

INDEPENDENT CONTRACTOR CONSTRUCTION AGREEMENT

This Independent Contractor Construction Agreement (the "Agreement") is entered into on _____ - DATE by and between VNTG Place LLC, an Ohio limited liability company ("Contractor") and _____ ("Client") for services to be rendered at _____ (the "Property").

- 1. Schedule of Work:** Contractor will commence performance of the Services (as defined below) on or before _____ and will perform the same on a consistent basis, subject to the availability of subcontractors. The Services shall be completed on or before _____ (the "Completion Date").
- 2. Independent Contractor:** Contractor and Client intend this Agreement to be one of independent contractor and client. Accordingly, Contractor retains the sole right to control or direct the manner in which the Services are to be performed. Subject to the foregoing, Client retains the right to inspect, to stop work, to prescribe alterations, and generally to supervise the work to insure its quality and conformity with that specified in this Agreement. Contractor shall ensure that (a) the Services are performed and completed in a workmanlike manner and in compliance with all applicable laws; (b) the Services are performed by individuals duly licensed and authorized by law; and (c) all necessary approvals and permits are obtained as required by law. Contractor and Client understand that it is the Contractor's sole and complete responsibility to pay all employment taxes, including Federal and State withholding taxes and Social Security, and to obtain insurance, including worker's compensation coverage and public liability insurance and property damage insurance arising out of or relating to this Agreement. The terms of this Agreement shall apply to and encompass all work and materials provided by all sub-contractors performing the Services on behalf of the Contractor.
- 3. Services Provided:** Contractor agrees to plan and manage all renovation and construction at the Property, and otherwise perform the services listed in this Agreement (including the Scope of Work attached as Exhibit A and incorporated by reference into this Agreement) (the "Services") on behalf of the Client.
- 4. Project Cost Estimate:** Pre-construction estimates for construction costs and coordination are approximately _____ Dollars (\$_____) ("Project Cost"). The Contractor shall use the its best efforts to keep costs of construction within the stated budget. In an event the costs surpass estimates, the Contractor will follow the change orders process in this Agreement.

5. **Payments:** Client will pay Contractor 50% of the Project Cost up front, 25% of the Project Cost at 75% completion (as defined in Exhibit A), and the balance of the Project Cost upon final acceptance by Client.

6. **Client Review:** Contractor understands that all plans, specifications and drawings regarding the Services must be reviewed and approved by Client.

7. **Inspections:** The Contractor shall call for all building inspections, meet with the inspectors, and ensure that all work contemplated herein passes all required building inspections. The Contractor shall pay for the entire cost of any re-work resulting from a failed inspection. If the Contractor fails to pay for any re-work inspection costs, the Client may deduct the reasonable costs against any sums due to the Contractor.

8. **Clean-up:** Contractor will be responsible for cleaning up the job on a daily basis, including all generated construction debris and other trash.

9. **Client Approval:** Client will approve and accept the Services on the following basis:

- a. The services meet all governing building codes and requirements of this Agreement;
- b. All required building permit inspections have been completed and passed; and
- c. The Services have been completed including all punch-out work as agreed.

10. **Change Orders:** The Contractor understands and agrees that no change orders or contract additions may be made unless agreed to in writing by the Client and Contractor. Email messages constitute a “writing” for purpose of this Agreement. Minor changes in materials or methods of work are excluded from the requirements of this paragraph.

11. **Termination.**

a. Either party may terminate this agreement upon 15 days advance written notice to the other party. Down payment is non refundable.

b. The Contractor may terminate this Agreement if the Client fails to make payment for a period of thirty (15) days after the same is due, and upon seven (7) additional written days notice to the Client.

c. In the event of a termination, the Contractor will be entitled to compensation for all work performed, materials purchased, equipment and machinery rented, and any other costs incurred by Contractor in performing the Services. Any payments made by

Client that exceed the value of work performed and materials purchased will be refunded to Client.

12. Client Delays. Contractor is not responsible or liable for any delays in completing the Services caused by Client or Client's separate contractors.

13. Subdivision Requirements. If the Property is part of a subdivision and is subject to recorded covenants and restrictions concerning the alteration the Property (such restrictions to include any rules and regulations of a homeowner's association or other similar body) (the "Restrictions") the Client represents and warrants that the Services will not violate those Restrictions. The Client is responsible for obtaining any approval required by any homeowner's association for the Services. The Contractor is not responsible for any of the Services which may be in violation of the Restrictions which may concern the Services or the Property.

14. Force Majeure. If either party is unable to perform any part of its obligations under this Agreement as a result of force majeure, the party will be excused from its obligations, to the extent that its performance is prevented by force majeure, for the duration of the event. The party must remedy with all reasonable dispatch the cause preventing it from carrying out its obligations under this Agreement. The term "force majeure" means without limitation: acts of God; such as epidemics; lightning; earthquakes; fires; storms; hurricanes; tornadoes; floods; washouts; droughts; any other severe weather; explosions; restraint of government and people; war; strikes; and other like events; or any cause that could not be reasonably foreseen in the exercise of ordinary care, and that is beyond the reasonable control of the party.

15. Limited Warranty.

a. The Contractor warrants that for a period of six months after completion of the project, the Services will be free of defects in materials or workmanship.

b. The manufacturers of certain appliances or equipment may issue their own warranty directly to you, or directly to us. Upon completion of the project, Contractor assigns to you any warranties issued to us.

c. This warranty does not include (i) damage due to ordinary wear and tear, abusive, or lack of property maintenance; (ii) defects or damages to, or resulting from, items completed or installed by you or any person, subcontractor or agent under your custody or control or anyone not under Contractor's control; (iii) defects or damages related to the existing Property structure or systems, which are not caused by Contractor; (iv) defects which are the result of characteristics common to the materials used, such as

(but not limited to) warping and deflection of wood; fading, chalking, and checking of paint due to weather conditions: cracks due to drying and curing of concrete, drywall, bricks and masonry; and drying, shrinking and cracking of caulking and weather-stripping; or (v) defects covered by any manufacturer's warranty.

d. If a defect appears which you think is covered by this limited warranty, you must provide a written notice to Contractor, which describes the issue. Contractor will repair or replace any item covered by this limited warranty which proves to be defective upon our examination. We will do so at no charge to you within 60 days (longer if weather conditions, labor problems or materials shortages cause delays). Contractor has sole discretion to choose how and by whom the defect will be repaired or replaced.

e. This limited warranty is the only express warranty provided by Contractor. There are no other warranties, express or implied, which extend beyond the term of this limited warranty. Contractor is not liable for any consequential or incidental damages arising as a result of a warranty claim.

16. **Waiver:** No failure by either party to insist upon the strict performance by the other of any provision of this Agreement shall constitute a waiver of the party's right to strict performance.

17. **Dispute Resolution:** The Client and Contractor agree that, if any controversy or claim arising out of or relating to this Agreement cannot be settled through direct discussions, they shall endeavor first to settle the controversy or claim by mediation with a mutually agreeable and qualified mediator.

18. **Controlling Law:** This Agreement shall be governed by, and construed in accordance with the laws of the State of Ohio, without regard to conflict of laws rules. The parties consent and agree to the exclusive jurisdiction of the state and federal courts having jurisdiction over Cuyahoga County, Ohio regarding any action arising out of, or connected with this Agreement. The parties waive any objection as to improper venue, or that any state or federal court in Cuyahoga County, Ohio is an inconvenient forum.

19. **No Rule of Construction Against the Drafter.** Any rule of construction to the effect that any ambiguity is to be resolved against the drafting parties shall not be applied to the interpretation of this Agreement.

20. **Entire Agreement:** The Agreement constitutes and represents the entire agreement between the Client and the Contractor, and supersedes and extinguishes all prior agreements, understandings, representations, warranties and arrangements of any nature, whether oral or written, between the parties relating to the work to be performed hereunder. The Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. The Agreement is not for the

benefit of any other person, and no other person shall have any right under the Agreement against either party.

21. Severability. In case any section or provision of this Agreement, or any covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, or any application thereof, is held to be illegal or invalid for any reason, or is inoperable at any time, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Agreement or any other covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Agreement, all of which shall be construed and enforced at the time as if the illegal, invalid or inoperable portion were not contained therein.

22. Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

23. Assignment. This Agreement may not be assigned to any other person, in whole or in part, without the express written agreement of the parties.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

VNTG Place LLC

By Megan Featherston
CEO

Client

EXHIBIT A: SCOPE OF WORK

