



P.O. Box 80064  
Lafayette, LA 70598

**BUILDING CONTRACT**

*(Updated January 2007)*

*STATE OF LOUISIANA*

*CITY & PARISH OF LAFAYETTE*

This agreement "Agreement" is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2007 by and between \_\_\_\_\_ ("Owners") whose address is Lot \_\_\_\_\_ in \_\_\_\_\_ and McLain Homes, LLC herein represented by Bryan McLain ("Contractor"), a contractor licensed by the State of Louisiana, License #85544, whose address is P.O. Box 80064, Lafayette LA 70598.

Recitals

Owners desire to have Contractor construct a residence pursuant to plans and specifications furnished by \_\_\_\_\_ and the owner.

The parties have reached an agreement on the price, terms and conditions of the proposed construction and desire to provide for their agreement herein.

Convenants

NOW, THEREFORE, for and in consideration of the recitals and the mutual promises hereafter made the parties covenant and agree as follows:

1. Construction of Residence

- (a) Contractor shall, subject to and upon the terms and conditions hereafter provided, construct and finish the residential structure (the "Residence") shown and specified on that certain set of plans and specifications provided by \_\_\_\_\_ (owners), prepared by \_\_\_\_\_ (the "Plans and Specifications"). The parties acknowledge that they have each signed two (2) copies of the Plans and Specifications, and that each; Owners and Contractor has retained one of the said copies of the Plans and Specifications.
- (b) Contractor will construct Residence on property provided by Owners. Said property being described as a parcel in the development of \_\_\_\_\_.
- (c) Contractor shall furnish all labor, materials, equipment and tools necessary to construct and complete the Residence in accordance with the Plans and Specifications in a good and workmanlike manner. Contractor shall obtain all necessary permits and approvals from governmental authorities for the construction of the Residence.
- (d) Construction of the Residence shall commence not later than twenty-one (21) days following completion of bank financing and shall proceed diligently to completion, subject only to delays for matters that are not within the control of the Contractor, including but without limitation to delays caused by inclement weather, unavailability of materials, strike or other force majeure.
- (e) Contractor agrees to an estimated completion date of \_\_\_\_\_ days from the first date of construction.
- (f) Owners will provide timely decisions necessary for the completion of the Residence. Any delays caused by the owner due to UN-

timely decisions will add additional days to the estimated completion date.

- (g) Landscaping, sod, fencing, and swimming pools will be the sole responsibility of the owners. Contractor accepts no responsibility financially or otherwise for these projects associated with the building of this home. Home site lot will be completed with final grade to accept sod and landscaping.

2. Price

- a) Owners and Contractor agree that the owners will be responsible for all costs incurred to construct the residence plus a fixed builder's fee to the contractor. Owners are responsible for all utility deposits, permit costs, meter deposits, loan fees or interest, closing costs, survey costs, architectural fees, special environmental requirements, or any other costs not directly related to the building of this home as provided by the Plans and Specifications.
- b) Contractor agrees that if the plans are followed accordingly and the owner remains within the outlined "estimates and guidelines" that are attached to this contract, and that material prices do not sustain a substantial change, contractor estimates the home to remain within the range of approximately \$ \_\_\_\_\_ & \_\_\_\_\_ per square foot of living area. Any changes from the plans or if any "estimates and guidelines" are not strictly followed will change the estimated cost of the home. This estimate does not include property cost or builders fees.
- c) Contractor and owners agree to set up a checking account in the name of "McLain Homes for the home of \_\_\_\_\_" (herein referred to as "special account"). That account will be used for the sole purpose of paying all expenses incurred to build said home and the fixed builder's fee agreed upon herein.
- d) Contractor agrees to provide accounting services to track the job cost, pay bills, and file all paper work received for the completion of said residence. An accounting report complete with all original invoices and activities for the construction of said residence will be made available to the owner at the request of the Owners. It is recommended by the Contractor that regular accounting meetings be scheduled so that all invoices, payments, and costs of the home are realized and agreed upon throughout the process of construction.
- e) Contractor will provide, but not be liable for, the cost of builder's risk insurance as required by the State of Louisiana and/or the City of \_\_\_\_\_. (see 2-a)
- f) Contractor will obtain, but not be liable for, the cost of the building permit from necessary municipal codes departments. (see 2-a)

3. Deposits and Payments

- a) Owner will deposit 100% of approved loan proceeds in the form of construction draws into the “special account” in accordance with a schedule as set out in the financing agreement for inspections and percentages of completion. Your lender should provide a specific draw schedule.
- b) Owner agrees to provide financial institution verification of all construction draws.
- c) The contractor will notify the owners and the financial institution that an inspection is due for a draw approval. The owners will be responsible for having the inspection performed by its lender. Any delays or lost days caused by an UN-timely response from the owners or the financial institution will be added to the estimated completion date of the home. The owners shall deposit 100% of the approved draw into the “special account” within 3 working days of the request.
- d) If the owner fails to deposit 100% of the requested draw into the special account within 4 working days after funding is complete all construction will stop immediately. Any delays caused by this action will be billed at \$150.00 per day. This will be in addition to the \$ \_\_\_\_\_ builder’s fee, and the lost days will be added to the estimated completion date of the home.
- e) Any products or materials ordered by the owner from vendors that are not contractor approved must be reviewed and approved in writing by the contractor. Any deposits for materials ordered from unapproved vendors will be the sole responsibility of the owners. Delivery of items ordered by the owner must be received and stored by the owner until the contractor requests delivery to the construction site. The contractor will not be responsible for any materials ordered by the owner from either internet vendors or any other non-approved vendors, any extra cost incurred to install said items, or other associated costs. Any delays caused by such actions will be added to the estimated completion date of the home.

**Builder’s Fee Payments to McLain Homes, LLC will be issued as follows:**

Contractor shall be paid a fixed fee for the services he provides in construction of the Residence of \_\_\_\_\_ payable as follows:

**Non-Refundable Deposit due upon signing of this Agreement:** \$ \_\_\_\_\_  
**Upon first construction draw (Foundation):** \$ \_\_\_\_\_  
**Upon second construction draw (Black-In):** \$ \_\_\_\_\_  
**Upon third construction draw (Sheetrock):** \$ \_\_\_\_\_  
**Upon fourth construction draw (Cabinet Set):** \$ \_\_\_\_\_  
**Upon fifth construction draw (Fixture Set):** \$ \_\_\_\_\_  
**and**

**Final payment will be due upon substantial completion of all construction, the signing of a Lien Release by Contractor to Owners, provision of the Certificate of Occupancy, and prior to moving any personal items into the residence:** \$ \_\_\_\_\_

Miscellaneous

- a) In addition to any other remedy provided by law, the parties hereto shall be entitled to specific performance of this Agreement. In the event that either party files or resorts to any legal proceedings to enforce or seek declaratory or other relief as to any provision of this agreement, the prevailing party in the legal proceedings shall be entitled to recover reasonable attorney’s fees from the losing party.
- b) Any notice required to be sent to any party under the provisions of this agreement shall be deemed to have been properly given when mailed,

by first class mail, postage prepaid, to the address of the party as stated above or to any other address furnished in writing by such party to the party giving notice, provided, however, that any notice may also be sent by Certified Mail, Return Receipt Requested, or by personal delivery to the addressee, in which event notice shall be deemed given upon delivery to the addressee.

- c) Subject to the conditions hereafter set forth, contractor warrants to Owner that the Residence shall be free from all defects in materials and workmanship in compliance with the attached State of Louisiana Home Warranty Act. Pursuant to this act, Contractor agrees to remedy any such defect in materials or workmanship if contractor is given written notice within the said time period. Buyer shall further have such warranties applicable to the appliances installed in the Residence as are provided by the manufacturer or seller of such appliances or as may be provided by law.
- d) McLain Homes, LLC accepts full responsibility for all vendors contracted or hired through McLain Homes, LLC only. Only such persons shall be deemed approved to perform work on this job. In the event that the homeowner directs subcontractors, workers, or helpers to do any type of work, duty, or activity, on the described property herein the homeowner will accept all responsibility for those persons and their work. McLain Homes, LLC will not be responsible for any insurance requirements or liability of any persons directed to the job site by the homeowner or any other person not affiliated with McLain Homes, LLC. Any outside parties other than vendors approved by McLain Homes, LLC shall be the sole responsibility of the Owner. Any repairs required to the home due to work performed by unapproved vendors shall be the sole responsibility of the Home Owner.
- e) Antique wood floors, beams, and salvage or antique materials shall bear no warranty as to shrinkage, discolorations, malformation, or any other changes of board due to the nature of old refurbished woods.
- f) Contractor does not accept financial responsibility for any normal construction re-works, repairs, or vandalism that are beyond his control.
- g) This Agreement contains and integrates the full agreement of the parties with regard to its subject matter and may not be amended or modified except in writing signed by all parties.
- h) This Agreement shall be governed by and construed in accordance with the laws of the State of Louisiana and the City of \_\_\_\_\_.
- i) It is agreed by all parties that all contents of this contract have been reviewed and are understood. It is recommended by the Contractor that the Owner seek legal council for any further explanation or understanding of this contract. It is hereby agreed upon that all parties signed below understand and agree to all contents of this contract.

IN WITNESS WHEREOF, the parties have hereunto signed their names on the dates set forth below.

WITNESSES:

_____	_____
	(Owner)                      Date
_____	_____
_____	(Owner)                      Date
_____	_____
	McLain Homes, LLC                      Date
	Bryan D. McLain (Contractor)