

**HOME IMPROVEMENT CONTRACT**

THIS CONTRACT, entered into this \_\_\_ day of \_\_\_\_\_, 201\_\_, by and between \_\_\_\_\_, (“Owner”), residing at \_\_\_\_\_, and \_\_\_\_\_ (“Contractor”). Owner and the Contractor agree as follows:

**I. GENERAL SCOPE OF WORK DESCRIPTION**

The Contractor shall perform all work and provide all labor, supervision, and materials and equipment as described in Part III, below, to complete in a good and workmanlike manner the following:

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\_\_\_ Yes \_\_\_ No: All work to be completed by the Contractor (and subcontractors, if any) is described in the attached plans and specifications dated \_\_\_\_\_ that have been signed and acknowledged by the Owner and the Contractor.

**II. REQUIRED CONTRACTOR INFORMATION**

1. Name: \_\_\_\_\_
2. Address: \_\_\_\_\_
3. Telephone \_\_\_\_\_ number:
4. License \_\_\_\_\_ number (if \_\_\_\_\_ applicable):  
\_\_\_\_\_

**III. DESCRIPTION OF MATERIALS AND EQUIPMENT**

(Must include quantity, quality, brand, model number, identifying features, and price of materials and equipment. Additional items may be attached if more space is needed.)

<u>Materials/Equipment</u>	<u>Price</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_  
\_\_\_\_\_  
Total Price: \_\_\_\_\_

\_\_\_\_ Yes: All / some (**circle one**) materials/equipment are to be supplied by the Contractor according to the attached plans and specifications dated \_\_\_\_\_ that have been signed and acknowledged by the Owner and the Contractor.

\_\_\_\_ No: The Owner will supply the materials/equipment according to the attached plans and specifications dated \_\_\_\_\_ that have been signed and acknowledged by the Owner and the Contractor.

**IV. SUBCONTRACTORS**

(List all subcontractors, plumbers, electricians, etc., with names, addresses, phone numbers, license numbers, and work to be provided by each subcontractor. Additional items may be attached if more space is needed.)

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

**V. CONTRACT PRICE**

The Owner shall pay the Contractor the fixed total sum of \$ \_\_\_\_\_ for the work to be performed under this Contract.

**VI. PROGRESS PAYMENTS AND SCHEDULE**

Deposit: When the Contract is signed by both parties and returned to the Contractor, the Owner shall pay to the Contractor a deposit of \$ \_\_\_\_\_.

Progress Payments: All payments are subject to a site inspection and approval of work by the Owner. The amount of each payment and the state of completion of the work or services to be performed, including any materials to be supplied before each such progress payment is due, is as follows:

<u>Work or service performed and materials to be supplied</u>	<u>Amount due on completion</u>
1. _____	\$ _____
2. _____	\$ _____

\_\_\_\_\_  
Contractor  
initials

\_\_\_\_\_  
Buyer  
initials

3. \_\_\_\_\_ \$ \_\_\_\_\_  
 4. \_\_\_\_\_ \$ \_\_\_\_\_  
 5. \_\_\_\_\_ \$ \_\_\_\_\_

All payments made to the Contractor prior to substantial completion of the work must be deposited by the Contractor in accordance with subdivision 4 of Section 71-a of the Lien Law as described in Part XIII(3), below.

Final Payment: Upon receipt of written notice that the work is ready for final inspection and acceptance, the Owner shall make such inspection. When the Owner finds the work acceptable under the Contract and the Contract fully performed, the Owner will pay the Contractor \$ \_\_\_\_\_.

The Owner may withhold final payment if the Contractor does not submit satisfactory evidence to the Owner that all expenses related to this work have been paid and no lien exists on the property as described in Part XIII(2), below.

**VII. RIGHT TO CANCEL CONTRACT WITHIN THREE DAYS**

The Owner may cancel this Contract at any time prior to midnight of the third business day after the date on which the Owner has signed this Contract. Cancellation occurs when written notice of cancellation is given to the Contractor. Notice of cancellation, if given by mail, shall be deemed given when deposited in a mailbox properly addressed and postage prepaid. Notice of cancellation shall be sufficient if it indicates the intention of the Owner not to be bound by the terms of this Contract.

**VIII. COMMENCEMENT AND COMPLETION SCHEDULE**

Work will commence on \_\_\_\_\_ (date). The Owner may cancel the Contract if work is not begun within \_\_\_\_ days of this stated commencement date.

Construction time through completion date is approximately \_\_\_\_ to \_\_\_\_ weeks / months (circle one).

Work will be completed by \_\_\_\_\_ (date). Time is of the essence regarding this Contract unless the Owner has appended a handwritten statement that extends the work timeframe. \_\_\_\_ Yes \_\_\_\_ No: A handwritten statement by the Owner is appended and time is not of the essence.

No extension of time will be valid without the Owner's written consent. The following events or contingencies may impact the Contractor's ability to perform:

\_\_\_\_\_  
 Contractor    Buyer  
 initials        initials

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**IX. CHANGE ORDERS/ADDITIONAL WORK**

Written Change Orders signed by both parties are required for any changes or additional work. The Change Order shall state the following:

1. Whether the change will increase or decrease the original Contract amount;
2. The cost of the additional work; and
3. The new total amount of the Contract.

The Contractor shall provide the Owner with a copy of the signed Change Order form before commencing the additional or changed work. Except for those items specifically described in the Change Order, all other Contract terms shall remain unchanged. Payment for additional or changed work is due upon completion of all of the additional or changed work and submittal of an invoice by the Contractor.

**X. CONTRACTOR'S INSURANCE**

The Contractor shall not commence work under this Contract until it has obtained all insurance required under this paragraph and such insurance has been approved by the Owner.

1. Compensation Insurance: The Contractor shall take out and maintain during the life of this Contract Workers' Compensation Insurance for its employees to be assigned to the work hereunder. The Contractor agrees to furnish the Owner with a Certificate of Workers' Compensation Insurance prior to commencement of work pursuant to the Contract.

2. General Liability and Property Damage Insurance: The Contractor shall take out and maintain during the life of this Contract such general liability and property damage insurance as shall protect it from claims for damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this contract. The amounts of such insurance shall be as follows:

- a. General liability insurance in an amount not less than \$500,000 for injuries including wrongful death to any one person and subject to the same limit for each person, in an amount not less than \$1,000,000 on account of any one occurrence.
- b. Property damage insurance in an amount not less than \$300,000 for damage on account of all occurrences.

The Contractor shall furnish the above insurances to the Owner and shall also name the Owner as an additional named insured in said policies.

Any accident shall be reported to the Owner as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the Owner as soon thereafter as possible and not later than three (3) days after the date of such accident.

#### **XI. INDEMNIFICATION**

The Contractor agrees to indemnify and hold the Owner harmless from any liability imposed upon the Owner arising from the negligence, active or passive, of the Contractor and/or relating to the Contractor's failure to pay subcontractors or supply vendors arranged by the Contractor, including but not limited to, attorneys' fees.

#### **XII. DISPUTE RESOLUTION, JURISDICTION AND VENUE**

1. Applicable Law. The parties agree that any and all disputes, claims, or controversies arising out of or related to the validity, interpretation, or performance of this Contract, shall be resolved pursuant to this Part and that the validity, interpretation, and performance of this Contract, and all services performed hereto, shall be governed by, and construed in accordance with, the laws of the State of New York.

2. Jurisdiction and Venue. Both parties agree that any action, demand, claim or counterclaim relating to the terms and provisions of this Agreement, or to any claimed breach, shall be commenced in a state or federal court located in the State of New York, and both parties expressly acknowledge that personal jurisdiction shall lie exclusively in New York, and that venue properly lies in the County of \_\_\_\_\_.

3. Attorneys' Fees. In the event of a dispute over this Contract, the prevailing party shall recover from the other party its reasonable costs and disbursements and attorneys' fees incurred in enforcing this Contract.

#### **XIII. ADDITIONAL TERMS AND CONDITIONS**

1. Mechanic's Lien. The Contractor or subcontractor who performs work under this Contract and is not paid may have a claim against the Owner which may be enforced against the property in accordance with the applicable lien laws.

**Notice to Owner: Any contractor, subcontractor, or materialman who provides home improvement goods or services pursuant to your home improvement contract and who is not paid may have a valid legal claim against your property known as a mechanic's lien. Any mechanic's lien filed against your property may be discharged. Payment of the agreed-upon price under the home**

**improvement contract prior to filing of a mechanic's lien may invalidate such lien. The owner may contact an attorney to determine his rights to discharge a mechanic's lien.**

2. Final Payment Subject to Proof of Payment and/or Waiver.

- a. The Owner may withhold final payment due under the Contract until the Contractor submits to the Owner proof of payment to all subcontractors and supply vendors arranged by the Contractor and, until such proof is submitted, the Contractor agrees to waive any right to file a lien for any monies claimed due from the Owner against the Owner's property.
- b. The Owner may withhold final payment due under the Contract until the Contractor submits from all subcontractors and vendors a waiver of lien as proof of payment for the work and/or the materials they supplied.

3. Progress Payments. In accordance with subdivision 4 of Section 71-a of the Lien Law, the Contractor is legally required to deposit all payments received prior to substantial completion of work. In lieu of such deposit, the Contractor may post a bond, contract of indemnity, or irrevocable letter of credit with the Owner guaranteeing the return of the payments or application of the payments to the purpose of the Contract. This provision does not apply if the contract provides that the Contractor will be paid on an hourly or time basis for work that has been performed or charges for materials that have been supplied prior to the time that payment is due.

4. Representations of Contractor. The Contractor represents and warrants:

- a. That it is financially solvent;
- b. That it is experienced in and competent to perform the type of work to be furnished by it as described in Part I of this Contract; that it possesses and is knowledgeable with the proper equipment to perform such work; that it has the requisite experience to conduct such work; and that it is fully aware of all available safety precautions and will abide by such safety precautions; and
- c. That it is familiar with all federal, state, municipal, and department laws, ordinances, and regulations which may in any way affect the work or those employed therein;
- d. That it will use only licensed subcontractors, plumbers, and electricians; and
- e. That it will clean up after the home improvement work is complete.

5. Permits and Regulations. The Contractor agrees to procure and pay for all required

permits and licenses necessary for the services to be rendered hereunder in accordance with state and local laws.

6. Warranty. The Contractor shall disclose all terms, conditions, and period of time covered by any guarantee or warranty it offers to the Owner, including those advertised by the Contractor. The following guarantee/warranty is applicable (if none, state none):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. Assignment. The Contractor is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this agreement, or of its right, title or interest in this agreement, or its power to execute this agreement, to any other person or corporation without the prior consent in writing of the Owner.

8. Modification. This agreement constitutes the complete understanding of the parties. No modification of any provisions thereof shall be valid unless in writing and signed by both parties.

#### ACCEPTANCE OF CONTRACT

The condition specifications and prices stated in this Contract and any referenced attachment herein are satisfactory and are hereby accepted. The Contractor is authorized to do the work as specified. Payment will be made as outlined in Part VI, "Progress Payments and Schedule." The Contractor will provide the Owner with a copy of this Contract after it is signed by both parties.

\_\_\_\_\_  
Signature of Contractor

Date: \_\_\_\_\_

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Signature of Owner

Date: \_\_\_\_\_

\_\_\_\_\_  
Print name

Disclaimer: The information contained in this contract is general legal information and should not be construed as legal advice to be applied to any specific factual situation. The use of this form does not create or constitute an attorney-client relationship between the user of this form and Girvin & Ferlazzo, P.C., its employees, or any other person associated with Girvin & Ferlazzo, P.C. Because the law differs in each legal jurisdiction and may be interpreted or applied differently depending on your location or situation, you should not rely upon the materials provided in this packet without first consulting an attorney with respect to your specific situation. The contract is provided "As-Is," without warranty or condition of any kind whatsoever. Girvin & Ferlazzo, P.C. does not warrant the quality, accuracy, timeliness, completeness, merchantability or fitness for use or purpose. To the maximum extent provided by law, Girvin & Ferlazzo, P.C., its agents, and officers shall not be liable for any damages whatsoever (including compensatory, special, direct, incidental, indirect, consequential, punitive or any other damages) arising out of the use of this form.