

checks will be mailed to subcontractors no later than the 8th day of the month in which the payments are due. If this timely posting of the checks is not accomplished the Owner agrees to pay Builder \$1000 each and every time the checks are mailed after the 8th day of the month.

D. It is agreed that Owner will complete all necessary paperwork and other requirements in a timely manner to facilitate the closing of the permanent financing. If Owner refuses to close the permanent financing within 10 days of the final inspection by Regional Building Dept. it is agreed that Owner will pay to Builder \$100 per day, over and above the agreed upon fee, until the mortgage closing occurs. This applies regardless of the reason for Owner's refusal to close the financing. Owner also agrees to notify Builder in the event of a change in Owner's credit worthiness.

E. It is agreed that Builder will make on-site changes as necessary to insure the ongoing progress of work. It is understood that Owner will be notified of these changes as soon as practical. It is also understood that Builder will make field decisions based on how he would proceed if building his own house in a similar situation. Owner agrees that this is a prudent manner of operation and agrees to pay any and all costs associated with the method chosen by Builder to facilitate solving the problem at hand. If Owner wants additional, more extensive or different methods or results than that achieved by Builder, Owner also agrees to pay those costs associated with that change.

F. It is agreed that Builder will not remove material from the building site without first notifying Owner. This includes scrap, damaged items, excess material, or any other material.

G. It is agreed that Builder will deal with subcontractors and suppliers. Owner may talk with workmen on site for clarification or to receive information but Builder is required to make any necessary changes.

H. It is agreed that all costs are the responsibility of and are to be borne by the Owner. This applies in the case of cost overruns as compared to the budget. Any cost savings realized (as compared to the budget) will be realized by the Owner.

I. It is agreed that Owner may make as many changes to the plans and scope of work as desired. Builder may, at his option charge an amount not to exceed a \$100 fee for every change. It is understood that changes will be executed through the use of Change Orders. It is also understood that the very nature of changes causes unexpected costs, unexpected delays, and unexpected problems that can't be anticipated by Builder. It is agreed that the cost of these changes, both expected and unexpected will be borne by Owner. Owner agrees to initiate the change order process by filling out a Change Order form and submitting it to Builder with a \$100 check or money order attached. Builder will keep or return the check at his option. Owner must indicate on Change Order form their method of payment of the estimated costs to complete the desired change and be prepared to pay that amount before the work is started, or show that the loan amount has been sufficiently increased to cover the entire cost.

J. It is agreed that the construction loan will be acquired and held in the name of Owner and that all costs associated with this loan will be borne by Owner. Loan fees, interest charges, closing costs, and other amounts often are not accounted for in costing data supplied by Builder.

K. It is agreed that Builder will take reasonable precautions to insure security of the house while under construction including material delivery timing, construction locks, contact with neighbors and return of unused material. It is also understood that the ultimate risk of security falls on the Owner and any loss will be borne entirely by the Owner.

L. It is agreed that the warranty service on this house will be handled in a manner similar to the construction, ie... Builder will manage the process of getting the work done, redone, or repaired and the Owner will pay all costs, if any, of completing that work and upon request by Builder will pay Builder the full amount at the time the work is ordered. It is also agreed that Builder will secure a structural warranty insurance contract with Builders Home Warranty and Owner agrees to accept that coverage and hold Builder harmless should any structural failure or any other loss occur.

M. In the event the Owner refuses to pay any amount due the Builder, subcontractors, suppliers, workers, or other entity, Owner agrees that work will be stopped immediately and the cost of collection and any other legal fees will be paid by the Owner, without regard to the Owner's reason for refusal to pay. Builder may, at his option, terminate this contract. This in no way rescinds the right of Builder to collect any amounts owed by Owner. Owner may, at his option, terminate this contract after paying all amounts due to Builder.

N. In the case a dispute arises, Builder and Owner agree to settle any and all disagreements utilizing the services of a qualified arbitrator and the cost thereof will be divided equally. Owner agrees to defend, indemnify, and hold Builder harmless for any and all cost overruns, costs to solve problems both anticipated and unforeseen, costs of decisions made by Builder, costs of actions of Builder, costs of materials or workmanship ordered by Builder, costs of defective or replacement materials and costs involved with work done by subcontractors which may not be acceptable to Owner. Owner and Builder agree to use as the standard of quality the house located at 6527 Hawkeye Cir. (excluding upgrades not ordered by Owner) together with its "fine qualities" and "flaws".

O. Unless otherwise specified, it is agreed that Builder will choose materials that are adequate and acceptable in his judgement. If Owner finds those materials unacceptable, Owner has the right to order Builder to change those materials but agrees to pay all costs associated with removal and replacement of those materials.

P. It is agreed that in all instances where wood and wood products are used, there is a possibility of fading, warping, cracking, splitting, shrinking, discoloration, and variation in grain, color, and appearance. Builder agrees to take reasonable steps to choose materials and choose methods of application to minimize the effects of the above mentioned possibilities. It is understood that some or all of these problems may occur to varying degrees and Owner agrees that when wood or wood products are chosen, Builder will not be held liable in case some or all of the afore mentioned problems occur.

Q. It is agreed that verbal and written communications generated before the signing of this agreement are not part of this agreement unless they bear the signature of both Owner and Builder. Only signed, dated documents will be relied upon for clarification and reference purposes. These documents include plans, material specs, estimated cost data, and this preconstruction agreement.

R. It is agreed that any discrepancies encountered in the plans for this house, or any items that are unclear on the plans will be completed according to the interpretation of the Builder.

S. It is agreed that soil will be backfilled over ditches, around the foundation, over septic systems, and other places and will be left in an uncompacted state for various reasons. Owner agrees that subsidence of this soil is his/her responsibility unless written order and payment is made to compact the soil in question.

T. It is understood that Builder is not an architect. Builder has not received monies for drafting, design, or architectural work. Therefore, discrepancies found in the plans will be interpreted by Builder and completed in the manner best determined by him. In this case Builder is not responsible for the design and drafting it is agreed that Builder will not retain sets of plans and may not use that plan to build other houses if desired.

U. It is understood that this house is being built on soil that has expansive qualities and the nature of the problem has been adequately explained to Owner. Owner agrees that if he/she would like more information concerning expansive soils, he/she will ask for further clarification and/or conduct that research independently. Owner understands that expansive soils can cause movement of foundation, concrete floor slabs, mechanical appliances and piping, landscaping, and other components of the house both inside and outside. Owner accepts the risks involved and agrees that construction should proceed.

V. It is agreed that Owner will not move in, occupy, or place personal belongings in or on the building site until the construction loan closing is completed and Builder has received any and all monies due.

W. It is agreed that as the Builder will estimate the final amounts owed to Subcontractors and Suppliers for the purpose of calculating a Builder Payoff amount for the final closing. Builder agrees to pay to Owner any amounts overestimated. Owner agrees to pay to Builder any amounts underestimated.

Summary: The stated objective of Builder is to supply a good quality house at a good price to the Owner. There is no excuse for shoddy workmanship, just as there is no excuse for unreasonable expectations on the part of the Homeowner. It must be understood that construction is dirty, wet, rough, crude and inexact at times. Breakage and waste are a part of the business and must be anticipated throughout the process. In light of all the downsides of construction, Builder's stated goal is to provide good value for the money spent.

It is understood that the homeowner is bearing risk associated with construction of this house. The risk involved is roughly equal to the risk borne by a Builder when he builds his own house or purchases land, materials, and labor of others to build a house for sale.

Owner understands that the amounts listed on the cost estimate form under Supervision, Overhead and Profit are to be paid to Builder for services rendered. All other amounts are estimates and may be lower or higher as construction progresses, changes are made, unexpected conditions are encountered, weather is accounted for, and decisions by the Owner and Builder are implemented.

Homeowner _____ date _____

Homeowner _____ date _____

Builder _____ date _____