

CONSTRUCTION CONTRACT

1. This Construction Contract ("Contract") is between

Roger and Sandy Ewer ("Owner") and Craftsman Homes & Interiors, LLC, a Colorado limited liability company ("Contractor"). The Contractor will construct, on behalf of the Owner, a single family residence on a vacant lot located at:

2259 White Cliff Way (Lot 40, Filing 6)– Monument, CO 80132
(the "Property").

2. Scope of the Work: Contractor will furnish all labor, equipment, materials, scaffolding, building permits, sales taxes, hoisting, transportation, supervision, coordination, communication, shop drawings and storage to complete in a good and workmanlike manner the construction of a single family residence and in accordance with discussion in office, new plans are being drawn from the plans provided by Craftsman Homes & Interiors and house will be built according to these new plans.

3. Boundaries: Owner will supply Contractor with a legal description of the property, and if requested by Contractor, Owner will supply Contractor with a survey and boundary stakes by a licensed land surveyor.

4. Contract, Drawings and Specifications: The project will be constructed according to drawings and specifications and which are hereby made a part of this Contract. The contract, drawings and specifications are intended to supplement each other. In case of conflict, however, the specifications shall control the drawings, and the provisions of the contract control both. Owner expressly grants to Contractor the right to substitute materially, dimensionally, and functionally comparable building materials, equipment and designs to complete the Project.

5. Time for Completion of Work: Within 14 calendar days after the execution of this Contract and down payment receipt, Owner will have the jobsite ready for commencement of construction, and shall give Contractor written Notice to Proceed to commence work. Contractor shall start preliminary work upon signing contract and down payment receipt. Contractor shall complete all work including punch-list and close-out documentation within 270 calendar days from date of written Notice to Proceed.

6. Building Permits, Charges and Exactions: The following items are not included in the cost of the work, "Contract price" and shall be paid directly by Owner, if the cost exceeds \$15,000: architectural and engineering fees, blue prints, utility deposits and connection fees, street and utility assessments, plan check and general building permit fees, costs of environmental impact reports, costs of soil reports, and costs of "all risk" insurance. Well costs allotted, \$13,000 (anything above that cost will be a charge to the homeowner). Septic costs allotted, \$9500 (anything above that cost will be a charge to the homeowner).

7. Labor and Material: The Contractor shall pay all valid charges for labor and material incurred by Contractor and used in the construction of the project. Contractor is excused from this obligation for bills received in any period during which the Owner is unjustifiably in arrears in making progress payments to Contractor. No waiver or release of mechanic's lien given by Contractor shall be binding until all payments due to the Contractor when the release was executed have been made.

8. Payment: Owner shall pay the contract price in accordance with the total contract price set forth in **Exhibit A**.

Owner shall pay the sum of \$50,000 as an earnest money deposit and partial payment of the contract price, to be credited against the total contract price upon substantial completion. In the event Owner does not fulfill their obligations under this agreement, the earnest money shall be retained by Contractor and applied in full or partial satisfaction of Owner's obligations in the event of Owner's default pursuant to Paragraph 21, below.

If Owner is not obtaining a loan, Owner will make payments to Contractor pursuant to the phases of the job, (i.e. excavation completion, foundation completion, etc.) on a biweekly basis.

The total of the contact price for this project is \$716,364.00

The contract price shall be deemed fully earned upon final completion of the project, defined as substantial completion of the work and/or issuance of a temporary certificate of occupancy or certificate of occupancy by the issuing governmental authority. Retention withholding of up to 10% may be deducted from the final payment until completion of remaining construction close-out punch-list and documentation. Retention withholding will be paid immediately upon completion punch-list and documentation.

Owner payments shall be due net 7 calendar days from receipt. Unpaid balances due shall bear interest from the date such payment was due at the rate of eighteen percent (18%) per annum.

9. Extra Work: Should Owner, *construction lender, or any public agency or inspector* direct any deletion from, or modification of or addition to, the work covered by this Contract, the cost shall be added to or deducted from the contract price. In the case of extra work, the Contractor will be paid the cost of the extra work multiplied by fifteen percent (15%) for Contractor's overhead and seven and one half percent (7.5%) for profit. Payments for extra work shall be made in accordance with terms of Owner approved written change order as mutually agreed by Owner and Contractor. Orders for extra work should be agreed in writing, and written agreement may be made informally in e-mail correspondence of offer and affirmative acceptance by both parties. Change orders are due immediately upon agreement.

10. Allowances: If the contract price includes allowances, as indicated in **Exhibit A**, and the cost of performing the work covered by an allowance is either greater or less than the allowance, then the contract price shall be increased or decreased accordingly. Unless otherwise requested by Owner in writing, Contractor shall use its judgment in accomplishing work covered by an allowance. If the Owner requests that work covered by an allowance be accomplished in such a way that the cost will exceed the allowance, the Contractor will comply with Owner's request provided that Owner provides timely written authorization per Paragraph 11.

11. Manufacturer's Warranties. Pursuant to the Magnuson-Moss Warranty Act (15 U.S.C. §2301, et seq.), all appliances, items of equipment, and any other items in the Residence, are "consumer products." The following are examples of "consumer products," although other items in the Residence may also be consumer products, which may include all or some of the following (and may or may not contain other consumer items not listed): refrigerator, trash compactor, range, dishwasher, garbage disposal, air conditioner, furnace, hot water heater, clothes washer and dryer, and thermostat. Owner understands and agrees the warranties of all consumer products installed in the Residence are those of the respective manufacturers or suppliers of each such consumer product (individually a "Manufacturer's Warranty", and collectively the "Manufacturers' Warranties"). Effective as of Final Completion, Contractor shall be deemed to have assigned to Owner (without representation or warranty with regard to title, coverage or any other matter) all Manufacturers' Warranties. In no event, shall Contractor be liable for any personal injury or other consequential or secondary damages and/or losses, which may arise from or out of any and all defects. OWNER AGREES TO LOOK SOLELY TO ANY APPLICABLE

12. Soils. Owner hereby acknowledges that Owner has been advised by Contractor and understands that the soils within the State of Colorado consist of both expansive soils and low-density soils which may result in shifting or other movement of the foundation or otherwise result in damage to the structural or other parts of the improvements. Owner further acknowledges receipt of a report of the soils analysis and site recommendations, in addition to a copy of a publication detailing the problems associated with expansive soils and the building methods to address problems associated with construction on such soils and suggestions for care and maintenance as required by Colorado Revised Statutes § 6-6.5-101, or any subsequent or additional law hereafter adopted. Soil investigations and tests will be made on the Property by an independent soil engineer (the "Soils Engineer"), and the floor slabs, foundation and footings (as applicable) will be installed in substantial accordance with specific recommendations, if any, made by the Soils Engineer. Except as expressly disclosed in any report furnished to Owner, Contractor has made no geological or environmental test or surveys of the Property and makes no representation or warranty concerning geological or environmental matters such as radon gas and specifically excludes such geological and environmental matters from any warranties given under this Agreement. In addition, Contractor makes no representations or warranties as to the accuracy, completeness or quality of any third party studies, reports, surveys, plans or other documents of any nature and/or regarding any matter prepared for Contractor or others and subsequently delivered to Owner.

13. Backfill Area Modifications. Owner acknowledges that, as an integral element of the construction of the Residence, soil on certain portions of the Property, including but not necessarily limited to (i) within a radius of approximately five (5) feet or more from the foundation of the Residence; and (ii) at buried utilities on the Property (collectively, the "Backfill Area") has or may be excavated and backfilled in accordance with recommendations made by the Soils Engineer. Owner acknowledges that any modifications made at any time, or from time to time, to the Backfill Areas, including but not limited to the installation of landscaping, plantings of any nature, walkways, patio, patio extensions and water features on or within all or any portion of the backfill area ("Backfill Area Modifications") made at the direction of, request of, for the benefit and/or on behalf of the Owner may adversely affect the Property. Moreover, due to the natural properties and performance of soil, the soils contained within the Property, could potentially adversely affect the backfill area. Owner acknowledges that Contractor strongly recommends that no modifications, except maintenance of the grading and swales, be made to the grading around the Residence after substantial completion of the project. Therefore, Owner assumes the risk of any and all adverse impact, including, but not limited to, damages and/or injuries of any nature whatsoever related directly or indirectly to any and all backfill area modifications.

14. Radon. Owner acknowledges that radon gas is a gas that naturally occurs in many locations in Colorado. Owner acknowledges receipt and/or access to the EPA's pamphlet, titled "A Citizen's Guide to Radon" describing radon and acceptable radon levels. Owner shall be responsible for all radon testing and mitigation, if any.

15. Hazardous Materials. A hazardous material is any substance or material identified now or in the future as hazardous by any federal, state or local law or regulation or any other substance or material that is considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, and/or clean-up. Contractor shall not be obligated to commence or continue work until any Hazardous Material discovered at or in the Property and/or Project has been removed, or rendered or determined to be harmless by Owner, as certified by an independent testing laboratory reasonably acceptable to Contractor.

16. Insurance by Owner: Owner will procure at its own expense and before the commencement of work hereunder "all risk" insurance with course of construction, theft, vandalism and malicious mischief endorsements attached, the insurance to be in a sum at least equal to the contract price. The insurance will name the Contractor and its Subcontractors as additional insureds and will be written to protect Owner, Contractor and subcontractors as their interests may appear. Should Owner fail to procure such insurance, Contractor may do so at the expense of Owner, but is not required to do so. Owner, Contractor and Subcontractor, waive rights of subrogation against each other to the extent that any loss is covered by valid and collectible insurance. If the project is destroyed or damaged by accident, disaster, or calamity such as fire, storm, flood, landslide, subsidence, or earthquake, work done by Contractor in rebuilding or restoring the project shall be paid for by Owner as extra work.

17. Contractor's Insurance: Contractor and its subcontractors of every tier will provide Owner the following insurance:

- Commercial general liability insurance, in standard form, with limits of \$1,000,000 for bodily injury for each occurrence and in the aggregate, and limits of \$1,000,000 for property damage for each occurrence and in the aggregate;
- Workers' compensation insurance in statutory form.

18. Completion and Occupancy: Owner will not occupy the project until construction has been completed, except with the consent of Contractor. Contractor may use such force as is necessary to deny occupancy of the project by Owner until Contractor has received all payments due and until Certificate of Occupancy has been issued by governing authorities .

19. Default: If Owner should default in any of its obligations under this Contract, Contractor may recover, as damages, the reasonable value of the work performed by Contractor. Additionally, Owner realizes that in the event of default by Owner, Contractor would suffer damages including loss of profit which Contractor would otherwise have made on the project. It would be difficult and impractical to determine the amount of such damages, and it is therefore agreed that, in the event of such default, Owner will pay Contractor as liquidated damages, the greater of the earnest money deposit set forth in Paragraph 8 or twenty percent (20%) of the contract price, as liquidated damages.

20. Delay: Contractor shall be excused for delay in completion of the contract caused by acts of God, acts of the Owner, inclement weather, labor trouble, acts of public agencies, inspectors, or public utilities, extra work, failure of the Owner to make progress payments promptly, or other contingencies unforeseen by Contractor and beyond the reasonable control of Contractor. Contractor shall promptly provide written notification of excusable delays which shall be mutually agreed in writing by Owner and Contractor and added to Time of Completion stated in Paragraph 5.

21. Right to Stop Work: Contractor shall have the right to stop work if payments are not made when due under this Contract, and may keep the job idle until all payments have been received.

22. Concealed Conditions: If Contractor should encounter concealed conditions that were not reasonably anticipated by Contractor or previously disclosed in information contained in approved

plans, such as rock, concrete, or structures, Contractor will call such conditions to the attention of Owner immediately, and the contract price will be accordingly adjusted for such extra work.

23. Cleanup: At all times during the progress of the work, and upon completion of the work, Contractor will clean up the jobsite and remove debris and surplus material. The jobsite will be kept in a neat and broom-clean condition.

24. Arbitration: Any controversy arising out of this Contract or the performance thereof shall be decided by arbitration in accordance with the Construction Industry Rules of the American Arbitration Association, and judgment may be entered on the award. The arbitration proceeding may include subcontractors, material suppliers, equipment renters, construction lender, architect, designer, engineer, and all other parties to the construction process who have signed any document incorporating or referring to this arbitration agreement. Should any party refuse or neglect to appear at and participate in arbitration proceedings after due notice, the Arbitrator will make an award based on evidence introduced by the parties who do appear and participate.

Any party requesting arbitration (a "Claimant") shall serve a written demand for arbitration ("Demand") on the other Party (a "Respondent") by certified mail. The demand shall set forth, in reasonable detail, a statement of the nature of the dispute, the dollar amount involved and the remedy sought.

The Arbitrator may not award costs and/or attorneys' fees in favor of either party. Each party shall bear their own attorneys' fees and costs.

The Arbitrator shall render his or her award in writing (detailing the reasoning upon which the award is based) no later than thirty (30) calendar days after the conclusion of the arbitration hearing.

The award shall be final, binding and conclusive on the parties except to the extent otherwise provided by law, and even if one of the Parties fails or refuses to participate in the arbitration. Upon application of either party, the award rendered may be entered as a judgment in the District Court in Fremont County, Colorado, and enforced as other judgments or orders of that Court.

By initialing below, Owner acknowledges that any claims with regard to this Contract and/or any other claims that may be made, whether in contract or in tort, or for relief of every kind and nature arising out of or related to this Contract shall be resolved either by mediation or binding arbitration. Owner acknowledges that this section eliminates the right to trial by judge or jury, the right to appeal and certain discovery rights.

THE PARTIES SHALL BE BOUND BY THE FINAL DETERMINATION ENTERED PURSUANT TO MEDIATION AND/OR ARBITRATION, AND SHALL ABIDE THEREBY. SINCE THIS CONTRACT PROVIDES FOR MANDATORY BINDING ARBITRATION OF DISPUTES, IF ANY PARTY COMMENCES LITIGATION IN VIOLATION OF THIS AGREEMENT, IN ADDITION TO, AND NOT AS A LIMITATION ON ANY OTHER AWARD WHICH MAY BE GRANTED, SUCH PARTY SHALL REIMBURSE THE OTHER PARTIES TO THE LITIGATION FOR THEIR COST AND EXPENSES, INCLUDING, BUT NOT LIMITED TO ATTORNEYS' FEES, INCURRED IN SEEKING DISMISSAL OF SUCH LITIGATION.

Owner's Initials:

Contractor's Initials:

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25. Limitations: No action of any character arising out of or related to this Contract or the performance thereof shall be commenced by either party against the other more than two years after the completion or cessation of work under this Contract.

26. Acknowledgement and Assumption by Owner. Except as expressly stated in this Contract, Owner acknowledges that neither Contractor nor anyone acting for or on behalf of Contractor has made any representation, statement, warranty or promise to Owner concerning the physical aspects and/or condition of the Property, the desirability of the project, presence or absence on, in or under the Property of radon, naturally occurring radioactive material, mold, fungus, mildew or otherwise; the suitability of the Residence, the potential value and/or income to be derived from or expenses associated with ownership of the Residence, or for any particular use of the Residence. In entering into this Agreement, Owner acknowledges that Owner has had the opportunity to independently verify all matters concerning the Residence including, but not limited to the condition of the soil, any information contained in any soils reports, or any other information which Contractor supplies or any information independently ascertained or ascertainable by Owner. As of substantial completion, Owner assumes all risks associated with the project that arise from or are related to any matter (1) expressly stated or disclosed in this Contract; (2) disclosed by or reasonably inferable from Project documents and information; and/or (3) known to Owner or which could have been known to Owner as a result of the Owner verifying the project documents.

27. Assignment: Neither party may assign this Contract, or the proceeds thereof, without written consent of the other party.

28. Binding on Successors: All of the provisions of this Contract will be binding on the assignees, heirs, and successors of both parties.

DATED: _

Owner(s):

Sandra Ewer
(Signature)

Sandra Ewer
(Print name)

Roger D Ewer
(Signature)

Roger D Ewer
(Print name)

Contractor:

Craftsman Homes & Interiors

By: Dwight Mulberry
(Signature)
Name: Dwight Mulberry
Its: General Contractor