

BILL RECTOR INC

AGREEMENT OF SALE CONTRACT TO BUILD A HOME

Bill Rector, DBA, Bill Rector, Inc., hereinafter called "Builder" or "Contractor" and

_____, Hereinafter called "Buyer" or "Owner agrees as follows:

1. Builder agrees to sell and Buyer agrees to buy a house to be constructed and described as the residence of , _____, to be erected on their land in Dearborn County, Indiana. Said house shall be constructed in accordance with plans and building specifications listed in the bid estimate, the building plan and any in process written change orders.

The bid estimate as of the contract date is \$ _____

The not to exceed price is \$ _____ and is the price limit of which the new home is not to exceed.

Every attempt has been made to assure that this is an accurate estimate as of the contract date. The bid estimate is for the purposes of loan commitment. The bid estimate should not be construed as a binding agreement as to the cost of the home. Market prices, at the time of construction may be higher or lower than the bid estimate depending on conditions of the market place and actual site conditions. The bid estimate may fluctuate higher or lower depending upon the selections of the buyer. Attached to and made part of this agreement is a copy of the bid estimate, the building plans and the items bid. (Payable as follows)

Builder agrees to build buyers home based on a percentage of 10 % above the actual cost of construction, which includes the cost of any billed invoices received by the Builder. Otherwise stated, 10 % over any invoice the Builder receives for labor, material, taxes, delivery charges, finance charges, installation, and any billed invoice received relative to the completion of the buyers' new home. Builder shall provide buyer with a copy of the invoices. Buyer agrees to pay for the invoices and a 10% construction management fee within ten business days from the receipt of an invoice from the Builder.

The not to exceed price shall be considered the limit, of the cost, to the homeowner to build their new home. Costs over the not to exceed price which are the owners responsibility are, owner upgrades or products, materials, labor, subcontractors, unforeseen site limitations, city or county ordinance requirements that incur added costs, or design changes that were not in the original estimate or a part of the plan the original estimate was bid from.

DEPOSIT MONEY (\$ _____) Of the total purchase price with the execution of this agreement which shall be applied to the purchase price at closing and the balance by Buyer obtaining a construction loan (within thirty days of date of accepted contract, with a lender of their choice and with all terms to be acceptable by Buyers) with monthly draws. Builder to meet with buyer's lender to review and accept the terms of the construction loan prior to the start of construction. If this offer is accepted and Buyer fails or refuses to close the transaction, without legal cause, the earnest money shall be forfeited by Buyer to Builder as liquidated damages, and Builder may pursue any other legal and equitable remedies. The Builder holding any earnest money is absolved from any responsibility to make payment to the Builder or Buyer unless the parties enter into a Mutual Release or a Court of competent jurisdiction issues an order for payment. If the parties do not mutually consent to a release of the earnest money, then they agree that the Builder holding the earnest money may file an interpleader action with a court regarding disposition of the earnest money and that the payment of the Builder's resulting costs (including attorney's fees) incurred in connection with such interpleader are a priority claim against the earnest money regardless of the Court's apportionment of the balance of the earnest money.

2. The work to be performed by Builder shall be completed on or before 360 days after receipt by the Builder of the following: (1) all deposit money as provided in Paragraph 1; (2) Buyer's approval of plans and

specifications; (3) granting of the building permit; and (4) written commitment of mortgage for Buyer, which the Buyer acknowledges will be attached to agreement as exhibits and made a part hereof.

3. If the above mentioned exhibits are not completed and delivered to the Builder within (30) thirty days of the date of this agreement, the Builder may cancel this contract at his option or assign a new delivery date. This is a cost plus contract and the bid estimate shall remain accurate as of the date submitted. The bid estimate is for the purposes of loan commitment.

4. The Builder shall not be liable for any delay in the prosecution or completion of the work caused by the act of neglect or default of the Buyer or by damage by fire, earthquake, weather or other casualty for which the Builder is not responsible, or strike, walkouts, or any other acts of employees or suppliers of labor or materials over which the Builder has no control or for which the Builder is not responsible. In any such event, the time herein fixed for the completion of the work shall be extended for such a period equivalent to the time lost by reason of any of the causes aforesaid. Provided further, that nonperformance of this agreement by Builder is excused when such non-performance is caused by any governmental control, regulations, restrictions, allocations of labor, supplies and materials instituted by any state or municipal or Governmental agency for any of the causes aforesaid, or non-performance of developer or contractor engaged in constructing or installing streets and utilities.

5. In the event that the Builder is unable to obtain the exact materials specified on the plans, specifications, or options through the Builder's ordinary and usual source of supply, the Builder shall have the right to substitute materials of similar pattern, design, and quality. If Buyer requires a supplier or sub-contractor that is not one of Builder's approved suppliers or subcontractors, the Buyer is totally responsibly for material, labor, delivery, tax, installation, any financing charges, and any damages caused by supplier or sub-contractor. Suppliers and Subcontractors agreed upon on the bid estimate shall remain.

6. Possession to be given on receipt in full of all monies due the Builder, by terms of this contract. The Buyer, prior to such time, shall have no right to enter upon or occupy the premises without the written approval of the Builder

7. If lot is owned by Builder, Builder to furnish a General Warranty Deed, free and clear of all encumbrances, except for utility easements, assessments, and restrictions running with the land and common to the subdivision. Real Estate Taxes: Buyer to pay next tax installment due prior to closing and shall assume the taxes due thereafter.

8. The buyer agrees to pay for all permits, licenses, tap fees, real estate commissions, and utilities necessary for the performance of the work hereunder. **The aforementioned items shall be considered incidentals and the Builder shall not markup these items and shall bill them at his cost.** Builder may remove such trees from the lot as necessary to construct the home and shall not be responsible for any damage to remaining trees during or resulting from construction.

9. The parties agree that the house shall be considered completed when the structure has been substantially completed in accordance with plans and specifications or when the structure has been given final approval by the lender or by Federal Housing Administration, if applicable, or other appropriate governmental authority. Final inspection of the building by the Building Inspector and mortgage appraiser, if any, shall be mutually accepted by the parties as conclusive evidence that the house has been substantially completed according to the plans. Upon completion, Buyer agrees to make full payment of the balance of the purchase price within 10 days of the date of such completion, or approval. Minor adjustments and corrections resulting from a pre-settlement inspection shall not be considered cause to postpone closing and will be completed by Builder within a thirty (30) day period following closing.

10. In the event that, on the settlement date scheduled in accordance with this agreement, the dwelling shall be otherwise habitable, but weather conditions are such that landscaping, exterior concrete, and exterior painting cannot be completed, settlement shall be consummated on the date so scheduled. Builder agrees that such uncompleted items shall be completed when weather conditions permit.

11. All monies paid to Builder pursuant to this agreement will be applied to the purchase price when the sale

is closed except that in the event that the Buyer fails or refuses to pay the balance of the purchase price as provided herein such balance shall draw interest at the rate of 18% per annum from the date of Buyer's failure to pay and all monies previously paid by the Buyer shall be retained by the Builder and applied to said charge, which shall in no way prejudice the rights of the Builder in any action for damages or specific performance.

12. The Builder agrees to carry adequate commercial general liability policy up to time of closing, this insurance to be nontransferable.

13. There shall be a pre-drywall inspection between the Builder and buyer to confirm location of electric outlets & switches, cable-outlets, and all lighting fixtures.

14 . Builder is an independent contractor and is not the partner, joint venturer, agent or employee of Buyer.

15. Without invalidating this agreement, Buyer may from time to time, order additions, deletions or revisions in the construction work. These will be authorized by written change orders. Upon receipt of a written change order, Builder will proceed with the work involved. If any change order causes an increase or decrease in the bid estimate, an equitable adjustment to the estimate will be made. All change orders are subject to a 10% construction management fee in addition to the cost of the change order.

16. All work under this agreement is to be performed in all respects in compliance with building laws, ordinances, and regulations of any and all governmental agencies entitled to impose the same, and all such work shall be done in a good and workmanlike manner.

17. Any anticipated overages shall be paid to Bill Rector Inc. at least five business days prior to the work being performed. Failure to pay promptly may result in construction delays or the inability to complete the anticipated overages, additions, or constructions change requests.

18. Any labor performed by Bill Rector other than construction management and agreed upon subcontracting, shall be billed at the rate of \$28 dollars per hour.

All rights, duties, and obligations of the parties shall survive the passing of title to, or an interest in, the property. This agreement shall be construed under and in accordance with the laws of the State of Indiana and is binding upon the parties respective heirs, executors, administrators, legal representatives, successors, and assigns. *This* agreement constitutes the sole and only agreement of the parties and supercedes any prior understandings or written or oral agreements the parties respecting the transaction and cannot be changed except by their written consent.

Buyer _____

Date _____

Buyer _____

Date _____

Builder _____

Date _____

Witness _____

Date _____