

**WARNINGS TO CONSTRUCTION CONSUMERS  
WITH DISASTER-DAMAGED PROPERTIES  
(protecting yourself is as easy as 1 -2 -3)**

**DO NOT Allow any work to begin on your damaged property, even debris removal<sup>1</sup>, until you have:**

**1. Completed all insurance claims:**

**If you have property insurance coverage, notify the company as soon as possible. They will "adjust" your claim by inspecting the damages and making a settlement offer to pay for rebuilding or for repairing your home. Do this before signing a contract.**

**2. Hired a licensed contractor<sup>2</sup>:**

**You can make a phone call to your city or county building departments (who issue construction permits required to restore your property) about the licensed status of your builder BEFORE YOU SIGN A CONTRACT . . . . .**

**OR**

**You can check on-line at [www.myfloridalicense.com](http://www.myfloridalicense.com): type in the first and last name and click "search" at the bottom of the screen to determine if a particular person is properly licensed.**

**3. Signed a valid contract<sup>3</sup>:**

**The Florida Home Builders Association has prepared a "consumer-friendly" contract you can either use or modify to meet your particular needs. Make sure that the licensed contractor's license number appears on your contract.**

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<sup>1</sup> Florida law allows a **lien** to be placed against your property for debris removal. In addition, a complete record of all damages to your property, including photos, should be made to document any insurance claim and to reflect any required work necessary to restore your home.

<sup>2</sup> If your contractor is properly licensed for the work to be performed, your contractor may not be able to enforce the contract or lien rights against you or your property. In addition, an unlicensed contractor may be subject to administrative fines and criminal prosecution.

<sup>3</sup> Many Florida attorneys have volunteered to assist disaster victims with such matters as contract negotiations and review. You can contact The Florida Bar or visit it on-line at [www.flabar.org](http://www.flabar.org).

# Florida's Construction Lien Law

## Protect Yourself and Your Investment

According to Florida law, those who work on your property or provide materials, and are not paid-in-full, have a right to enforce their claim for payment against your property. This claim is known as a construction lien.

If your contractor fails to pay subcontractors or material suppliers, the people who are owed money may look to your property for payment, **even if you have paid your contractor in full.**

**This means if a lien is filed against your property, it could be sold against your will to pay for labor materials or other services which your contractor may have failed to pay.**

### Protecting Yourself

If you hire a contractor and the improvements cost more than \$2,500, you should know the following:

- You may be liable if you pay your contractor and he then fails to pay his suppliers or contractors. There is a way to protect yourself. A Release of Lien is a written statement that removes your property from the threat of lien. Before you make any payment, be sure you receive this waiver from suppliers and subcontractors covering the materials used and work performed on your property.
- Request from the contractor, a list of all subcontractors and suppliers who have a contract with the contractor to provide services or materials to your property.
- If your contract calls for partial payments before the work is completed, get a Partial Release of Lien covering all workers and materials used to that point.
- Before you make the last payment to your contractor, obtain an affidavit from your contractor that specifies all unpaid parties who performed labor, services or provided services or materials to your property. Make sure that your contractor provides you with final releases from these parties before you make the final payment.
- Always file a Notice of Commencement before beginning a home construction or remodeling project. The local authority that issues building permits is required to provide this form. You must record the form with the Clerk of the Circuit Court in the county where the property being improved is located. Also post a certified copy at the job site. (In lieu of a certified copy, you may post an affidavit stating that a Notice of Commencement has been recorded. Attach a copy of the Notice of Commencement to the affidavit.)
- In addition, the building department is prohibited from performing the first inspection if the Notice of Commencement is not also filed with the building department. You can also supply a notarized statement that the Notice has been filed, with a copy attached.

The Notice of Commencement notes the intent to begin improvements, the location of the property, description of the work and the amount of bond (if any). It also identifies the property owner, contractor, surety, lender and other pertinent information. Failure to record a Notice of Commencement or incorrect information on the Notice could contribute to your having to pay twice for the same work or materials.

### Notice To Owner

Prior to filing a lien, a lienor who does not have a direct contract with the owner, must serve the owner a Notice to Owner. The Notice to Owner must state the lienor's name and address, a description of the real property and the nature of the services or materials being furnished. The

Notice to Owner must be served before commencing, or within 45 days of commencing, to furnish the services or materials. A lien cannot be enforced unless the lienor has served the Notice to Owner as described above.

### **Whose Responsibility is it To Get These Releases?**

You can stipulate in the agreement with your contractor that he must provide all releases of lien. If it is not a part of the contract, however, or you act as your own contractor, YOU must get the releases.

If you borrow money to pay for the improvements and the lender pays the contractor(s) directly, without obtaining releases, the lending institution may be responsible to you for any loss.

### **What Can Happen If I Don't Get Releases Of Lien?**

You will not be able to sell your property unless all outstanding liens are paid. Sometimes a landowner can even be forced to sell his property to satisfy a lien.

### **Who Can Claim A Lien On My Property?**

Contractors, laborers, materials suppliers, subcontractors and professionals such as architects, landscape architects, interior designers, engineers or land surveyors all have the right to file a claim of lien for work or materials. **Always require a release of lien from anyone who does work on your home.**

### **Contesting A Lien**

A lien is valid for one year, unless a lienor files a lawsuit to enforce the lien prior to the expiration of the year. An owner has a right to file a Contest of Lien during the one-year period. Upon the filing of a Contest of Lien, a lienor must file a lawsuit to enforce the lien within 60 days. Failure of the lienor to timely file a lawsuit renders the lien invalid.

**THE CONSTRUCTION LIEN LAW IS COMPLEX AND CANNOT BE COVERED COMPLETELY IN THIS DOCUMENT. WE RECOMMEND THAT WHENEVER A SPECIFIC PROBLEM ARISES, YOU CONSULT AN ATTORNEY.**

**To register a complaint (or learn if complaints have been filed against a prospective contractor), contact the Florida Department of Business and Professional Regulation's Customer Contact Center at: 850-487-1395 or CallCenter@dbpr.state.fl.us**

### **Or write to:**

Florida Department of Business and Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-1027

### **Or visit online at:**

[www.MyFloridaLicense.com](http://www.MyFloridaLicense.com)

License verification is available 7 days a week by calling our Customer Contact Center at 850-487-1395 or going online to [www.MyFloridaLicense.com](http://www.MyFloridaLicense.com) *Search for a Licensee.*

You may also contact your local building department or the Better Business Bureau.

**INSTRUCTIONS FOR THE RESIDENTIAL REBUILDING AGREEMENT**  
**[Template E, 3/06]**

1. This contract is a template or a “suggested standardized agreement form” covering the rebuilding of residential property damaged as a result of a natural disaster, such as a hurricane. It has been developed by several lawyers on behalf of the Florida Home Builders Association (FHBA) as a service to home owners who have lost all or a portion of their homes in a natural disaster. **A HOME OWNER IS ADVISED TO COMPLETE ANY INSURANCE CLAIMS PRIOR TO USE OF ANY CONTRACT.**
2. This contract is not the only one you can use. It is designed as a template to be user friendly and comprehensive and cover essential requirements of law as well as common or typical practices. But no contract is perfect and many contracts are different. FHBA will provide updates to this contract over time as laws and practices change. **Regardless of what contract you use (including this one), it is recommended that a home owner always consult with an attorney to review this or any contract before using such, in order to ensure that the contract adequately and accurately describes the particular circumstances and understanding and agreement of the party signing the contract.** In the past, many Florida attorneys have volunteered to assist disaster victims with such matters as contract negotiations and review. In addition, many lawyers will provide initial free consultations to disaster victims. A contractor or home owner can locate a lawyer by contacting the Florida Bar by phone, visiting the Florida Bar on-line at [www.flabar.org](http://www.flabar.org), or consulting the yellow pages in the local phone book under the heading of attorneys.
3. It is important to note that this remodel contract does not deal with Florida’s Home Solicitation Sales Act, sections 501.021 - .055, Florida Statutes. The law may require a separate notice and form for the 3-day right of rescission for contracts being signed other than at the contractor’s office. Please note that, in addition, contractors are NOT EXEMPT from the “permit” requirements of this statute.
4. It is also important to note that if the contractor is financing any portion of the contract price, and acquiring a security interest in the customer’s property (such as a mortgage, retained lien on personal property, etc.), THEN there are applicable FEDERAL credit disclosures (such as Annual Percentage Rate and rescission rights) that may apply.
5. Because this contract is a template, it may be used “as is” or it may be modified to fit different situations or needs. **However, there are certain paragraphs MANDATED by state or federal law (and certain paragraphs are intertwined or cross referenced to other mandated paragraphs). Please DO NOT change the paragraphs mandated by law and be careful in any modifications to the contract that cross-references are not inadvertently deleted or maintained.** Be sure to fill in all blanks correctly and completely and attach all applicable exhibits. The draw schedule and the mold notice disclosure and disclaimer rider are simply recommended attachments to the contract, as noted in paragraph 24 of the contract. There is also a suggested change order addendum to the contract. And, for purposes of inclusion with this packet, there is also a general Warning to Construction Consumers with Disaster Damaged Properties as well as

information concerning Florida's Construction Lien Law. The following provisions contained in this contract are MANDATED for any construction contract:

**Mandated Provisions:**

a. The opening body of the contract, identifying the contractor's registration or certification number, or the certificate of authority number for each Business Organization is required to appear on every offer, proposal, bid, contract or advertisement pursuant to section 489.119(6)(b), F.S. Failure to do so is grounds for disciplinary action against the licensee.

b. On page 1 (between paragraphs 1 and 2), there is a mandatory (by state law) required lien notice which must be a minimum of 14 point type size, bolded and underlined.

c. Paragraph 15, is the mandatory right-to-cure construction defects provision (chapter 558, F.S.), which is designed to avert litigation between the parties by requiring an owner to provide notice to the builder of a potential construction defect and an opportunity for the builder to cure the defect before a law suit can be commenced alleging a construction defect. The notice provision must be included in any residential construction contract entered into after July 1, 2004 IF the parties wish to avail themselves of the protections of the right-to-cure law. Note that the provision should be included in the body of the contract, although the law allows for the provision to be provided to the owner separately upon entering into a contract for the sale, design, construction, or remodeling of a residential dwelling. The right-to-cure notice provision must also be CONSPICUOUS, and the wording must conform to the required statutory wording as provided in paragraph 15 of this contract.

NOTE THAT PARAGRAPHS 16 – 19 PROVIDE A CROSS-REFERENCE BACK TO PARAGRAPH 15. IF YOU INTEND TO ELIMINATE PARAGRAPH 15, THEN PARAGRAPHS 16 – 19 MUST BE CHANGED TO DELETE THE CROSS-REFERENCES TO PARAGRAPH 15 (AND RENUMBERED ACCORDINGLY).

d. Paragraph 22, is the provision pertaining to the construction industries recovery fund. In every residential construction contract for repair, restoration or improvements in excess of \$2,500.00, this provision must be included in the contract as required by section 489.1425, F.S. Failure to do so is grounds for disciplinary action against the contractor.

e. Paragraph 26, pertaining to insulation disclosure, is mandatory under federal law. This must include a description of the type, thickness and values of insulation which will be installed in each part of the house to be built, when available. There is a federal statutory fine of \$10,000.00 for each failure to give the disclosure.

6. This contract is very similar to a Standard Remodeling Contract that is also available for use on FHBA's website for standard remodeling transactions. Some of the provisions of this contract that are particular for natural disasters include:
  - a. The warning at the top of the contract emphasizes the need to complete any property insurance claims prior to the execution of any contract.
  - b. Paragraph 1. notes that original plans or specifications for the original structure may be on file with the county building department and may be used.
  - c. Paragraph 9.(E) recognizes that neither the contractor nor home owner can control the price of materials furnished by others; and, demand can cause an increase in the cost of materials and labor following a disaster. There are other laws that prevent "price-gouging," but normal increases in the prices of materials are beyond the control of any party to a contract and may require an adjustment in contract price. Contractor and owner may also want to consider adding a provision which allows the owner to terminate the contract if the total contract price is increased by a certain percentage (to be determined by parties) with the builder providing a written statement/notice of price increases beyond a certain amount before purchasing such materials, provided that if termination by owner occurs, contractor is paid for work to date.
  - d. Paragraph 13.(A) recognizes that the location and extent of other disaster-related damaged property might adversely affect the contractor's ability to timely procure materials or labor necessary to perform the contract.
  - e. Paragraph 14.(E) deals with the issue of yard debris removal or landscaping debris, which is more relevant issue in a natural disaster than under normal conditions and this contract addresses that issue.
  - f. Paragraph 14.(F) recognizes the use of insurance proceeds in the financing of a rebuild.
7. For any questions regarding the use of this contract, please contact a Florida attorney per the above. And, ALWAYS hire only a properly licensed contractor with full workers compensation coverage to perform the work. You can make a call to your city or county building departments (who issue construction permits required to restore/rebuild your property) about the licensed status of your builder BEFORE YOU SIGN ANY CONTRACT or check on-line at [www.myfloridalicense.com](http://www.myfloridalicense.com): type in the first and last name and click "search" at the bottom of the screen to determine if a particular person is properly licensed.

## RESIDENTIAL REBUILDING AGREEMENT

**WARNING: MANY CONTRACTS ARE DIFFERENT. THEREFORE, BEFORE USING THIS FORM EACH PARTY SHOULD CONSULT WITH INDEPENDENT LEGAL COUNSEL IN ORDER TO ENSURE THAT THIS CONTRACT ACCURATELY DESCRIBES THE AGREEMENT OF THE PARTIES. BE SURE TO FILL IN ALL BLANKS AND ATTACH ALL EXHIBITS. THIS CONTRACT FORM HAS BEEN DEVELOPED BY THE FLORIDA HOME BUILDERS ASSOCIATION FOR THE PURPOSE OF REBUILDING RESIDENTIAL PROPERTY DAMAGED AS A RESULT OF A NATURAL DISASTER, SUCH AS A HURRICANE. OWNER IS ADVISED TO COMPLETE ANY PROPERTY INSURANCE CLAIMS PRIOR TO THE EXECUTION HEREOF.**

THIS REBUILDING AGREEMENT, made and executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ (hereinafter referred to as "Owner"), whose address is: \_\_\_\_\_ and \_\_\_\_\_ (hereinafter referred to as "Contractor"), whose address is: \_\_\_\_\_ and whose Certification or Registration Number or Certificate of Authority Number is \_\_\_\_\_, which parties for good and valuable consideration each to the other, the receipt and sufficiency of which is conclusively acknowledged, do hereby agree as follows:

**1. DESCRIPTION OF PROPERTY AND SCOPE OF REBUILDING WORK TO BE PERFORMED.**  
Contractor agrees to construct improvements on Owner's real property located at \_\_\_\_\_, in \_\_\_\_\_ County, Florida, in accordance with the plans and specifications signed and dated by Contractor and Owner on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, prepared by \_\_\_\_\_, dated or latest revision made on \_\_\_\_\_, and consisting of \_\_\_\_\_ pages, OR in accordance with the original plans and specifications for same currently on file with the \_\_\_\_\_ County Building Department. The legal description of the Subject Property is Lot(s) \_\_\_\_\_, Block \_\_\_\_\_, \_\_\_\_\_ subdivision (or attach if a metes and bounds description is used).

**ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR PROVIDE MATERIALS AND ARE NOT PAID IN FULL HAVE A RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. IF YOUR CONTRACTOR OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS, OR MATERIAL SUPPLIERS, THE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE ALREADY PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS PROVIDED TO YOU A "NOTICE TO OWNER." FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX AND IT IS RECOMMENDED THAT YOU CONSULT AN ATTORNEY.**

**2. LIMITATIONS AND GENERAL CONDITIONS.**

**(A) NON-STRUCTURAL MATTERS:** Contractor shall not be responsible or liable for stress or settlement cracks in any material supplied by contractor where same does not threaten structural integrity.

**(B) TANGIBLE PERSONAL PROPERTY:** Contractor shall have no responsibility or liability for damage or loss to owner's tangible property on the premises, except for Contractor's intentional or negligent acts.

**(C) PATCHING AND MATCHING:** The color, texture and planes between existing and new materials may not match *exactly*, but contractor will use due diligence to obtain such matching as close as reasonably possible. Owner acknowledges that patching may be detectable.

**3. PLANS AND SPECIFICATIONS.** The plans and specifications have been provided by (CHECK ONE) \_\_\_\_\_ Contractor or \_\_\_\_\_ Owner, and any loss, cost, damage or expense incurred by the other party as the result of any defects in such plans and specifications shall be borne by the party providing the plans and specifications. In the event of a conflict between the plans and specifications, the specifications shall control.

**4. DEFINITIONS.** The term "cost" means all costs and amounts paid or incurred to third persons by Contractor or by the Owner for labor, services, materials, licenses and permits directly related to this Contract. This term, except as it relates to "time and materials," shall also include \_\_\_\_\_% (175% if blank) of the gross payments to all employees of Contractor for work performed by such employees pursuant to or in preparation of this Contract or in preparation of the plans and specifications referred to herein, (including the income taxes and F.I.C.A. taxes withheld thereon). The term "days" means calendar days, including weekends and holidays, unless otherwise noted; "business days" means week days Monday through Friday which are not legal state holidays. "Substantial completion" occurs when the Certificate of Occupancy or its equivalent has been issued (or has been delayed solely by act or omission of the Owner), when the Owner occupies any part of the remodeled property, or when the Building Authority releases the building permit based upon completion of final inspections. "Consequential damages" consists of costs or expenses which may arise from the special circumstances of either party hereto, including, but not limited to, such things as increases in living expenses, additional storage or interests costs, adverse or aggravated medical conditions or longer travel times and distances, which may be incurred or suffered as a result of, or arising from, a delay in any performance hereunder by either party. "Time" shall be a flat rate per hour change, or prorated amount thereof, for the actual time spent in the performance of this agreement, whether for the Contractor, or his/her employees, agents or subcontractors.

**5. CONTRACT PRICE.** Owner agrees to pay Contractor the following Contract Price, together with adjustments, if any, for Change Orders as described in paragraph 8, and for any material costs increases as described in paragraph 9, if applicable, in accordance with the further provisions of this Contract (check and complete one of the following):

\_\_\_\_\_ **Fixed Price.** The sum of \$ \_\_\_\_\_, subject to increases in costs if commencement of construction is delayed through no fault of contractor, for more than sixty (60) days from date of this agreement. This price includes removal of all construction materials debris.

\_\_\_\_\_ **Cost Plus Fixed Fee.** All costs incurred by Contractor, plus the sum of \$ \_\_\_\_\_.

\_\_\_\_\_ **Cost Plus Percentage of Cost.** All costs incurred by Contractor, plus \_\_\_\_\_ % of all such costs.

\_\_\_\_\_ **Cost Plus Percentage of Costs (Limited).** All costs incurred by Contractor, plus \_\_\_\_\_% of all such costs, not to exceed \$ \_\_\_\_\_.

\_\_\_\_\_ **Time Plus Materials.** All time incurred by Contractor its employees, agents and subcontractors, at the rate of \$ \_\_\_\_\_ per hour, together with all costs incurred by Contractor for materials and for subcontractors.

\_\_\_\_\_ **Other.** (Describe) \_\_\_\_\_.

**6. DEPOSIT.** Upon the execution of this Contract, Owner shall pay Contractor a deposit in the amount of \$ \_\_\_\_\_. This deposit is refundable, less contractor's costs, in the event Owner fails to obtain construction loan financing in the minimum amount of \$ \_\_\_\_\_; provided that the Owner makes complete loan application within five (5) business days of the date of this agreement, actively pursues same in good faith, and obtains a binding loan commitment within thirty (30) days of the date of this agreement, which commitment requires a closing thereof within thirty (30) days thereafter. Upon commencement of construction or the delivery of any materials to the Subject Property, an additional deposit in the amount of \$ \_\_\_\_\_ is due and payable and all deposits paid hereunder become final and non-refundable.

**7. ALLOWANCES AND SELECTION OF FINISH MATERIALS.** In establishing the Contract Price or estimating the costs to be incurred, Contractor has made the following allowances for finish materials, which allowances \_\_\_\_\_ includes or \_\_\_\_\_ does not include (**check one**) the costs for installation:

- |  |          |                                       |          |
|--|----------|---------------------------------------|----------|
| a) Floor Covering                            | \$ _____ | i) Exterior Siding                    | \$ _____ |
| b) Wall Covering                             | \$ _____ | j) Cabinet and Mill Work              | \$ _____ |
| c) Hardware                                  | \$ _____ | k) Tile and Window Sills              | \$ _____ |
| d) Paneling                                  | \$ _____ | l) Roof Coverings                     | \$ _____ |
| e) Appliances                                | \$ _____ | m) Patio (Size: _____ square feet)    | \$ _____ |
| f) Landscape, Sod & Plants                   | \$ _____ | n) Driveway (Size: _____ square feet) | \$ _____ |
| g) Exterior Brick                            | \$ _____ | o) Windows                            | \$ _____ |
| h) Lighting Fixtures                         | \$ _____ | p) Walks (Size: _____ square feet)    | \$ _____ |
| (including chimes, smoke detectors and fans) |          | q) Unforeseen Replacements/Repairs    | \$ _____ |

Owner shall submit in writing to Contractor the selection for finish materials within ten (10) calendar days of Contractor's request for same; if no selection is timely made by Owner, Contractor, in Contractor's sole discretion, may make the selection on behalf of Owner, and Owner shall be bound thereby. Any portion of the cost of any selection which exceeds the allowance for such item is the sole responsibility of Owner and is payable in the same manner as a Change Order; any portion of the cost of any selection which is less than the allowance for such item shall be credited to the Owner against the final payment due to Contractor.

**8. CHANGE ORDERS.** All changes to the plans, specifications or selection of finished materials may be requested by Owner, subject to Contractor's approval. Owner shall pay to Contractor any increase in Contract Price prior to the approved work being performed, or, at contractor's option, at the time of final payment, or as set forth in the change order. To the extent that additional work is performed or materials delivered at the owner's request which is not the subject of a signed change order, the contractor shall be entitled to recover the costs thereof, plus \_\_\_\_\_ % thereof (15% if blank).

**9. CHANGES TO CONTRACT PRICE (BASED ON EVENTS COMMON TO REBUILDING WORK).** Owner acknowledges that the process of rebuilding may also consist of demolition or destruction of existing damaged improvements before, during and after any new construction has begun. Additional work is frequently identified during demolition and required to complete the work pursuant to this contract. All such additional required work will constitute a change order and may result in an increase in the Contract Price. Some examples of events or occurrences which may cause increases in the Contract Price include, but are not limited to, the following:

**(A) REMOVAL OF CERTAIN ITEMS:** The removal of any floor covering includes one layer only, without any rubberized backing; additional layers or rubberized backing will require an increase in Contract Price.

**(B) DANGERS INHERENT TO OWNER'S CONTINUED OCCUPANCY:** There are certain dangers inherent in remodeling projects since the Owner(s) usually continues to use and occupy the property during the contract performance. Contractor shall be responsible for securing the job site at the end of each work day; however, the Owner(s) acknowledges these inherent dangers and shall take all reasonable precautions to avoid them. As a result, Owner's occupancy of the premises during construction shall be at owner's sole risk, and in the event any such occupancy hinders, delays or increases the cost of contractor's performance of this contract, such damages shall be added to the Contract Price. In addition, Owner shall be solely liable for any personal injuries, whether to Owner, Owner's family members, guests or invitees, or to trespassers.

**(C) REPAIR/REPLACEMENT OF UNFORESEEN DAMAGED ITEMS:** The parties understand that there may be conditions to pre-existing improvements on the property which constitute latent defects or hidden or unknown conditions, necessitating unforeseen removal, replacement or repairs in order to complete the scope of work to be performed under this agreement. Examples of such situations include, but are not limited to: adverse soil conditions; presence of asbestos materials; inadequate structural support; plumbing, electrical, mechanical systems or appliances or machinery in poor or deteriorated condition, or; other matters which could not have been readily observed by the Contractor prior to commencement of the contract performance. In the event that Contractor discovers such defects or hidden or unknown conditions, Contractor shall immediately notify the Owner(s) and shall prepare an estimate of the increased costs resulting from such defects or hidden or unknown conditions. Owner shall be responsible for the costs incurred in preparing the estimate, such as, but not limited to, engineering fees. If the Owner(s) agree(s) with the estimate, it shall become a Change Order hereunder; otherwise, the Owner(s) shall pay the Contractor all costs incurred to that date in connection with the work to be performed hereunder, plus fifteen (15%) percent thereof, and this contract shall terminate.

**(D) PUBLIC OR PRIVATE REGULATIONS/RESTRICTIONS AND SUBSOIL CONDITIONS:** In the event any governmental regulations or private restrictions or covenants, or the results of any soil or subsurface tests, requires modifications to the structure or to the subsurface, the cost of such modifications shall be added to the Contract Price and are payable in the same manner as if originally included in the Contract Price, or, at contractor's option, due and payable at the time the costs of such modifications are incurred. Owner shall provide a clear, accessible building site, correctly zoned and otherwise allowable for the improvements to be made.

**(E) INCREASES IN MATERIALS COSTS AND CONTRACT PRICE:** In the event that, during construction of the improvement described herein, contractor's costs for materials used or to be used herein are increased by more than \_\_\_\_\_ % (110%, if blank) over the contractor's costs for same at the time this agreement was signed, for any cause(s) beyond the control of contractor, then, and in such event(s), contractor shall have the right to pass the entire amount of materials costs increase(s) along to owner by adding the total amount(s) thereof to the Contract Price. **THE PARTIES ACKNOWLEDGE AND AGREE THAT NEITHER OF THEM CAN CONTROL THE PRICE(S) OF MATERIALS FURNISHED BY OTHERS, AND THAT SUCH INCREASES FREQUENTLY OCCUR FOR MATERIALS NEEDED FOLLOWING A NATURAL DISASTER.**

**10. DRAW REQUESTS.** At such times as Contractor completes each of the items set forth in the draw schedule Contractor shall submit a written draw request to Owner or to Owner's Lender, as applicable, for an amount equal to the percentage of the Contract Price applicable to each item of construction then completed, less the percentage previously requested and paid for each such items. All draw requests are due and payable within \_\_\_\_\_ days (or, if blank, 10 days) of the date submitted to Owner. **Upon each payment to Contractor made pursuant to this agreement, Contractor shall provide Owner with a lien release from each person who has served a Notice to Owner.**

**11. WARRANTIES BY CONTRACTOR. CONTRACTOR MAKES NO EXPRESS OR IMPLIED WARRANTIES, EXCEPT AS STATED HEREIN. ALL STATED WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. SEE SPECIAL CLAUSES IN PARAGRAPH 24 FOR ADDITIONAL WARRANTY INFORMATION, IF ANY. SEE PARAGRAPH 13 FOR EXCLUSION OF CLAIMS AGAINST CONTRACTOR UNDER ANY HOME WARRANTY PROGRAM OR PRODUCT.**

(A) Except as provided in (b) and (d), Contractor **warrants** that all materials will be new materials, unless otherwise specifically agreed upon or disclosed, and that the labor and materials supplied by Contractor and used in performing this contract will be free of defects for a period of one (1) year from the date of the substantial completion; provided, however, that any warranty regarding wood destroying organisms is given only by a licensed pest control operator, is limited to one (1) year from date of initial treatment, and is renewable at the sole option and expense of the Owner.

(B) Owner agrees to rely **solely** on the warranties, if any, of the respective manufacturers of all appliances and equipment included in the property improvements, unless the defect is caused by the improper installation of such appliances or equipment.

(C) Contractor **warrants** that the dimensions of any room shall be within 10% of the dimensions specified on the plans and that the overall heated square footage of the structure shall not be less than the amount specified on the plans.

(D) MOLD IS A NATURALLY OCCURRING GROWTH THAT MAY HAVE ADVERSE HEALTH CONSEQUENCES AND WHICH REQUIRES CERTAIN PREVENTATIVE AND PROPER MAINTENANCE ACTIONS BY THE OWNER. ACCORDINGLY, CONTRACTOR ASSUMES NO LIABILITY WHATSOEVER FROM ANY HARM TO INDIVIDUALS AND DAMAGES TO PROPERTY ARISING AS A RESULT OF MOLD, WHICH IS UNRELATED TO CONSTRUCTION DEFECTS.

**12. RESPONSIBILITIES OF CONTRACTOR.**

(A) **TIME AND MANNER OF PERFORMANCE BY CONTRACTOR:** Contractor shall commence work within \_\_\_\_\_ days (30 days if blank) of the issuance of all building permits, recordation of a Notice of Commencement has been recorded, and written verification from Owner that all funds necessary for payment of the Contract Price are available, whichever shall last occur. Contractor shall diligently pursue and substantially complete all work to be performed under this Contract within a reasonable period of time, taking into consideration delays that are beyond the control of the Contractor, including, but not limited to, weather conditions, delays in selection or delivery of materials, change orders requested by Owner and delays in obtaining all necessary licenses or permits or the certificate of occupancy. Contractor may cease construction work at such time, and from time to time, that the balance in the bank draw account is ever less than the balance of the Contract Price then due for completion, plus any increased costs for all Change Orders. Contractor shall not be liable to Owner for any losses, costs or damages resulting from or arising out of a delay or inability to perform this Contract as described herein or caused by any event beyond the control of the contractor. **THE PARTIES ACKNOWLEDGE THAT THE NATURE, LOCATION(S) AND EXTENT OF OTHER DISASTER-RELATED DAMAGED PROPERTIES MAY ADVERSELY IMPACT THE CONTRACTOR'S ABILITY TO TIMELY PROCURE MATERIALS OR LABOR NECESSARY TO THE PERFORMANCE OF THIS CONTRACT, BUT THAT THE CONTRACTOR SHALL USE REASONABLE EFFORTS AND DUE DILIGENCE IN DOING SO.**

(B) **LICENSES, APPROVALS AND PERMITS:** Contractor shall obtain and pay for all licenses, permits or approvals required for the scope of work, except that the owner shall be responsible for obtaining and paying for any approval(s) required from a Homeowner's Association or its committees.

(C) **INSURANCE:** Contractor shall obtain and maintain, at contractor's expense, solely for contractor's protection, workers compensation and general liability, in connection with the work to be performed under this Contract, until substantial completion. In the event Owner or Owner's Lender require that Contractor obtain and maintain builder's risk insurance coverage, Contractor shall do so, with such optional provisions as may be designated by Owner or Owner's Lender, at Owner's sole expense.

**13. RESPONSIBILITIES OF OWNER.** Owner warrants and represents to Contractor, and agrees to be responsible for, the following:

(A) **TITLE:** Owner has fee simple marketable title to the subject property, free and clear of all liens or encumbrances that would prevent the Contractor's performance of this contract, and Owner shall submit proof of same to Contractor immediately upon request.

(B) **RIGHT OF ACCESS:** Owner has legal right of access to the Subject Property and all rights of title, including easements necessary for the construction, use and occupancy of the structure, and Owner grants adequate access to Contractor as required for Contractor to perform this contract.

(C) **BOUNDARIES/SURVEYS:** It shall be the sole responsibility of Owner to mark the boundaries of the Subject Property and the location on such property where the structure is to be constructed, and to obtain boundary, foundation and final surveys as may be required by Owner's Lender, as well as any other professional reports required for Contractor to perform this

contract, with any loss or damage suffered by Contractor or any third party as the result of a defect in title or incorrect designation of the boundaries or location of the structure to be borne solely by Owner.

**(D) UTILITIES:** Owner shall furnish and pay for all utilities necessary for the performance of this contract, including, but not limited to: water, sewer and electricity.

**(E) YARD DEBRIS REMOVAL, LANDSCAPING AND SPRINKLERS:** The removal of yard (non-construction) debris, existing landscape and sprinkler system (if any), and other site development costs, shall be the responsibility and expense of the owner, unless otherwise described in the scope of work. None of the removed landscape need be maintained by contractor; if maintained by owner, it must be kept clear of all work hereunder. Contractor shall not be responsible for damages or repairs to existing or removed landscaping or sprinkler system resulting from the normal course of construction.

**(F) FINANCING:** It shall be the sole responsibility of Owner to obtain insurance claims proceeds or financing necessary to create and maintain a bank draw account balance sufficient to make all the payments set forth in this Contract, and Owner shall have sole responsibility to pay all fees, charges or other costs of such financing, including inspection fees charged by any such lender. The nonperformance of any such lender shall not affect the obligation of Owner to Contractor; provided, however, the draw schedule designated by the construction loan lender shall supersede and replace the draw schedule set forth herein. In the event any portion of the Contract Price is to be paid from the proceeds of a construction loan, Owner agrees to provide Contractor with written verification of a construction loan commitment, subject only to standard conditions, as a condition precedent to Contractor beginning any work. Owner shall furnish, and hereby authorizes and directs the Lender to furnish, the Contractor with any information regarding the status and amount(s) of undisbursed loan proceeds from time to time, upon Contractor's request.

**(G) USE OF CONTRACTOR'S EMPLOYEES, AGENTS, SUBCONTRACTORS, OR MATERIAL SUPPLIERS:** Owner and Owner's family members or agents shall not in any manner, utilize, unreasonably interfere, communicate, or contract with Contractor's employees, subcontractors, subcontractor's employees or agents, or material suppliers, nor perform or permit any work on the Subject Property, without the prior written approval of the Contractor, which approval may be withheld in the Contractor's unrestricted discretion; provided, however, that if such consent is given, then Owner shall be solely responsible for the payment, shipment, delivery, insurance, installation, and damages for delay.

**(H) INSURANCE:** Owner shall be solely responsible for obtaining any home owner's insurance coverage, on such terms and conditions as may be determined by the Owner. The Owner shall bear the sole risk of loss of or damages to all materials delivered to the Property, and the Contractor is hereby relieved of any and all liability for any such loss and damages, except to the extent any such loss or damage is covered by an insurance policy owned by the Contractor. Under no circumstances will Contractor be liable for any claim covered in any home warranty program or product.

**(I) TIME OF PAYMENT, INTEREST, AND FINAL INSPECTION/PUNCH LIST:** Owner agrees to pay Contractor the Contract Price specified in paragraph 5, in accordance with the draw schedule attached hereto or in accordance with the lender's required draw schedule, if any. In the event any amounts due to the contractor remain unpaid after the due date thereof, then, and in such event, such amounts shall bear interest thereafter at the rate of 1.5% per month until payment in full has been made. Within five (5) days of notification by Contractor that all work is substantially complete, Owner shall conduct a final inspection of the improvements and prepare a punch list which, if agreeable, shall be signed and dated by both parties. Contractor shall be responsible for completion of all items on the punch list within a reasonable time. The Contractor shall be entitled to receive all remaining amounts due under this Contract, except that the Owner may withhold a reasonable amount of the final payment until completion of all punch list items.

**14. RIGHT-TO-CURE: CHAPTER 558 NOTICE OF CLAIM.** CHAPTER 558, FLORIDA STATUTES CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY BRING ANY LEGAL ACTION FOR AN ALLEGED DEFECTIVE CONSTRUCTION IN YOUR HOME. SIXTY DAYS BEFORE YOU BRING ANY LEGAL ACTION, YOU MUST DELIVER TO THE OTHER PARTY TO THIS CONTRACT A WRITTEN NOTICE REFERRING TO CHAPTER 558 OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE SUCH PERSON THE OPPORTUNITY TO INSPECT THE ALLEGED CONSTRUCTION DEFECTS AND TO CONSIDER MAKING AN OFFER TO REPAIR OR PAY FOR THE ALLEGED CONSTRUCTION DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER WHICH MAY BE MADE. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER THIS FLORIDA LAW WHICH MUST BE MET AND FOLLOWED TO PROTECT YOUR INTERESTS.

**15. DEFAULT/NOTICE OF DEFAULT.** Other than for claims of defective construction, which are governed solely by the "right-to-cure" law disclosed in paragraph 14, Contractor shall be in default under this Contract if Contractor abandons work on the structure or otherwise refuses to carry out contractor's obligations under this Contract (unless such abandonment or refusal is based upon a prior default by Owner which Owner has failed to cure after written notice thereof). Contractor shall be deemed to have abandoned work if Contractor shall fail to perform or cause any work to be performed on the Subject Property for twenty-one (21) consecutive days, unless such failure is the result of any event beyond the control of the Contractor. Owner shall be in default under this Contract if Owner refuses to permit Contractor to complete performance, fails to pay any amounts when due, or otherwise refuses to carry out the obligations of Owner under this Contract (unless such refusal or nonpayment is based upon a prior default by Contractor which Contractor has failed to cure after written notice thereof). In the event of default, the defaulting party shall be entitled to receive written notice, by certified mail return receipt requested or by

hand delivery to the address shown below, which specifies the event(s) of default. The defaulting party shall have ten (10) days from the receipt of the notice in which to begin the curing of any default, which actions shall be continuously pursued and completed within a reasonable time in light of the nature of the default; provided, however, the cure of any default in payment must be completed within ten (10) days from the date of notice of default. If any default is timely cured, each party agrees that this Contract shall remain in full force and effect and neither party may assert any claims as the result of such default. All notices shall be to the respective addresses of the parties as set forth on page 1, or as otherwise set forth in written notice to the other party.

**16. REMEDIES AFTER DEFAULT:**

**(A) BY CONTRACTOR.** Except for claims by the Owner of defective construction, which are governed solely by the "right-to-cure" law disclosed in paragraph 14, in the event of default by Contractor which is not cured within the time specified, the Owner may declare the Contract terminated and seek damages only for the reasonable and necessary costs to complete construction in accordance with the original plans and specifications and for the Contract Price (adjusted by Change Orders to the date of termination), less any balance of the adjusted Contract Price not paid to Contractor, and excluding any other damages whatsoever, such as: damages for delay, or for any consequential damages.

**(B) BY OWNER.** In the event of default by Owner which is not cured within the time specified, the Contractor, at Contractor's option: (1) shall provide a notice of default, upon which contractor shall be entitled to all costs incurred by Contractor from the last draw payment to the date of notice of default, together with profits in the amount of fifteen (15%) percent thereof, and excluding any other damages whatsoever, such as: damages for delay, or for any consequential damage; or (2) may complete the construction and seek damages for breach of contract. The parties have agreed to this amount of profits due to the difficulties and uncertainties associated with the calculation of actual damages for lost profits which Contractor is likely to incur as the result of a default by Owner.

**17. ARBITRATION.** Except for claims by the Owner of defective construction, which are governed solely by the "right-to-cure" law disclosed in paragraph 14 the parties agree that any other action to enforce this Contract shall be exclusively by arbitration proceedings as described herein, to be held in the county in which the real property described herein is located, and both parties agree to be bound by the decision rendered in such proceedings. Within thirty (30) days of a written request for arbitration, each party shall select an arbitrator. If either party fails to select an arbitrator within this time frame, the first arbitrator selected may select the second arbitrator. Within ten (10) days thereafter the two arbitrators shall select a third arbitrator. All arbitrators shall be persons with experience or knowledge in the construction industry. The arbitration shall be conducted in accordance with the Florida Arbitration Code (Chapter 682, Florida Statutes); provided, however, the final hearing shall be held not more than ninety (90) days after the receipt of the request for arbitration and the final decision shall be rendered not more than thirty (30) days after the conclusion of the final hearing.

**18. ATTORNEY FEES.** In the event of any disputes arising out of or in connection with this contract, the prevailing party therein shall be entitled to recover reasonable attorney fees and costs, whether same were incurred prior to or during any judicial proceedings, including, but not limited to, any trial or appellate proceedings, as well as prior to or during any of the alternative dispute resolution mechanisms, whether described in paragraphs 14 and 17 or otherwise ordered by a court of competent jurisdiction.

**19. GOVERNING LAW, ASSIGNMENT AND RECORDING.** This Contract shall be construed and enforced in accordance with the laws of the State of Florida, and may not be assigned or recorded except with the prior approval of both parties, which approval may be withheld for any reason whatsoever.

**20. INTEGRATION CLAUSE.** This Contract and the additional contract documents attached hereto, as indicated in paragraph 23 hereof, constitutes the complete agreement between the parties and may not be modified except in writing signed by all parties hereto.

**21. CONSTRUCTION RECOVERY FUND.** PAYMENT MAY BE AVAILABLE FROM THE FLORIDA HOMEOWNER'S CONSTRUCTION RECOVERY FUND IF YOU LOSE MONEY ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A STATE-LICENSED CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS:

Construction Industry Licensing Board  
1940 N. Monroe Street, Tallahassee, Florida, 32399-0784.  
Telephone: 850-487-1395

**22. CONTROLLING PROVISIONS AND HEADINGS.** All handwritten or typewritten provisions herein shall control over any printed provisions in conflict therewith, unless otherwise provided. The headings on each paragraph are for the sole convenience of the parties and shall not be construed to be a part of this Contract.

**23. ADDITIONAL CONTRACT DOCUMENTS.** If marked, the following additional documents are a part hereof and each party acknowledges receipt of a copy thereof:

\_\_\_\_ Metes & Bounds description  
\_\_\_\_ Other Allowances

\_\_\_\_ Draw Schedule  
\_\_\_\_ Other Specifications

\_\_\_\_ Mold Disclosure  
\_\_\_\_ Other (\_\_\_\_\_)

**24. SPECIAL CLAUSES (If Any):** \_\_\_\_\_

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

**25. INSULATION DISCLOSURE.** In accordance with 16 C.F.R., Chapter 1, Section 460.16, the following disclosure is made regarding the insulation which has been or will be installed in the improvements described herein, as follows (if known):

<u>Location</u>	<u>Type</u>	<u>Thickness</u>	<u>Manufacturer's R-Value</u>
Exterior Walls	_____	_____ "	R=_____
Interior Walls	_____	_____ "	R=_____
Flat Ceiling Walls	_____	_____ "	R=_____
Sloped Ceiling Walls	_____	_____ "	R=_____
Other (_____)	_____	_____ "	R=_____
Common Walls (such as house and garage)	_____	_____ "	R=_____

**Note:** If any of the above information is incomplete, it is either because this information has already been included in the plans or specifications identified herein, or because this information is unknown at the time this agreement was entered into. However, if any of the above information is incomplete and has not been included in the plans or specifications identified herein, then it will be furnished to the Buyer when the information becomes available. Buyer hereby acknowledges that this R-value information is based solely upon information supplied by the manufacturer or installer and that Contractor does not represent or warrant the accuracy of this information. Buyer further acknowledges that the actual R-values may vary based upon normal construction variances in insulation thickness and openings in walls.

**WITNESSES (Optional)**

**OWNER(S):**

1. \_\_\_\_\_

Print Name: \_\_\_\_\_

2. \_\_\_\_\_

Print Name: \_\_\_\_\_

**WITNESSES (Optional)**

\_\_\_\_\_  
**PRINT CONTRACTOR'S NAME**  
License # \_\_\_\_\_

1. \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

2. \_\_\_\_\_

Print Title: \_\_\_\_\_

**ADDENDUM TO CONSTRUCTION AGREEMENT**

(Use for Every Change in Plans or Specifications or in Customer's Optional Selections)

**Warning: Failure to properly use this form may result in a contract dispute about the nature, extent and value of any changes, which may cause delay in performance or payment for same.**

Date: \_\_\_\_\_

Contractor: \_\_\_\_\_

Owner(s): \_\_\_\_\_

Job Description/Address: \_\_\_\_\_

DELETE the following (if any) and describe in detail:

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

ADD the following (if any) and describe in detail:

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

ESTIMATED ADDITIONAL TIME REQUIRED BY THIS ADDENDUM: \_\_\_\_\_.

ADJUSTMENTS to Contract Price: for above (Check Applicable and complete amount):

\_\_\_\_ Increase CONTRACT PRICE BY \$ \_\_\_\_\_, payable: \_\_\_\_\_

\_\_\_\_ Decrease CONTRACT PRICE BY \$ \_\_\_\_\_, subject to credit against the final draw.

**NOTE: Contractor shall use best efforts to process and implement the changes reflected herein, if it can be done in a timely manner and without increasing the costs set forth above. Otherwise, Contractor shall not be obligated to make these changes.**

\_\_\_\_\_  
Contractor's Acknowledgment

\_\_\_\_\_  
Owner(s) or Agent's Acknowledgment

**ADDENDUM TO CONSTRUCTION AGREEMENT**

(Use for Every Change in Plans or Specifications or in Customer's Optional Selections)

**Warning: Failure to properly use this form may result in a contract dispute about the nature, extent and value of any changes, which may cause delay in performance or payment for same.**

Date: \_\_\_\_\_

Contractor: \_\_\_\_\_

Owner(s): \_\_\_\_\_

Job Description/Address: \_\_\_\_\_

DELETE the following (if any) and describe in detail:

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

ADD the following (if any) and describe in detail:

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

ESTIMATED ADDITIONAL TIME REQUIRED BY THIS ADDENDUM: \_\_\_\_\_.

ADJUSTMENTS to Contract Price: for above (Check Applicable and complete amount):

\_\_\_\_ Increase CONTRACT PRICE BY \$ \_\_\_\_\_, payable: \_\_\_\_\_

\_\_\_\_ Decrease CONTRACT PRICE BY \$ \_\_\_\_\_, subject to credit against the final draw.

**NOTE: Contractor shall use best efforts to process and implement the changes reflected herein, if it can be done in a timely manner and without increasing the costs set forth above. Otherwise, Contractor shall not be obligated to make these changes.**

\_\_\_\_\_  
Contractor's Acknowledgment

\_\_\_\_\_  
Owner(s) or Agent's Acknowledgment

## RIDER TO CONSTRUCTION CONTRACT

### MOLD NOTICE, DISCLOSURE and DISCLAIMER

#### **What Homeowners Should Know about Mold**

**Mold.** Mold is a type of fungus. It occurs naturally in the environment, and it is necessary for the natural decomposition of plant and other organic material. It spreads by means of microscopic spores borne on the wind, and is found everywhere life can be supported. If the growing conditions are right, mold can grow in your home. Most homeowners are familiar with mold growth in some form or another. Examples of mold are bread mold, and mold that may grow on bathroom tile.

In order to grow, mold requires a food source. This may be supplied by items found in the home, such as fabric, carpet or even wallpaper, or by building materials, such as drywall, wood and insulation, to name a few. Mold also requires a temperate climate. The best growth has been determined to occur between 40 and 100 degrees F. Finally, mold growth requires moisture which is the only mold growth factor that can be controlled in a residential setting. A homeowner can minimize or reduce mold growth by minimizing moisture.

Common sources of home moisture include spills, leaks, overflows, condensation, and high humidity. As Florida is prone to extremely high humidity, good housekeeping and home maintenance practices are essential to prevent and eliminate mold growth. If moisture is allowed to remain, mold can develop within 24 to 48 hours.

**Consequences of mold.** Although not all mold is harmful, certain strains have been shown to have adverse health effects in susceptible persons. The most common effects are allergic reactions, including skin irritation, watery eyes, running nose, coughing, sneezing, congestion, sore throat and headache. Individuals with suppressed immune systems may risk infections. Some experts disagree about the level of mold exposure that may cause health problems, and about the exact nature and extent of the health problems that may be caused by mold. The Center for Disease Control states that a casual link between the presence of toxic mold and serious health conditions has not been proven.

**What Homeowners can do.** The homeowner can take positive steps to reduce or eliminate the occurrence of mold growth in the home, and thereby minimize any possible adverse effects that may be caused by mold. These steps include the following:

1. Before bringing items in to the home, check for signs of mold. Potted plants (roots and soil), furnishings or stored clothing and bedding material, as well as many other household goods, could already contain mold and growth.
2. Regular vacuuming and cleaning will help reduce mold levels. Mild bleach solutions and most tile cleaners are effective in eliminating or preventing mold growth.
3. Keep the humidity in the home low. Vent clothes dryers to the outdoors. Ventilate kitchen and bathrooms by opening the windows, by using exhaust fans, or by running the air conditioner to remove excess moisture in the air, and to facilitate evaporation of water from the wet surface.
4. Promptly clean up spills, condensation and other sources of moisture. Thoroughly dry any wet surfaces or material. Do not let water pool or stand in your home. Promptly replace any materials that cannot be thoroughly dried, such as drywall or insulation.
5. Inspect for leaks on a regular basis. Look for discoloration or wet spots. Repair any leaks promptly. Inspect condensation pans (refrigerators and air conditioners) for mold growth. Take notice of musty odors, and any visible signs of mold.
6. Should mold develop, thoroughly clean the affected area with a mild solution of bleach. First, test to see if the affected material or surface is color safe. Porous materials, such as fabric, upholstery or carpet

should be discarded. Should the mold growth be severe, call on the services of a qualified professional cleaner.

7. Electronic air filters that may assist in effective air filtration and dehumidifiers to maintain humidity levels are available at additional cost from numerous vendors.

**Disclaimer and Waiver**

Whether or not you as a homeowner experience mold growth depends largely on how you manage and maintain your home. Every home contains products, materials and industrial chemicals that are used in constructing the home which may cause allergic or other bodily reactions in some individuals. You should consult your physician to determine the chemicals that may adversely affect you or members of your family. Our responsibility as a Contractor must be limited to things that we can control. As explained in our written warranty, provided by this instrument, we will repair or replace defects in your construction (defects defined as a failure to comply with reasonable standards of residential construction) for a period of one (1) year. The Contractor will not be responsible for any damages caused by mold or by some other agent not associated with defects in our construction, to include, but not limited to, property damage, personal injury, loss of income, emotional distress, death, loss of use, loss of value, and adverse health effects, or any other effects. Any implied warranties, including an implied warranty of workmanlike construction, an implied warranty of habitability, or an implied warranty of fitness for a particular use, are hereby waived and disclaimed. THE OWNER UNDERSTANDS AND AGREES THAT THE CONTRACTOR IS NOT RESPONSIBLE, AND HEREBY DISCLAIMS ANY LIABILITY FOR, ANY DAMAGES, ILLNESS OR ALLERGIC REACTIONS WHICH THE OWNER, OR THE OWNER'S FAMILY MEMBERS MAY EXPERIENCE AS A RESULT OF MOLD, MILDEW, FUNGUS, SPORES OR CHEMICALS, TO INCLUDE, EMOTIONAL DISTRESS, DEATH, LOSS OF USE, LOSS OF VALUE, AND ADVERSE HEALTH EFFECTS, OR ANY OTHER EFFECTS.

**There are no warranties which extend beyond the description on the face hereof.**

This Notice, Disclaimer and Waiver Agreement is hereby made a part of the Purchase Agreement between Owner and the Contractor. The consideration for this agreement shall be the same consideration as stated in the Contract Agreement. Should any term or provision of this agreement be ruled invalid or unenforceable by a court of competent jurisdiction, the remainder of this agreement shall nonetheless stand in full force and effect.

I (we) acknowledge receipt of this Notice, Disclaimer and Waiver agreement. I (we) have carefully read and reviewed its terms, understand same and agree to its provisions.

Dated: \_\_\_\_\_

Witnesses:

1. \_\_\_\_\_  
Print Name

\_\_\_\_\_  
Owner

2. \_\_\_\_\_  
Print Name: \_\_\_\_\_  
(As to Owners)

\_\_\_\_\_  
Owner

1. \_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Name of Contractor

2. \_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_