**Construction agreement**

**CLIENT:**

**CONTRACTOR:**

**PROJECT:**

This Agreement is executed on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Inc. (“Client”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Inc. (“Contractor”) to provide \_\_\_\_\_\_\_\_\_\_ services as described in Exhibit A for property at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_ County, State (“Property”).

**SECTION 1. AGREEMENT OF THE PARTIES.** This Agreement, properly executed, constitutes the entire Agreement of the parties. No modifications shall be valid unless accepted in writing by both parties. One copy of this Agreement shall be signed, dated, and returned by the Contractor within five (5) calendar days of receipt to the address outlined above. Commencement of work prior to execution of this Agreement shall be deemed full acceptance of all terms of this Agreement as written.

**SECTION 2. SCOPE OF WORK.** Pursuant to this Agreement, Contractor shall provide all labor, materials, insurance, tools, supervision, licenses, fees, equipment, supplies, safety protection equipment, layout supervision and any other items and incidental work required to complete work outlined in “Exhibit A” annexed hereto and incorporated by reference herein. Contractor shall provide properly skilled workers on the job at all times. All materials utilized in rendering services shall be of good quality, new and under warranty and approved by Owner’s representative. Contractor shall perform all work according to manufacturer’s specifications and shall provide Client with all manufacturer’s warranties on materials used. A list of materials to be used must be provided by Contractor to Client and approved by Owner prior to use. Contractor understands that it shall be fully and solely responsible for the safety of its workers on the job site unless Contractor gives timely notice to Client that conditions may not be safe.

**SECTION 3. CONTRACT AMOUNT.** Total Cost: $\_\_\_\_\_\_\_\_\_. Total cost to be paid in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ installments equal to the amount of work in place, or at the completion of the project and acceptance by Client.

**SECTION 4. RELATIONSHIP OF THE PARTIES.** Contractor is not an employee of Client but is an independent contractor. Contractor is exclusively responsible for all taxes, withholding payments, penalties, interest, fringe benefits, insurance, safety programs, licenses, and all other legal and operational matters pertaining to the work performed by Contractor under this Agreement. All taxes at the current rate, shall apply and are included in this Agreement.

**SECTION 5 (a). INSURANCE IN GENERAL.** The Contractor shall carry the types of insurance enumerated in Section 5 with a carrier(s) acceptable to Client and provide all required insurance coverage and certificates prior to starting work. This insurance coverage shall include, but is not limited to, limits stated below, or as required by state law (whichever is greater), and may not be canceled without thirty (30) days prior written notice to the Client. Said certificates shall name Client and Owner of Property as additional insured.

**SECTION 5 (b). BUILDER’S RISK INSURANCE:** A Builder’s Risk and Boiler and Machinery Coverage will be obtained by Client to cover the project. Any payment under Builder’s Risk or Boiler and Machinery Coverages will be made jointly to Client and Contractor. Further, Client and Contractor agree that any payment under Builder’s Risk or Boiler and Machinery Coverages will be placed into a joint account until such funds are reinvested in the construction project.

**SECTION 5 (c). PUBLIC LIABILITY INSURANCE:** While Contractor is performing operations at Project Site, Contractor shall maintain public liability insurance in the amount of not less than two million dollars ($2,000,000) per occurrence. It is further agreed that the Contractor agrees to protect, defend, indemnify, and hold harmless the Client against and from any claim or cause of action arising out of or from any negligence or other actionable fault of the Contractor, or its employees, agents, members, or officers.

**SECTION 5 (d). AUTOMOBILE LIABILITY INSURANCE:** Contractor shall maintain automobile liability insurance for any owned autos, hired autos or non-owned autos used in connection with the contractor’s business. Automobile liability coverage should be maintained by the Contractor in the minimum amount of two million dollars ($2,000,000) combined single limit.

**SECTION 5 (e). WORKER’S COMPENSATION INSURANCE:** Contractor shall maintain worker’s compensation insurance of $100,000.00 per occurrence, or as required by law, whichever is greater.

**SECTION 5 (f). ADDITIONAL INSURED:** Contractor agrees to provide a certificate of insurance to the Client which will name the Client, and Owner of the Property as an additional insured on Contractor’s liability policy for claims arising out of Contractors, subcontractors or sub-subcontractor’s operations or made by Contractors, subcontractors or sub-subcontractors, employees, agents, guests, customers, invitees or subcontractors. Contractor must verify its liability insurance policy is primary in the event of a covered claim or cause of action against Client or Owner of the Property. If and only if Contractor fails to fulfill the insurance requirements contained in this agreement, then Contractor agrees to defend, hold harmless and indemnify the Client and Owner of the Property, including reasonable attorney's fees and costs, against and from any claim or cause of action arising out of the construction project which is alleged against the Client and Owner of the Property, even if such claim or cause of action arose from the negligence of Client, from the negligence of Owner, or from the joint negligence of Client and Owner of the Property, their employees or volunteers or another party not named to this contract.

**SECTION 5 (g). SUBCONTRACTORS:** Contractor shall be required to verify that all subcontractors maintain public liability insurance, worker’s compensation insurance and automobile liability insurance. Furthermore, Contractor agrees to indemnify and defend the Client for any claim or cause of action, whatsoever which was caused by the negligence, or other actionable fault of an uninsured subcontractor.

**SECTION 5 (h). NO WAIVER OF SUBROGATION:** Client does not waive any rights of recovery against the Contractor, subcontractor or sub-subcontractor for any damages. Client and Contractor, subcontractor and sub-subcontractor do waive the right of recovery against each other for any damages covered under Property, Builders Risk or Boiler and Machinery coverage for which either party is responsible if that party does not have liability insurance to cover such damages and liability insurance has been maintained as required by this document. Contractor and Client agree that this addendum overrides any and all portions of previous agreements between Contractor and Client that contain language in contradiction with this contract.

**SECTION 6. MAINTENANCE OF WORK AREA.** Contractor shall be responsible for all clean-up required in connection with rendering services under this Agreement and will maintain the work area free of all accumulated trash, rubbish, debris and the like. Contractor agrees to perform work in a manner minimizing as much as possible any disruption of business operations of Client.

**SECTION 7. WARRANTY.** Contractor warrants to the Client that materials and equipment furnished under this Agreement will be of good quality, new and under warranty. Contractor shall provide copies of all warranties at the completion of the project and prior to issuance of final payment. Contractor also warrants that its work and those of its employees will be professionally done and free from defects. Work not conforming to these requirements or which result in nullifying warranties associated with work, including substitutions not properly approved and authorized, may be considered defective at the sole discretion of Client. This warranty shall be in addition to, and not in limitation of, any other warranty or remedy required by law.

**SECTION 8. CORRECTION OF WORK.** Client may reject any defective, unsatisfactory or inferior work at its discretion which fails to meet the requirements of this Agreement and the warranties contained herein within one (1) year of the completion of Contractor’s work. In the event any work under this Agreement is defective, Contractor shall repair the defective work at its own expense.

**SECTION 9: COMPLETION OF WORK.** Contractor will endeavor to ensure that work progress is not delayed or stopped. Client will be notified in writing of any changes in the scope of work discovered by Contractor in performing under this Agreement. Client agrees to respond to any proposed changes in the scope of work in a timely fashion after receiving all necessary information and a good faith estimate for the additional work. Owner will also be notified in writing of any expected, unexpected, and/or unusual delays.

**SECTION 10. SEVERABILITY.** The invalidity of one or more of the phrases, sentences or sections of this Agreement shall not affect the validity of any remaining portion so this Agreement.

**SECTION 11. RELEASE AND INDEMNIFICATION.** To the fullest extent permitted by law, Contractor shall hold harmless, defend at its own expense, and indemnify Client its officers, employees, agents, and volunteers, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney’s fees, arising from all acts or omissions of contractor or its officers, agents, or employees in rendering services under this contract; excluding, however, such liability, claims, losses, damages, or expenses arising from Client’s sole negligence or willful acts.

**SECTION 12. CHOICE OF LAW.** The undersigned hereby agree that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of \_\_\_\_\_\_\_\_\_\_.

**SECTION 13. BINDING ARBITRATION.** The undersigned hereby agrees to have all unresolved claims, disputes and other matters resolved through arbitration in accordance with the relevant Rules of the American Arbitration Association. The Arbitration venue shall rest in New York.

Client and Contractor hereby agree that they have read and understood the terms and conditions contained in this Agreement. Both parties further understand that they are bound by the terms and conditions contained in this Agreement.

**SECTION 14. ENTIRE AGREEMENT.** This writing constitutes the complete agreement between the parties, and supersedes all prior agreements, whether oral or written.

**CLIENT** **CONTRACTOR:**

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

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

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

NOTE: This document is not tailored to your particular circumstances, and does not constitute legal advice. In order to obtain a document tailored to your specific circumstances, contact competent counsel.

**EXHIBIT A**

PROJECT: