

THIS CONSTRUCTION MANAGEMENT CONSULTING SERVICES AND PRICING AGREEMENT CONTAINS A BINDING IRREVOCABLE AGREEMENT TO ARBITRATE AND IS SUBJECT TO ARBITRATION PURSUANT TO TITLE 15, CHAPTER 48 (UNIFORM ARBITRATION ACT) OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED (See Paragraph 11c) hereof).



This document may be amended by signing parties to meet specific project/site conditions or any other mutually agreed upon requirements.



CREATIVE LIVING DESIGNS, LLC
d/b/a House In A Box
**CONSTRUCTION MANAGEMENT CONSULTING
SERVICES AND PRICING AGREEMENT**

CONSTRUCTION MANAGEMENT CONSULTING SERVICES AND PRICING AGREEMENT (“Contract”) *by and among* CREATIVE LIVING DESIGNS, LLC, (the “Company”), _____ (the “Owner-Builder”) is made and entered into this ____ day of _____, 201____, pursuant to which Company and _____ shall act as Owner-Builder’s Agent and provide construction management consulting and pricing services during the construction of Owner-Builder’s selected dwelling unit.

RECITALS

- (A) The Company has a collection of dwelling unit floor plans, foundations and elevations which can be defined as cottages, carriage houses, garage apartments, accessory dwelling units (“ADUs”) or additions; and dwelling units can be combined by breezeways, both open or closed. Arrangement of dwelling units in relationship to an existing primary residence or in a freestanding condition can be done in order to meet jurisdictional zoning requirements and code requirements as long as adequate setbacks on intended building sites exist.
- (B) **Optional:** Owner-Builder has paid the Company _____ for an initial set of “*study plans*” for the dwelling unit designated by the Owner-Builder (the “*Unit*”) which cannot be used to obtain a Building Permit. Owner-Builder acknowledges the intended uses for the *study plans* is for review of room layouts with dimensions, cross sections and all elevations.
- (C) Owner-Builder has paid the Company’s Land and Plan Designer (“Designer”) a “research fee” (approximately \$300) to insure Owner-Builder’s *Unit* may be built on the Owner-Builder’s proposed site and in its particular configuration.

NOTE: Owner-Builder acknowledges (i) additional engineering and planning fees to include local jurisdiction permit fees which may be necessary to obtain a Building Permit for the *Unit* (See Exhibit-A), and (ii) he/she/it shall be required to pay the Designer an additional fee to incorporate all customized exterior and



interior changes selected (and referenced by *Purchase Orders*) into the elevations of the “*Architectural and Structural Plans*” (defined below) as same are required to be shown in the *Architectural and Structural Plans* when filing for a Building Permit.

- (D) Owner-Builder has paid the Company agreed amount _____ for a set of “*Architectural and Structural Plans*” which may be utilized when filing for a Building Permit:
- (E) Owner-Builder acknowledges the *Architectural and Structural Plans* may require modifications by the Company’s (i) Structural Engineer and/or (ii) the Designer as stated below in order for Owner-Builder to apply for a Building Permit:
- The Company’s structural engineer may need to modify the *Architectural and Structural Plans* by preparing “structural plans” for framing and foundation, which adapt the general “structural plans” included with the *Architectural and Structural Plans* to the Owner-Builder’s specific site for a cost of approximately \$600-\$800, or more which must be paid before a Building Permit application is submitted (**See Exhibit-B**).
 - Owner-Builder acknowledges any modifications by Owner-Builder to the *Architectural and Structural Plans* (i.e. different exterior siding, etc.) which the Company’s Designer must incorporate in the *Architectural and Structural Plans* may result in service fee billed at \$40/hour.
- (F) The Company has established business relationships with independent suppliers and contractors, who have agreed to furnish certain materials required for the *Shell Package* and to construct the *Shell Package* for the *Unit*, and other suppliers and subcontractors who shall supply other required materials and services to construct the *Unit’s Shell Package*, hereinafter described.
- (G) Owner-Builder acknowledges that the Company’s website prices on his/her/its *Unit* are subject to price fluctuation and that the actual cost of materials and services shall not be final until *Purchase Orders* from suppliers of materials and services submitted to Owner-Builder are timely executed, submitted and accepted, which shall be reflected in the “Phase II Install Package Pricing Chart” attached to this Contract upon completion (**See Exhibit-C**).
- (H) The Company and its Construction Managers **can provide construction management consulting and pricing services for the Owner-Builder and shall act as his/her/its agent during all permitting and all construction phases to complete the *Unit’s Shell Package*, and finish the Unit through Stage 3, final CO, hereinafter described.**



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- (I) Owner-Builder acknowledges the Company and _____ shall receive the fees set forth in ITEM 4 below, based *solely on actual hard costs of materials and services rendered in the construction of the Unit Shell Package*—meaning the Company and _____ shall not receive any fee based upon the following: engineering fees, legal fees, permitting fees, architectural fees, or any other “soft costs”; *provided* Owner-Builder paid for his/her/its *Architectural and Structural Plans*.
- (J) In the Installation Areas, the Company will schedule Owner-Builder meetings with suppliers and contractors at their offices/showrooms to make selections of materials and options available. Owner-Builder’s selections will become the official specifications for the *Unit*.
- (K) In the Installation Areas, the Company will manage and submit to Owner-Builder all *Purchase Orders* from Company’s Designers, engineers, suppliers and contractors for review and approval by Owner-Builder; and Owner-Builder shall make payments for all materials and services in conformance with the payment provisions in the approved *Purchase Orders*. All Owner-Builder approved *Purchase Orders* will become attachments to this Contract. Company will arrange introduction to Certified Public Accountant, who will provide payment and other recording services to Owner-Builder as desired at expense of Owner-Builder.
- (L) **OWNER-BUILDER ACKNOWLEDGES HE/SHE/IT SHALL, IN INSTALLATION AREAS, BE REQUIRED AND SHALL:**
- (i) Pay such additional engineering fees, civil and structural to include local jurisdiction Building Permit fees as shall be required for submission of an application for a Building Permit on Owner-Builder’s site (**See Exhibit-A & Exhibit-B**) and that such fees must be paid before the application for a Building Permit is submitted to the appropriate governmental authority.
 - (ii) File an application prepared by the Company’s engineers for a Building Permit for the *Unit*.
 - (iii) Assume the role of general contractor/Owner-Builder in the application for the Building Permit.
 - (iv) Contract with the Company’s engineers and suppliers of materials and services to build the *Unit*, and other subcontractors who will provide materials and services for the completion of the *Unit’s Shell Package*, including but not



limited to: site work, foundation, framing, plumbing, electrical, sheet rock, roofing and HVAC, etc. for the Owner-Builder (See **Index of Exhibits D-I**).

1. **RECITALS.** The parties covenant and agree the above “RECITALS” are accurate and constitute a part of this Contract.

2. **SELECTED UNIT PLAN.**

Owner-Builder hereby confirms he/she/it selected the *Unit* _____, and confirms receipt of a set of *Architectural and Structural Plans* for the *Unit* which *generally* meet the requirements of the local building department to obtain a Building Permit; however, local building department requirements vary at each municipality, and at the discretion of the building department, additional information may be requested from the Company’s structural engineers for a variety of reasons, including but not limited to the following:

(a) LOCATION SPECIFIC REQUIREMENTS: In general, the structural engineering package can accommodate a majority of sites in the South Eastern United States; however some conditions would require the structure to be re-evaluated by the Company’s structural engineers. Some of these conditions include:

- High Velocity Flood zones
- Coastal Regions with FEMA and DEP considerations
- Sites with steep slope or grade
- Other site conditions outside the intent of the structural engineering package

The re-evaluation shall result in additional fees.

(b) FIELD ALTERATIONS: Structural field modifications which vary from the structural engineering documents may result in failed inspections by the local building department. The building department may request further documentation from the structural engineer approving the modification. While some field modifications may be acceptable, other modifications may not be acceptable. Any additional documentation required from the Company’s structural engineers shall result in additional fees.

(c) FOUNDATIONS: A shallow foundation has been designed with an allowable soil bearing pressure of 1500 psf per table R401.4.1 of the international building code. A geotechnical report is recommended to verify soil bearing capacity, depth of footing, and to provide fill recommendations. Where compressible, unstable, or expansive soils are encountered, the foundation engineering shall be re-evaluated by Company’s structural engineers. The foundation re-evaluation shall result in additional fees.



3. CONSTRUCTION PHASES. There are three (3) Phases of construction for Owner-Builder's *Unit* which are hereinafter described:

PHASE 1: Feasibility, Due Diligence, Engineering

This Phase covers raw lot location through filing for a Building Permit.

STEP 1: Purchase "Study Plans" of the selected *Unit* for review. (Study Plan Purchase may be omitted if *Architectural and Structural Plans* are purchased immediately)

- (a) Study Plans includes *Unit* dimensions, floor plan layout, cross sections and elevations.
- (b) Owner-Builder will receive this Contract for review, and Owner-Builder must sign this Contract to initiate purchase and/or installation of Shell Materials Package in the Installation Areas. Shell Package Installation is only available, at this time, in the Charleston, South Carolina, ("Installation Area").
- (c) Material Supplier's Representative will meet with Owner-Builder to review all interior and exterior finish materials options to be included in the final Shell Package.
- (d) In Installation Areas, the Company's Designer's Fee (approximately \$300.00) will be incurred to determine requirements of local jurisdiction, restrictive covenants, property setbacks and other restrictions in order to assure feasibility of project.

STEP 2: Based on Building Site Location, the Owner-Builder must purchase a complete set of *Architectural and Structural Plans* in order to obtain a Building Permit and begin construction. The price of a complete set of *Architectural and Structural Plans* is _____ when purchasing a Shell Materials Package. The following Steps and Fees are arranged in order of performance and lead to the issuance of a Building Permit. Additional Steps and Fees may be necessary depending on site specific requirements and local regulations and code.

- (a) Complete Due Diligence and Engineering
- (b) Land Plan Design (See Designer Cost Menu in Process to Pricing)
- (c) Soils Engineering – TBD
- (d) Structural Engineering to make plans permit ready for Owner-Builder specific building site – (\$600-\$800 Estimate Only)
- (e) Preparation of Building Permit Application by Designer – TBD
- (f) Designer plan modifications are incorporated into the *Architectural and Structural Plans* prior to application for a Building Permit – billed at \$40/hour.
- (g) Sign Material Supplier's Purchase Orders for Shell Materials Package



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- (h) Subcontractor and supplier purchase orders will be assembled by the Company and presented for approval and signature.
 - (i) Deposit Web Maintenance Fee and Construction Management Consulting Fee (See No. 4 below in this CONSTRUCTION MANAGEMENT CONSULTING SERVICES AND PRICING AGREEMENT.)

PHASE 2: Turnkey Shell Construction

This Phase begins with the application and receipt of the Building Permit through *Close In Inspection*.

STEP 3: Land development, utilities and foundation

STEP 4: Shell Installation Package based on Purchase Orders below:

- (a) Framing Materials
- (b) Windows
- (c) Exterior doors
- (d) Siding
- (e) Roof
- (f) Exterior Paint
- (g) Mechanicals - HVAC, electrical and plumbing rough in
- (h) Insulation
- (i) Fireplace - mantels and hearth
- (j) Landscaping - hardscape (courtyards, pavers, etc) and soft scape (plantings and trees)
- (k) *Close In Inspection* complete
- (l) Wall, Ceiling, Floor, Interior Wall Noise Barrier, and Insulation
- (m) Drywall or Other Wall Material

PHASE 3: Interior finishes, Suppliers, Contractors, Other Services

Phase III includes Interior Close In through Certificate of Occupancy. Owner-Builder may elect to use the services of the Company and its Construction Manager to complete the *Unit* or to complete the *Unit* themselves, with or without other management or suppliers. The Steps and Process will be the same in either case.

STEP 5: Interior Trim Selections • Wood Interior, Wood Paneling • Base, Window, Crown/Chair Rail Moldings

STEP 6: Interior Custom Tile for Kitchens, Floors, Bathrooms and Shower Stalls

STEP 7: Interior Custom Paint

STEP 8: Kitchen and Vanity Cabinets/Tops

STEP 9: Custom Exterior Lighting

STEP 10: Plumbing Fixtures

STEP 11: Electrical Fixtures



STEP 12: Appliances

STEP 13: Flooring

STEP 14: Miscellaneous, Mirrors, Locksets/Hardware. Other services are available at provider cost only with no other fees applicable.

4. COST TO BUILD SHELL INSTALLATION PACKAGE (INCLUSIVE OF CONSTRUCTION MANAGEMENT & OVERSIGHT SERVICES) WITHIN INSTALLATION AREA.

The cost for the *Shell Installation Package* of the *Unit* shall include those items shown on the Company's website; however, Owner-Builder acknowledges elections set forth thereon may be modified as a result of *Purchase Orders* signed by Owner-Builder. The cost of this *Unit* includes the following fees to be received by the Company, and associated Agents, and _____ (Construction Manager), which shall be payable as hereinafter provided subsequent to the execution of this Contract when *Purchase Orders* for the *Shell Package* (and if applicable, *Phase III Services*) are signed and submitted to the supplier of goods and services:

- (a) Five percent (5%) *website maintenance fee*.
- (b) Five percent (5%) *construction management consulting services fee* for coordination and supervision of preparing and submission of the Building Permit through completion of the *Unit's Shell Installation Package*. Said services shall be rendered by the Company and _____
- See ITEM 2.
- (c) Six percent (6%) Marketing Fee
- (d) The aggregate sixteen percent (16%) fee [5% website maintenance fee, 5% construction management consulting services fee, and 6% Marketing Fee] are due and payable at such time as *Purchase Orders* for the *Shell Installation Package* have been signed by Owner-Builder and said fees upon payment will be deposited into a Working Deposit Account held by Company's CPA or Attorney; and upon deposit, same shall be disbursed as hereinafter indicated:
 - (i) Fifty percent (50%) shall be distributed equally to the Company, associated Agents, and _____ (Construction Manager) at the time the Building Permit is obtained; and



(ii) Fifty percent (50%) shall be distributed equally to the Company, associated Agents, and _____(Construction Manager) upon completion of the construction of the *Shell Installation Package* of the *Unit* when the local building inspector has approved and issued its *Close In Inspection* approval.

(e) The Company, associated Agents, and _____(Construction Manager) shall also receive an aggregate fee of sixteen percent (16%) of any *Purchase Order* modifications Owner-Builder makes to *Shell Installation Package* (and for *Phase III Services*, if applicable) as evidenced by actual *Purchase Orders*, which shall

clearly set forth actual cost and the additional fees to be paid to each the Company, associated Agents, and _____(Construction Manager); and accordingly Owner-Builder shall remit three checks in payment of *Purchase Orders* for such enhancements to the Owner-Builder’s selected *Unit* and/or *Phase III Services* evidenced by the *Purchase Order*.

This section concerning disbursement of funds may be amended as necessary by agreement of signing parties.

5. CONSTRUCTION MANAGEMENT CONSULTING SERVICES IN THE INSTALLATION AREAS.

The Company and _____ shall provide oversight construction management consulting services to the Owner-Builder during construction of the *Unit’s Shell Package*, through *Close In Inspection* report, and , if indicated, through Certificate of Occupancy.

EXAMPLE:

Approximate Timeline		Work Required	
APPROXIMATELY		1.	Land and Plan Design TBD/See pricing Phase I
2 Weeks			
		2.	Pull Building Permit
		3.	Construction management to establish allowances for labor cost and other soft costs not associated with subcontractors. Items will be determined in advance in discussions with Construction Manager.
		4.	Water and sewer tie in
		5.	Dumpsters, toilets and temporary utilities
		6.	Silt fence



1 Week	7.	Dig Foundation
		Footing Inspection
	8.	Installation – slab and footings
	9.	Installation – Block and fill
3 Weeks	10.	Installation – framing package, windows and doors
		Framing Inspection
	11	Installation – roofing—exterior paint
2 Weeks	12.	Installation – siding, fascia and soffit
2 Weeks		Siding and Windows Inspection
	13.	Rough in Electric, Plumbing
		Rough in Inspection for Electrical and Plumbing
	14.	Installation of fireplace
1 Week	15.	Installation of insulation package
11 Weeks Total		Final Close In Inspection

TIME FRAME IS ESTIMATE ONLY AND IS SUBJECT TO WEATHER AND OTHER CONDITIONS BEYOND THE CONTROL OF CONSTRUCTION MANAGEMENT AND COMPANY

NOTE: _____ will provide Owner-Builder with Insurance Certificates as required by local law for all sub-contractors who render services for construction of the *Unit's Shell Package*.

6. PAYMENT OF THE CONSTRUCTION COST IN THE INSTALLATION AREAS.

Owner-Builder acknowledges (i) the Company shall coordinate a meeting for the Owner-Builder with Material Supplier's Representative, and other suppliers of materials and services to discuss materials and services to be provided and (ii) that Owner-Builder shall be required to enter into *Purchase Orders* for same, which shall include the scope of work to be performed and payment terms to the providers of materials and services.

7. WARRANTIES.



The Company and _____ shall provide construction management consulting services for Owner-Builder with suppliers of materials and services required to construct the Owner-Builder's *Unit* in the Installation Areas. The Company will pass along any and all warranties provided by the suppliers of materials and services which shall vary depending upon the manufacturer or supplier: Some examples are:

- (a) The *Shell Installation Package* for the *Unit* constructed by _____ and other sub-contractors will pass through any and all warranties on materials and components so utilized. Additionally, if the Purchase Price includes any additional items which the manufacturer of same warrants, warranties on such items provided shall be assigned to Owner-Builder.

THE COMPANY MAKES NO WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, EXCEPT FOR THOSE AFORESTATED ASSIGNABLE WARRANTIES WHICH ARE APPLICABLE TO MATERIALS OR PRODUCTS IN THE SHELL INSTALLATION PACKAGE, OR SERVICES TO BE RENDERED BY _____ AND/OR THE OTHER SUB-CONTRACTORS, ALL OF WHICH SHALL "PASS THROUGH" TO THE OWNER-BUILDER.

8. HOLD HARMLESS.

Owner-Builder agrees to hold the Company, associated Agents, Designer, and _____ (Construction Manager) harmless from any liability resulting from any defect in the materials furnished by any supplier of materials pursuant to *Purchase Orders* signed by Owner-Builder or the Company as his/her/its agent, and/or any negligence of any independent contractor rendering services pursuant to *Purchase Orders* signed by Owner-Builder or the Company as his/her/its agent.

Creative Living Designs, LLC, (the Company), associated Agents, Designer, and Construction Manager shall be additional named insured parties on Builder's Risk Insurance Policy obtained by Owner-Builder.

9. NOTICES.

All notices by and between the parties shall be given via-email at the following email addresses:

If To Company: Creative Living Designs, LLC
Email: _____



If to Owner-Builder: _____
Email: _____

10. COUNTER PARTS/ELECTRONIC TRANSFER OF DOCUMENTS.

This Contract and Purchaser Orders executed pursuant to this Contract may be executed in any number of counterparts with the same effect as if all parties had executed the same document. All counterparts shall be construed together shall constitute one agreement. For purposes of executing this Contract and *Purchase Orders*, any instrument signed and transmitted electronically by facsimile or tele-copier, email or otherwise shall be treated as an original instrument. The signature of any party thereon shall be considered an original signature and the instrument transmitted shall have the same binding legal effect as an original signature on an original instrument. At the request of either party, any instrument transferred electronically – by facsimile, telecopier, email or otherwise shall be re-executed by the parties in original form. No party hereto may raise the use of facsimile, telecopier, email or otherwise of the fact that such signature was transmitted through said electronic transmission as a defense as an enforcement of this Contract or any *Purchase Order* pursuant to this Contract or any other documents executed in compliance with this Contract.

11. GOVERNING LAW.

- a. Governing Law. This Contract shall be governed by the Laws of the State of South Carolina.
- b. Non-Binding Mediation. The parties hereto agree to mediate, in good faith, in Charleston, South Carolina, any resolution of any controversy or claim arising out of or related to this Agreement, before a mediator certified by the South Carolina Supreme Court, provided however, mediation shall not be required in connection with Owner-Builder's failure to make the payments required when due or if any equitable remedy is sought (such as a restraining order or an injunction) by either party.
- c. Binding Arbitration. In the event the parties are unable to successfully mediate any controversy or claim arising under or in connection to this Contract, and such controversy or claim has a monetary value of less than \$200,000.00, such matter shall be settled, except as may otherwise be provided herein, by binding arbitration conducted in Charleston, South Carolina, in accordance with the Commercial Arbitration Rules of the American Arbitration Association Any dispute as to whether a controversy or claim is subject to arbitration shall be submitted as part of the arbitration proceeding. Legal costs, attorneys' fees, and the fees of expert witnesses may be assessed against any person found to have acted in bad faith; and otherwise, each party shall bear its own costs of arbitration. With respect to a given dispute submitted to arbitration the parties



shall agree to one arbitrator, who shall be certified by the South Carolina Supreme Court, familiar with commercial real estate transactions (and has at a minimum 5 years experience in such area) and shall not have been employed by or affiliated with either of the parties or their affiliates. If the parties cannot agree on an arbitrator, each party shall select one such arbitrator, and the two arbitrators shall promptly select a third such arbitrator having the foregoing qualifications; and the third arbitrator shall be the sole arbitrator and shall follow such federal and South Carolina laws, statutes, and regulations as are relevant to resolving the matter(s) at issue. Notwithstanding the foregoing, arbitration shall not be required in connection with (i) Owner-Builder's failure to make the payments required when due, (ii) any equitable remedy sought (such as a restraining order or an injunction) by either party, or (iii) claims or controversies having a monetary value of more than \$200,000.00.

- d. Cooperation. The parties agree to facilitate the mediation and/or arbitration by: (a) making available to one another and to the mediator and/or arbitrator for examination and inspection all documents, books, records and personnel under their control if determined by the mediator and/or arbitrator to be relevant to the dispute; (b) conducting the mediation and/or arbitration hearing to the greatest extent possible on successive days; and (c) observing strictly the time periods established by the mediator and/or arbitrator for submission of evidence or briefs.
- e. Binding Agreement/Counsel. Owner-Builder acknowledges this Contract has been prepared by the Company's attorney, and when executed by the Company, _____, and the Owner-Builder shall constitute a legally binding agreement. **Further, Owner-Builder also acknowledges he/she/it has been advised to seek legal counsel before executing this Contract and has either sought and received legal advice or elected to waive legal advice before executing this Contract.**

CREATIVE LIVING DESIGNS, LLC:

OWNER-BUILDER:

By: _____ [SEAL]

By: _____ [SEAL]

Its: _____

Its: _____

_____, LLC

By: _____

Its: _____

By: _____

Its: _____



INDEX OF EXHIBITS (IF APPLICABLE)

- Exhibit-A:** Information Required by Land and Plan Designer and Associated Fees and *Purchase Order* for Engineering Drafting/Land Planning Services
- Exhibit-B:** Information Required by Structural Engineer and Associated Fees and *Purchase Order* for Structural Engineering Services
- Exhibit-C:** Phase II Install Package Pricing Chart
- Exhibit-D:** *Purchase Order* for Land Development and Foundation Services
- Exhibit-E:** Purchaser Order for Shell Package – Installation of Foundation, Framing, Windows, Doors, and Siding
- Exhibit-F:** *Purchase Order* for roof
- Exhibit-G:** *Purchase Order* for exterior paint
- Exhibit-H:** *Purchase Order* for mechanicals (plumbing- including fixtures; electrical-including fixtures; and HVAC)
- Exhibit-I:** *Purchase Order* for insulation



ADDENDUMS: