**LOT#: [p.lot\_no]**

**TYPE:C**

**BUILDING AGREEMENT**

AN AGREEMENT made this day of 201 as follows: -

1. PARTIES

**CONTRACTOR: [c.company\_name],** a company duly incorporated under the laws of CONTRACTOR COUNTRY and having its registered office [c.address\_line1] , [c.address\_line2] , [c.address\_city], [c.address\_state] , [c.address\_country] .

**OWNER:** The person or persons described in Item 1 of the Schedule hereto

2. At the request of the Owner the Contractor has agreed to construct the dwelling house of the size and type hereinafter described upon the Lot hereinafter described owned by him and to construct and or install roadways, sewage, water and electrical systems (hereinafter called “**the infrastructure**”) in the subdivision of lands part of Reading in the parish of [p.address\_state] to be described as [p.dev\_name].

**DESCRIPTION OF HOUSE**

A dwelling house of the type identified in Item 7 of the Schedule hereto being of the size, shape and construction shown and set out in the Plan and Specifications thereof as provided by the Contractor for the [p.dev\_name] development in the Parish of [p.address\_state] a set of which Plans and Specifications are deposited in the Office of the Contractor all of which the Owner acknowledges that he has seen and perused PROVIDED THAT with the consent or approval of the Engineer or Architect referred to in Paragraph 6(a) hereof, the Contractor may make minor alterations not affecting the size, shape, strength and soundness of construction of the said basic structure of a dwelling house or substitute alternative building materials of similar quality if they are not available in Jamaica or only available at a substantially increased price, which house shall be erected on the lands described in Item 2 of the Schedule hereto (hereinafter referred to as “**the said land**”) and which together with the abovementioned dwelling house is hereinafter referred to as “**the Premises**”.

3. **CONTRACT PRICE**

The sum mentioned in Item 3 of the Schedule hereto.

4. **OWNER’S COVENANTS**

The Owner hereby COVENANTS with the Contractor as follows:

(a) To give the Contractor immediate possession of the said land for the purpose of carrying out this Agreement;

(b) To pay to the Contractor the amount specified in Item 3 of the Schedule hereto on the terms stated herein.

5. **CONTRACTOR’S COVENANTS**

The Contractor HEREBY COVENANTS with the Owner as follows:

(a) That there will be erected on the said land on the date of delivery of possession (as provided for by paragraph 6(a) hereof) the basic structure of a dwelling house of the type described in Paragraph 2 hereof.

(b) Provided the Owner shall have fully and faithfully performed and fulfilled each and every his obligations hereunder and provided the Owner shall have satisfied the Contractor of the arrangements to pay for the construction of the dwelling house, then to deliver possession of the premises to the Owner (as provided for by Paragraph 6(a) hereof) within eighteen (18) months of the date hereof and to give the Owner not less than seven (7) days notice of the date of delivery of possession.

(c) Any structural defects in walls, roofs, floors or foundations which shall appear or arise within one hundred and eighty (180) days of the date of issue of the Certificate mentioned in Paragraph 6(a) hereof and of which written notice shall have been given by the Owner within such period and which (notwithstanding the issue of the said Certificate) shall be due to materials and workmanship not in accordance with Paragraph 2 of this Agreement, shall within a reasonable time after receipt of the written notice on that behalf be made good by the Contractor and (unless the Engineer or Architect mentioned in Paragraph 6(a) hereof otherwise directs) at its own cost; PROVIDED HOWEVER that on the Contractor obtaining a new Engineer’s or Architect’s Certificate certifying that the defects complained of have been made good as aforesaid such Certificate shall be final and binding on the parties hereto and all liability to the Contractor hereunder shall henceforth cease and determine.

(d) Any minor defects which shall he in existence at the date of the issue of the Certificate mentioned in paragraph 6(a) hereof shall within a period of one hundred and twenty (120) days thereafter be made good by the Contractor and (unless the Engineer or Architect mentioned in paragraph 6(a) hereof otherwise directs) at its own costs. A certificate from the Engineer or Architect that all minor defects (whether complained of or not) have been made good shall be conclusive evidence in any proceedings arising out of this Agreement that all minor defects in the dwelling house have been made good.

6. **MUTUAL AGREEMENTS**

It is hereby mutually agreed by and between the parties as follows:

(a) For the purpose of this Agreement possession shall be deemed to be delivered to the Owner by the Contractor giving to the Owner a letter authorizing the Owner to take possession of the Premises and the date of delivery and possession shall be deemed to be the date named in the said letter as the date on which the Owner is authorized so to take possession such date being not less than seven (7) days after receipt of the notice by the Owner PROVIDED HOWEVER that the Contractor shall not be bound to give nor the Owner to take possession of the Premises nor shall possession be deemed to have been delivered unless and until the Contractor shall have obtained from the Engineer or the Architect attached to the [p.dev\_name] Project a Certificate that there has been erected on the land hereinbefore described a dwelling house of the type, size, shape and construction provided for in Paragraph 2 hereof, subject to the provision relating to minor alterations contained therein; and upon the Contractor obtaining the said Certificate the Contractor shall be deemed for the purposes of this Agreement fully and faithfully to have performed and satisfied the covenant contained in Paragraph 2 hereof subject to the provisions relating to minor alterations contained therein; and upon the Contractor obtaining the said certificate the Contractor shall be deemed for the purpose of this Agreement fully and faithfully to have performed met and satisfied the covenant contained in Paragraphs 5 (a) and (b) hereof and subject to Paragraph 5 (c) hereof all liability of the Contractor hereunder whether express or implied shall thenceforth cease and determine. For the purpose of this paragraph the said Engineer or Architect shall be deemed to be the agent of the Owner and the said Certificate shall be conclusive evidence in any proceedings arising out of this contract that the works have been properly carried out and completed in accordance with the provisions of this Agreement.

(b) For the purpose of this Agreement time shall be of the essence of the contract and on the failure of the Owner on the due date to pay any sum or sums payable hereunder or punctually to do any act or thing by this Agreement required to be done by him, the Contractor shall be entitled to cancel this Agreement by fourteen (14) days prior notice in writing to the Owner, to forfeit the deposit and to claim against the Owner damages for breach of this Agreement.

PROVIDED HOWEVER that the Contractor shall be entitled at its sole option to allow the Owner time to satisfy his various obligations under this Agreement and this shall not be deemed to be a waiver by the Contractor of his rights under this sub-paragraph (b) AND PROVIDED FURTHER that in the event that if payments hereunder are not made within ten (10) days of the due dates the Contractor shall be entitled to charge interest on the sum or sums unpaid at a rate equivalent to one percent per annum (1%) above the lending rate of interest and all finance charges from time to time charged to the Contractor by the financial institution providing the bridging financing for the development of which the said land forms a part from the date or several dates on which sum or sums shall become payable to the dates or several dates of payment thereof, AND PROVIDED FURTHER that should any payment due hereunder which would in the ordinary course have been settled from the proceeds of the mortgage loans referred to in paragraph 6(p) hereof (if any) not be settled by reason of the non-availability of a Certificate of Title for the said land and the consequent inability of the proposed mortgagees to endorse their mortgages thereon, such non-payment shall not be deemed to be a breach of this sub-paragraph (b) and the Owner shall not be liable to pay interest on such outstanding sums until after the expiry of thirty (30) days of the issue of a Certificate of Title for the said land unless the Owner shall have prior to the issue of titles entered into physical occupation of the Unit, in which case interest under this sub-clause (b) will be payable by the Owner.

(c) Any Notice required by this Agreement or by Law to be given or served upon either of the parties hereto shall be in writing and shall be deemed to be sufficiently given and effectually served upon the Owner if addressed to him at his address hereinbefore contained and posted in any Post Office in Jamaica and copied to his Attorneys-at-Law (if any), and upon the Contractor if addressed to the Contractor at its address given above, and posted in any Post Office and copied to his Attorneys-at-Law (if any). A Notice shall be deemed to be served five (5) days after the time of posting.

(d) In the construction of this Agreement the word “Owner” shall, where the context so admits, be deemed to include his, her or its personal representatives, successors and assigns and the words “he”, “him” or “his” indicating the masculine gender and singular number shall, where the context so admits, be deemed to refer to and include the feminine and neuter genders and the plural number. Where there is more than one Owner, all the obligations of the Owners hereunder shall be joint and several.

(e) The Owner shall be given a true copy of this Agreement of which he acknowledges receipt by his execution hereof.

(f) It is hereby agreed between the parties hereto that in the event of the Contractor’s delivering possession of the premises to the Owner as hereinbefore provided but before such time as the Contractor shall have been paid pursuant to Paragraph 4(b) hereof then the Owner shall pay to the Contractor interest at the rate of interest charged to the Contractor by the financial institution providing the bridging financing for the phase of the development of which the said land forms a part on the unpaid balance of the Contract Price from the date of possession until the date that the Contractor receives payment.

(g) In the event of any minor variation in position, shape and/or dimensions of the said dwelling House to the plans as is provided for in paragraph 2 hereof, same shall not invalidate this Agreement and the Contractor shall not be liable to pay any compensation or damage whatever in respect thereof.

(h) This Agreement shall be rescinded if the permission or right of the Owner to be in occupation of the Lot is withdrawn or terminated and thereupon the Contractor shall refund the moneys paid by the Owner free of interest less the sum of J$80,000.00 and General Consumption Tax thereon.

(i) The costs of preparation, stamping and completion of this Agreement including Attorneys-at-law fee for the preparation of this Agreement shall be borne equally by the parties hereto and payable on the signing hereof. One-half of the Attorneys-at-law fee for the preparation of this Agreement and GCT thereon and one-half of the estimated stamp duty payable on this Agreement are set out in Item 5 of the Schedule hereto and shall be payable on the execution hereof.

(j) It is understood and agreed that if the Contract Price stated in this Agreement is denominated in United States Dollars, payment in United States Dollars shall be of the essence of the Agreement.

(k) It is understood and agreed that the Contractor’s Attorneys-at-Law shall be entitled to stamp this Agreement with stamp duty from the initial payment and that if for any reason whatsoever the initial payment has to be refunded to the Owner, and the amount to be refunded is equal or more than the duty so paid the Owner shall to the extent of such duty and/or tax so impressed, be deemed to have been refunded same by delivery up to him and stamped agreement duly noted by the Contractor as cancelled, If the amount to be refunded is less than the duty paid, then the Contractor’s Attorney-at-Law shall at the sole expense of the Owner (estimated at Thirty Thousand Dollars Jamaican Currency ($30,000.00) exclusive of General Consumption Tax) claim the refund of such amount of duty as is refundable, from the Stamp Commissioner and within seven (7) days of the Contractor’s Attorneys-at-Law receiving such refund they shall pay therefrom in the currency of the refund to the Owner the amount to which the Owner is entitled less the Contractor’s Attorney’s fees and expenses for obtaining the said refund.

(l) Any payments received by the Contractor from the Owner shall be applied first to any interest then due and thereafter to the balance Contract Price.

(m) All payments to be made pursuant to this Agreement shall (save where otherwise specifically stated) be taken to be exclusive of General Consumption Tax (if applicable) and any General Consumption Tax chargeable in respect of the matters giving rise to such payments shall be added to the amount thereof and paid in addition thereto by the party making the payment.

(n) Until the Owner pays all monies due to the Contractor under this Agreement, the Owner hereby irrevocably appoints the Contractor as his agent and Attorney-in-fact to demand and receive from the registered proprietor of the said land a registrable transfer duly executed by the said registered proprietor in favour of the Owner together with the duplicate Certificate of Title for the said land to be held and retained by the Contractor as security for the payment by the Owner of all monies due by the Owner under this Agreement AND for better securing to the Contractor the payment by the Owner of all monies due by the Owner together with interest thereon under this Agreement the Owner hereby mortgages all his estate and interest and all the estate and interest which he is entitled to transfer and dispose of in the said land to the Contractor, this Mortgage to be construed as a Mortgage under the Registration of Titles Act payable on demand and on breach by the Owner of any of the terms of this agreement the Contractor shall be entitled immediately to exercise the power of sale and all ancillary powers conferred on mortgagees by the Registration of Titles Act without any notice to or demand on or consent by the Owner in respect of the said land.

(o) The Owner agrees that the Contractor shall be entitled and allowed access to the payments made pursuant to this Agreement at all times for the purpose of financing this costs of constructing the dwelling house.

(p) This Agreement is subject to the Owner obtaining a loan to be secured by a first legal mortgage over the said land for an amount of not less than the sum set out in Item 7 of the Schedule hereto from a reputable financial institution at a rate of interest and for a period and on such other terms and conditions as are usually granted by that institution. The Owner shall present a letter of mortgage commitment in respect of the above mortgage loan or from such other party acceptable to the Contractor on or before on or before sixty (60) days of the date hereof to the Contractor’s Attorneys-at-Law as to which time shall be of the essence of the contract failing which either party shall be entitled to cancel this Agreement without notice and the Contractor shall refund all sums paid on account of the contract price without interest less the sum of One Thousand Dollars United States Currency (US$1,000.00) for Attorney's fee for professional services rendered in respect of work incidental hereto (including the cost of preparation of this Agreement) and the Purchaser hereby irrevocably authorises the Owner to deduct the amount of such fee from the initial payment on termination of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first hereinbefore written.

**SCHEDULE**

1. DESCRIPTION OF OWNER:

|  |  |
| --- | --- |
| Name: | [b.first] [b.middle] [b.last] [b.suffix]and/or his Nominee |
| Address: | [b.address\_line1] [b.address\_line2] [b.address\_city] [b.address\_state] |
| Occupation: | [b.occupation] |
| Telephone No: | [b.phone] |
| Mobile No: | [b.mobile] |

2. LOT NUMBER: [p.lot\_no]

3. CONTRACT PRICE: **[dcp.price\_w] in [dcp.fc\_name]** (**[dcp.price\_i])** (equivalent to the sum of J$ **[dcp.jprice\_i]** for stamp duty purposes only

4. HOW PAYABLE: (1) An initial payment of **[dcp.deposit\_w]** (being 15% of the Contract Price) on the execution her eof.

(2) A second payment of [dcp.second\_payment] US$ (being 25% of the Contract Price) shall be paid within ninety (90) days of the   
initial payment or on the completion of foundation and walls whichever is the later.

(3) A third payment of [dcp.third\_payment] US$ (being 10% of the Contract Price) shall be paid within one hundred and twenty   
(120) days of the initial payment or on completion of the roof framing, sarking, felt and standing seam) whichever is the later.

(4) A fourth payment of [dcp.fourth\_payment] US$ (being 10% of the Contract Price) shall be paid within one hundred and eighty   
(180) days of the initial payment or on completion of the windows and external doors whichever is the later.

(5) The balance of the [dcp.final\_payment] US$ (being 40% of the Contract Price) together with other costs set out herein shall be paid before or in exchange for delivery for possession of the premises as provided for in Clause 5(b) hereof.

5. JMD COSTS PAYABLE ON

THE EXECUTION

HEREOF: ½ cost Agreement for Sale J$30,000.00

GCT thereon 4,950.00

½ stamp duty (estimated) **J$STAMP DUTY**

6. MORTGAGE LOAN: US$[ ]

7. HOUSE TYPE: TYPE C **TOGETHER WITH** a helper’s quarters, a plan of which the Owner has seen and approved.

SIGNED on behalf of the ) [c.company\_name]

Contractor by an Authorised Agent thereof )

in the presence of:- ) Per:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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SIGNED by the Owner in the ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_­­­­\_\_\_\_\_\_\_  
presence of:- ­­­ )

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