 installments. The Builder will request, and Owner will authorize the final progress payment when the work is substantially completed. Second payment of $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ will be due upon install of countertops.

7.3 Payment Authorization: The Owner shall authorize payment to the Builder within three **(3) days** after receipt of each progress payment request provided work is completed in a workmanlike manner and in accordance with the Estimate Cost Breakdown. Builder shall provide executed lien waivers for all work performed.

7.5 Interest: In the event Owner does not authorize payment in accordance with this Agreement, Owner shall pay Builder interest at the rate of 18% A.P.R. plus all costs for collecting payment to include attorney’s fees and court costs.

**Article 8**

# Termination or Suspension

8.1. Termination by either party. Either the Builder or the Owner may terminate this Construction Contract as defined herein if the work is stopped for a period of thirty (30) consecutive days through no act or fault of the other party or the other party’s subcontractor, or sub-subcontractor or their agents or employees or any other persons or employees of other entities for any of the following reasons:

8.1.1. Issuance of an order of a court or other public authority having jurisdiction which requires all work to be stopped;

8.1.2. An act of government, such as a declaration of national or state emergency which requires all work to be stopped.

8.2. Owner’s Delay: The Builder may terminate the Construction Contract upon providing Owner seven (7) days written notice of its intent to terminate the Construction Contract, if the work has been stopped for a period of thirty (30) consecutive days due to the Owner’s failure to comply with Owner’s obligations under the Contract Documents related to matters important to the progress of work.

8.3. Work Suspension by Owner for Convenience: The Owner may, with or without cause, order the Builder in writing to suspend, delay, or interrupt the work in whole or in part for such period of time as the Owner may determine, and with 10 days written notice. Builder may adjust cost of construction due to Owner suspending work under this section. Builder, at Builder’s discretion, may exercise its termination rights under Article 8.1 or 8.2 should the suspension of work exceed (5) consecutive days.

8.4. Termination by Owner. Owner may terminate this contract if all work under this contract is not substantially completed by the time set forth in section 3.2 or if the work materially deviates from the construction specifications set forth in Remodel Reconciliation Worksheet as modified by all changes orders, if any.

8.5. Payment under Suspension or Termination: Not limiting Builder’s other remedies under law, upon termination of this contract, Owner shall pay Builder as provided under Article 7 of this Agreement for all work completed in accordance with the construction specifications set forth in Remodel Reconciliation Worksheet ( as modified by all change orders, if any) at the time of termination.

# Article 9

# Insurance and Indemnification

9.1 Builder’s Insurance Responsibility. Builder shall provide workers compensation insurance. In addition, Builder will purchase and have in force Business Liability insurance in amounts of not less than $1 million per occurrence.

9.2 None

9.3 Indemnification: Builder shall not be liable for damages or losses caused by unusually severe weather conditions, wind, storms, lightning, hail, flood or similar occurrences, damages caused by riot, civil commotion, theft, vandalism, war, fire, or any other conditions whether similar to the foregoing or not, which are not under the control of the Builder.

# Article 10

# Site Validation

10.1 Owner’s Responsibility:

10.1.1 Proof of Title: ~~Owner shall deliver proof of valid title by delivering to builder evidence of valid title fifteen (15) days prior to closing~~.

10.1.2 Validation of Building Site: Builder acknowledges that it has received a copy of all deed restrictions and easements that affect the property.

10.1.3 Owner shall keep all driveways and sidewalks free of snow and ice. Should Builder feel that safety requires, Builder will provide salt at $20 per bag and snow removal at $50/hour as line items on the cost breakdown.

10.2 Builder’s Responsibility: Builder shall be responsible for sitting the construction in compliance with applicable setback, zoning requirements and plat restrictions. This Agreement is contingent upon Builder obtaining approval from the appropriate architectural review board, or neighborhood authority as provided in above noted deed restrictions.

10.3 Abnormal soil conditions: In the event abnormal sub-soil conditions are encountered on the building site, in connection with the foundation and/or installation of sewer and water laterals, Owner agrees to pay the additional cost of additional work.

# Article 11

# Miscellaneous

11.1 Jurisdiction: Construction shall be completed in compliance with the local building code and with requirements of all other agencies having jurisdiction in this area.

11.2 Materials: Except as otherwise noted, the Builder shall provide and pay for all materials, labor, tools, and other items necessary to complete the work. Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of good quality. (Note: If used materials are requested, i.e.: used brick, neither the Builder nor the Supplier can warrant against significant variation from sample.)

11.3 Allowances: Allowances are subject to adjustment upon completion of the particular work involved. When the final costs are received on allowance items, should costs exceed allowance, Owner shall pay the difference in cash, when the particular work involved is complete in accordance with the construction specifications set forth in Estimate Cost Breakdown (as modified by all change orders, if any) and a progress payment requested is made by the Builder in accordance with Section 7.2. Should costs be less than allowance, Owner will receive credit for the difference at final closeout prior to occupancy. Contractor fee applies to all costs, including those paid directly by Owner Material purchased by owner is subject to Builder’s profit, i.e. lighting, flooring, appliances, etc.

11.4 Possession and Occupancy: Physical possession of improvements to said real estate shall be deemed to have been surrendered by the Owner to the Builder, as of the time work is commenced hereunder, and to continue in possession of said Builder until said work is completed. The Owner shall not be entitled to occupancy of said premises or any part thereof unless and until the aforesaid agreement sum, adjusted as to additions, deductions, and any other extras ordered by the Owner during the time of this contract, if any, have been determined and paid in full: provided, however, Owner shall have the right to occupy the home prior to its completion and before final payments of monies due to the Builder under this agreement, once receipt of an occupancy permit has been received and full payment of any disputed amounts are place into an escrow account

11.5 Clean Up: The Builder shall keep the premises free from accumulation of waste material and rubbish; and at the completion of the work, he shall remove from the premises all rubbish, implements, and surplus materials and leave the building broom clean. Builder shall not be responsible for waste material, rubbish, or materials left by Owner or his agents. Following completion of construction, the Builder shall sweep or vacuum, so that the premises are free of all substantial dirt, defects and stains. Window cleaning is not included in contracted work.

11.6 Arbitration: Except as provided herein, any dispute, controversy or claim arising out of this Agreement shall be settled in accordance with the Commercial Arbitration Rules of the American Arbitration Association in Dane County Wisconsin. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

11.7 Advertising, material storage, finishes, etc.: Builder shall have the right to advertise in the form of yard signs, before and after photos to be used in print, web advertising, etc. owner shall allow reasonable access to storage space for construction material and tool storage as work begins through completion, either in a garage, basement, or other as arranged. Builder may find it necessary to finish materials such as trim, walls, or other on site. Often there are odors associated with this process and are normal results of the construction process. Reasonable effort will be made to minimize Owner inconvenience.

# Article 12

# Lien Rights

12.1. **As required by the Wisconsin Construction Lien Law, Builder hereby notifies owner that persons or companies furnishing labor or materials for the construction on owner's land may have lien rights on owner's land and buildings, if not paid. Those entitled to lien rights, in addition to the Builder, are those who contract directly with the owner or those who give the owner notice within sixty (60) days after they first furnish labor or materials for the construction. Accordingly, owner probably will receive notices from those who furnish labor or materials for the construction and should give a copy of each notice received to his mortgage lender, if any. Builder agrees to cooperate with the Owner and his lender, if any, to see that all potential lien claimants are paid.**

# Article 13

# Punch List

At the time of completion, in the event there are items not completed or free of defect, a “punch list” will be prepared by Owner listing all items to be completed or corrected. This list must be presented to Builder within 48 hours of completion. Owner shall be entitled to place in to escrow a sum equal to 150 percent of the Builder’s estimated cost required to complete or correct the items listed on the “punch list”. Builder shall complete the “punch list” items within 30 days of substantial project completion unless such “punch list” items require action by a Vendor or supplier beyond control of Builder. Once the items on the “punch list” are completed by Builder, Owner shall promptly release escrow sum to Builder. The closing and Owner’s entitlement to possession of the premises shall not be delayed by the existence of “punch list” items or Builder’s failure to complete its performance of the “punch list” items. The Work shall be completed in a good workmanlike manner in quality equal to the standards of the industry as expressed in the *Suggested Standards for Residential Construction Manual* as adopted by the Madison Area Builders Association.

# Article 14

# Notice

Owner shall deliver any notice required by law to Builder’s principal place of business located at 603 Post Road, Madison, WI 53713. Builder shall deliver any notice required by law to Owner’s current residence or email

The parties understand that the entire Construction Agreement consists of this Agreement and Estimate Cost Breakdown, and that any other oral representations are null and void, except Modifications that are written and approved as Change Orders pursuant to the General Terms and Conditions Agreement.

OWNER’S SIGNATURE Dane Building Concepts

Date Jim Lampe Date

WI License #1066504

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

**Dane Building Concepts, LLC**

**Warranty Addendum “W”**

**Warranty**

A. Warranty. Contractor/Builder (Seller) warrants that the Work shall be free from Construction Defects for A. a period of one (1) year from the Substantial Completion Date subject to the limitations set forth below (the ***“Warranty”***).

B. Construction defects. A ***“Construction Defect”*** means a deficiency or omission in the completion of the Work that results from defective materials, a violation of applicable building codes or a failure to follow the current adopted standards set forth in the Construction Industry Quality Standards of the Wisconsin Builders Association. Landscaping or items not secured to residence are not covered by warranty for Settling or moving. See Dane Building Concepts web site for full “ Standards”.

B. Notice and repair/replacement of construction defect. For a Construction Defect to be covered by this Warranty, Buyer shall give written notice of the Construction Defect (the ***“Notice”***) to Builder prior to the date of expiration of this Warranty. Upon receipt of the Notice from Buyer, the Builder shall either replace or repair the Construction Defect, at Builder’s sole discretion, in a reasonably prompt manner subject to the terms and conditions of this Contract. Any Construction Defect, latent or otherwise, for which Notice is not provided prior to the expiration of this Warranty shall not be covered by this Warranty. If Buyer does not give Builder Notice of the Construction Defect and the opportunity to either repair or replace the Construction Defect, at Builder’s sole discretion, then the Builder shall not be liable for the Construction Defect.

C. Exclusions. Builder shall not be obligated to replace or repair any Construction Defect or pay for the replacement or repair of any Construction Defect caused, in whole or in part by: (i) Buyer’s improper or insufficient maintenance of the Project or improper or insufficient maintenance or operation of any of the Project’s systems; (ii) natural occurrences beyond Builder’s control; (iii) defects in materials supplied by anyone other than the Builder or agents acting on the Builder’s behalf; (iv) any work performed by Buyer or Buyer’s contractors, subcontractor’s or agents; (v) normal wear and tear and normal usage; and (vi) materials, products or systems covered by other warranties such as manufacturers’ warranties. Builder’s Warranty is not assignable or transferable to any subsequent Buyer of the Project without the Builder’s prior written consent. No Warranty on Landscaping

**D.** Other warranties. Builder hereby assigns to Buyer any and all manufacturers’ warranties pertaining to any fixtures, appliances and equipment and other products covered by a manu­facturer’s warranty that are part of the Project (collectively, the ***“Warranted Products”***). In the event Builder repairs, replaces or pays the cost of repairing or replacing any defect cov­ered by this Warranty which is covered by other insurance or other warranties, then Buyer shall assign the proceeds of such insurance or warranties to Builder to the extent of the cost to the Builder for such repair or replacement, or the extent of the payment.

**E. E**xclusive remedy. This Warranty shall be the sole and exclusive remedy under this Contract for any and all Construction Defects regardless of the form of the claim (i.e., whether based on statute, contract, or tort (negligence, strict liability or otherwise). THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, STATUTORY (IF. 706.10(7) WS), EXPRESS OR IMPLIED (INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, USE, HABITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE) AND ANY AND ALL SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED.

**Wisconsin’s Right to Cure Law**

**Notice concerning construction effects**

Wisconsin law contains important requirements you must follow before you may file a lawsuit for defective construction against the contractor who constructed your dwelling or completed your remodeling project or against a window or door supplier or manufacturer.

Section 895.07 (2) and (3) of the Wisconsin statues requires you to deliver to the contractor a written notice of any construction conditions you allege are defective before you file your lawsuit, and you must provide your contractor or window or door supplier the opportunity to make an offer to repair or remedy the alleged construction defects. You are not obliged to accept any offer made by the contractor or window or door supplier. All parties are bound by applicable warranty provisions.

**Buyer acknowledges receipt of the prepared by the Notice Concerning Construction Defects and the brochure Wisconsin Department of Commerce titled “Wisconsin’s Framework for Successful Communications between Consumers and Contractors.” Also Available on Dane Building Concepts web site.**

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Dane Building Concepts, LLC Date Buyer Date

Jim Lampe, Owner

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_

Buyer Date