**ArCH-AOA-2015 Architect-Owner Agreement & Terms of Service** Date of agreement: **\_\_\_/\_\_\_\_/\_\_\_\_**



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Architect/Project Manager/Other role = \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Architect firm legal name), “we”, “us”, “our”, “ours”.

Client= “you”, “your”, “owner”,” they”, “Client 1”, “Client 2”. “Everyone”, “others” = Client’s consultants, Client, Contractor, other parties. Paragraph=”par.” “3rd parties”= anyone other than you and us.

Project Name: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Residence**

Location: Address (if known): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Latitude \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_N, Longitude \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_W, on \_\_\_\_\_\_\_ +/- acres.

Survey and/or legal description &/or project scope description (as “exhibit A” may be added to this agreement by us).

Note: you should delete all red guidance notes before printing form & have your Attorney(s) adjust for the location of the project. This form is not a valid contract until Architect’s Attorney(s) reviews, edits & approves.

Client/Owner(s) represent that they are the record owners of the real property (above) to be improved.

1. **DISPUTE RESOLUTION PROCESS (BINDING ARBITRATION)**

(Client initials evidencing agreement to binding arbitration: client 1:\_\_\_\_\_\_\_client 2:\_\_\_\_\_\_) (Architect initials evidencing agreement to binding arbitration: us:\_\_\_\_\_\_). This action will only be called forth in the event you (Client-Owner) contend we (Architect) are responsible for errors & omissions exceeding the “ArCH-RASoC2014” (Residential Architecture Standards of Care, 2014 edition) (see: <http://www.archomes.org/arch-rasoc2014> ). Prior to this, the dispute resolution process has 4 steps: 1st: sincere & polite personal conversations on phone or in person (not e-mails). There must be at least 3 documented discussions on specific dates resulting in no resolution before proceeding to the next step. We will take minutes of such discussions. 2nd: As a condition precedent to further dispute resolution proceedings, you shall obtain a written, signed, sealed & notarized impartial opinion from another reputable Architect licensed in the agreed upon project venue established in this agreement, attesting that we have violated the referenced Standards of Care (indicated above) and setting forth the specific factual basis for such opinions, referencing specifics in the Standard of Care. 3rd: mediation. 4th: **Binding Arbitration**: any and all disputes arising out of this agreement shall be subject to binding arbitration, to be administered by the AAA (American Arbitration Association), and in accordance with the AAA Construction Industry Rules, including a forum selection naming the venue indicated in paragraph 2 below. No legal court action is permissible under this agreement. You agree not to initiate a dispute due to anything other than our lack of adherence to the Standards of Care referenced above for services for which you have paid in total. All actions must be brought within one (1) year from the date of our issuance of Construction Documents (CDs) published by us for Bidding. In the absence of our CDs or Bidding, this 1 year period shall be measured from the last date we provided service on this project per our date(s) on our drawings. Failure of you (Client) to bring said action within the one (1) year date of our service shall constitute a full & complete waiver & release of any rights, actions, or cause of actions that may have arisen in favor of you. Time is expressly of the essence of this provision. It is agreed to & understood that this time period may be shorter than otherwise provided for by law.

1. **VENUE/Non-Joinder**: (venue agreed to: Client initials: client 1:\_\_\_\_\_\_\_\_client 2:\_\_\_\_\_\_\_\_ us:\_\_\_\_\_\_\_\_\_\_\_).

Any actions (including the arbitration described in par. 1 above) will take place at\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (physical street-city-state office address of Architect’s Attorney closest to Architect’s office in state of Architect’s office). It is understood that we entered into this agreement with this venue as a main point of agreement and you agree Not to attempt to change this venue. It is agreed to & understood that this provision may be otherwise than allowed by local, State or Federal laws. You also agree to have your contractual provisions regarding your agreement(s) with your Contractor, Attorney &/or other parties involving this project to omit comments of “joinder” or other mentions of the us from being involved in any legal or arbitration proceedings in those agreements. You agree to enforce the venue stated in this par. 2 in this ArCH-AOA-2015 agreement and to exercise your influence in compelling others to comply. You agree to Not sign any agreements with other 3rd parties naming us as participants (and/or “joinder” or related language) until you are able to compel others to remove us (and the words “Architect” or similar verbiage) from such possible dispute resolutions involving other 3rd parties (with whom we have no agreements involving this project). You agree to never seek to compel us as participants in any actions involving any 3rd parties regarding this project, and to protect, indemnify and defend us against any other 3rd parties who might seek any actions against us involving this project.

1. **RECOVERABLE COSTS**: in the event you (Client) attempts litigation rather than following the agreed-upon dispute resolution process per par. 1 of this agreement, and we successfully compel arbitration in accordance with this agreement, you agree that the Arbitrator shall be entitled to award damages to us for our costs, including reasonable attorney’s fees, to compel arbitration in accordance with this agreement, including venue provisions.
2. **SERVICES TO BE PROVIDED**: we will provide you with the architectural design of a residence, including our Basic Services, as a minimum. Other services & buildings may be added to this agreement, as the parties may determine, by written (emails) agreed to by both parties, with us documenting those added scope items.
3. **BASIC SERVICES** INCLUDE: these Architectural services: Programming notes, Schematic Design-Design Development & Construction Documents (CDs), and a single 3D exterior view of the project (as determined by us). Architect determines what is in each phase of work & what is on the drawings, specifications, & other project documents we provide, using our software, systems, notes, dimensions, details, materials & guidelines. You are paying us for what we do. We are not responsible for other’s efforts, or lack thereof, such as, but not limited to: contractors, engineers, regulatory agencies. We include what we feel is prudent in our documents, which may exceed minimum code. In general, we adhere to the documents indicated in the ArCH-RASoC2014, which may vary from project to project. We do not detail everything. Our fees do Not include engineering. Our Basic Services do Not include Additional Services.
4. **ADDITIONAL OPTIONAL SERVICES**: items Not in Basic Services, if desired & requested by you in writing, at additional fee per our hourly rate, such as but not limited to: drawing changes, Record Drawings, Bidding services, Construction Administration, Electrical schematics, cabinetry elevations, interior elevations, Project Management, 3D (beyond single view per par. 5.) & other work not in Basic Services. Hvac, plumbing, energy/green calcs are by Contractor, and you will require those of your builder. We will determine what is included in each of our Basic & Additional services using our own procedures & practices. There may be fixed fees or rates quoted for some Optional Additional Services later in this contract.
5. **FEES**: we agree to provide Basic Services for this residence design for $\_\_\_N/A\_\_\_\_\_\_(remove ”N/A” & indicate your fixed fee, if that is how you are pricing this project; otherwise, leave “N/A” there, if your services are hourly) fixed fee, or as an hourly rate. We control extent of your changes on fixed fee projects. If any of our services are provided hourly, this will be charged to you at **$\_\_\_\_**(fill in your rate or rates)**/hour**. Invoices will be electronically attached to e-mails from us to you, at least once a month (or more frequently), in amounts we deem appropriate for work accomplished, or if hourly: for the number of hours multiplied by our hourly rate. **Reuse fee one-time charge: $\_\_\_\_\_\_\_\_\_\_** (amount you charge to reuse any of your existing designs as a beginning basis, or remove this sentence, if not providing) in addition to the fee paid for Basic Services, for using any existing design of ours as a starting basis for your project. **Initial Payment: $\_\_\_\_\_\_\_\_\_** (enter the amount you charge to begin work)to begin work & secure our services, non-refundable, applied to last invoice for Basic Services ($\_\_\_\_\_\_\_\_\_(enter the amount you charge for a single 3D view, or if you don’t want to provide this, delete all text inside parentheses) of this initial payment will be used to fund a single 3D exterior view of a single building project, as determined by us). We are Not “work for hire.” Should you decide at any time to stop our services or abandon your project, you will owe us for our work accomplished up to the point of your written date of notice to us on the date that we receive such notice.
6. **REIMBURSABLE CHARGES**: we will also charge you, in addition to the above, the following: (note: insert your rates in the blanks for the various items) $\_\_ per 24”x36” sheet plot, on white bond paper. FedEx (FE): $\_\_/9x12 Envelope, $\_\_/Pak, $\_\_\_/5 lb.tube (more for heavier and/or larger items; all charges subject to FE increases). Car/Vehicle @ $\_\_/mile (may be modified upward by us, due to increasing fuel costs). Air travel & accommodations requested or made necessary by your related requests: cost+\_\_%(insert your markup rate). Photocopies: 8.5x11@$0.\_\_, 11x17@$\_\_\_, $\_\_/#10 US mail, $\_\_/9”x12”.Other costs at cost+\_\_% (insert your markup rate). When you request sets of drawings to be run, you agree to pay us to run an additional set for our in-house administrative purposes. If we determine that it is either legally required or prudent for us to become licensed in the jurisdiction of your project, you agree to pay us for our costs associated with accomplishing this, if we are not already registered there. These costs will likely involve NCARB file transmittal charges, State license application fees, possible State privilege tax & other charges, which we do not control. We have historically seen these costs vary from $1,000 to $1,500 but this could be more or less in your particular state. You agree to pay for this in advance within 10 days when and if we request this.
7. **PAYMENTS**: you agree to pay us for each invoice in full, within 10 days of invoice date. If we meet with you in person to present work, you agree to pay invoices presented at that meeting. If you have questions about an invoice, that will not delay your payment due to us. Invoices not paid within 15 days incur a 1-1/2% late fee + 1-1/2% per month late fee, on the additive total, after that date. You agree to make checks out to: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (your company name). You agree that you are responsible for our costs of collection, including reasonable attorney’s fees.
8. **SOFTWARE/Copyright**: Everyone agrees to use the Architect’s software & version (which is presently AutoCad2015LT (replace the previous with the software you use, including any particulars, such as the following), in modelspace only) readable on Architect’s computer, and Microsoft Office 2013 suite of products. The software and version are subject to change as determined by us. We are also presently experimenting with other software (subject to change). We retain all Cad/computer drawing digital files (not for distribution to anyone). We provide you with PDFs as the main deliverable. Our design is protected by copyright and may only be completed, copied and transmitted by us. Only we may send our documents to anyone at any time, before, during or after the project construction. We license our completed Construction Document drawing set to be used by you to build this 1 project in 1 location, 1 time, which license is granted only after you pay us in full for all of our Basic Services plus other charges due. Use of our documents without our license infringes on our copyright and you agree that relief per par. 1 is an appropriate immediate remedy for us to use to stop infringing uses, along with all other remedies available to us.
9. **CLIENT CONSULTANTS**: we have no consultants for this project. Only the Client is providing consultants. Client will require all consultants to coordinate with us before, during and after completion of their work, to our satisfaction, with software compatible with ours, per par. 10.
10. **SURVEY**: Client is responsible for providing and paying a surveyor for his property and having the survey(s) created on computer per par. 10. The Architect needs certain items indicated on the survey & your surveyor will provide these. You will provide us with the Surveyor’s contact information and instruct them to comply with our list of requirements.
11. **STRUCTURAL ENGINEERING**: Client is responsible for providing and paying a State of the project licensed Structural Engineer, per par. 10. You will have your Engineer coordinate with us, as we request, and provide us with their State license #, before they begin their work. Structural Engineer will, at a minimum, provide foundation plan, foundation details, Floor & Roof Framing Plan(s) (if of anything other than pre-engineered structural items), review, check & calculate dimensional framing, check & size lumber beams, check LVLs, size dimension lumber joists & girders per code along with checking, noting & reporting to us their comments regarding our electronic architectural drawings with respect to structural items and overall stability, shear walls and structural connections & reviewing our Div. 2, 3, 4, 5, 6 specifications & making suggestions for structural improvement directly to us & coordinate with us to our satisfaction, & any other items structural engineer feels is prudent for the project, including wind loads + any seismic loads. This structural engineer is not responsible for factory-made pre-engineered trusses, as this type of truss and LVL beams are being engineered by the Contractor’s truss provider (who is solely responsible for those structural items).
12. **OUR ASSISTANCE WITH CONSULTANTS**: Although we may or may not assist the Client in obtaining or coordinating Client consultants, we will not be held liable for Consultant work or performance.
13. **COMMUNITY REQUIREMENTS**: Neighborhoods and various permitting authorities have height restrictions, deed restrictions, health department guidelines, architectural committees and other requirements. Although we will do our best to satisfy such requirements, we will not be held responsible for neighborhood committee acceptance or rejection of designs. We are not responsible for obtaining permits, including but not limited to: site, septic, well, building, or HOA (Home Owner Association). Your having a “septic permit” may not mean that your property is approved for a septic installation. You will likely have to pay others for professional soil testing & digging test pits to obtain a Septic Construction Permit from the Health Dept. (Department), before you have viable septic permission. You agree to provide us and your Surveyor with your septic construction permit so that your Surveyor can illustrate this information on the Survey (which we will use on our Site Plan). Our showing a possible planned septic area shall not constitute a guarantee that you will be allowed to place your septic in such location. Only the local Health Dept. can determine the specific location, size and type of your septic system. The Health Dept. will need to verify the suitability of any such indicated “possible” locations. If you have any septic or other utilities already installed, including future items, like septic repair areas (that have already been approved by the Health Dept.), you agree to have your Surveyor include those features on the survey that is provided to us.
14. **LOCAL PLANNING & BUILDING DEPT**: You agree to assist us, by verifying certain information about your project, such as, but not limited to: community requirements, planning department, health department and possibly some building department requirements, well & septic setbacks from buildings, wells, septic systems, roads & other requirements regarding building setbacks from property lines and each other, maximum heights of new buildings at certain distances from property lines & other requirements. You will verify information about your location & availability for electrical power service, phone service, water & sewer service & similar necessary information & share it with us, including the contact names, phone numbers, e-mails and physical mailing addresses for the jurisdictional authorities. When we request certain information about your property & send you an e-mail or other communication, you agree to assist us in documenting your project’s requirements. You will have your surveyor document requirements that can be illustrated on the Survey, such as, but not limited to: Building & vegetative Setbacks, Easements, certain tree sizes & other applicable items. We may directly contact any or all of the above entities to assist you in obtaining the above information and you agree that is acceptable.
15. **LIMITS OF LIABILITY**: (Limits of liability agreed to: initials: client 1:\_\_\_\_\_\_\_\_client 2:\_\_\_\_\_\_\_\_ us:\_\_\_\_\_\_\_\_\_\_\_).

You agree that our liability, whether arising in contract or tort in any way related to or arising out of this agreement is $25,000 or half of our paid invoices (not including reimbursables), whichever is less. This means: in the event of a dispute, if we choose to issue a payment to you (even though not an admission of any culpability), in the lesser of the values set forth above, there will be no possible action of any kind from you or other parties, including arbitration and all matters past, present, pending & future will be considered resolved permanently.

1. **YOU AND WE WAIVE CONSEQUENTIAL DAMAGES**: for claims & disputes & for insurance covered loss. You & we also agree that if any loss is covered by insurance, that each party waives all rights to subrogation to the extent of covered losses.
2. **SEVERABILITY**: if any legally binding entity finds any part of this agreement unenforceable, then all other parts of this agreement will remain enforced to the maximum extent permitted.
3. **CONSTRUCTION COST**: we are Not responsible for your desired construction cost. You understand and accept that your decisions about what you want and what your contractor decides to charge you determine the cost of your project. Although we may or may not share with you our opinions as to possible cost, you acknowledge that such opinions of ours do not guarantee or warrant that actual construction costs will be similar to such opinions, or within any range. We have found that people typically want more house and more features and higher quality than they usually want to pay to build them. It is likely that the prices you receive from builders will be higher than you would like them to be. Our job is to design what you ask us to design (along with our artistic & technical expertise) and you acknowledge that is the extent of our responsibility. In the event that we may or may not work with you to make changes to the design to address your budget concerns, we are Not responsible for ensuring that the design will meet your desired construction cost.
4. **TIME**: we will accomplish our activities within what we deem a reasonable time, based on our workload and the requirements of your project. We are not responsible for your length of review times of our work. Our work takes time to properly perform. Time is not of the essence for this paragraph of this agreement and you agree that we shall Not be liable to you for delays in completing our documents (or those of others) and our other activities for your project.
5. **RESPONSIBILITY FOR CONSTRUCTION**: Construction means & methods employed by or selected by your Contractor are not our responsibility. It is Not our responsibility to monitor or address onsite safety issues, as such responsibility is vested solely with your Contractor. Your Contractor is solely responsible for the proper construction of the project, consistent with our final Construction Documents, locally enforced laws, regulations, health department policies, Codes, State adopted Codes, Federal requirements, and consistent with the installation requirements of the manufacturers of the products installed by the Contractor into the project. You agree to hold us harmless, indemnify & defend us, from any losses, claims, causes or action or demands arising from the acts of your builder(s), including any claims made by you or 3rd parties that may be injured or die, before, during, or after construction, during occupation, or for any construction defects, however you will not be required to indemnify us for any damage caused by our sole negligence. You agree that you (or others acting on your behalf) will Not build, or attempt to build the project from incomplete documents that have our red NOT For Construction note on them, nor will you allow anyone to remove our Not For Construction note. Only we determine when our construction documents and other documents are complete. Our completed documents will bear a green “For Construction” note. (note: eliminate the “red” and “green” in the previous paragraph if your notes of this type are not in color)
6. **RISKS OF PROJECT OWNERSHIP**: you agree and understand that building & living in a project has risks. You accept those risks and agree to hold us harmless for: any injuries or death or other adverse result, involving anything in the built project, including but not limited to: accessing cabinets higher than 7’ above floor level, falls over steep terrain on the sides of driveways, home, stairs, or other site or built features, and that we are not liable for the constructed project in any way. You agree not to hold us responsible for maintenance on your built project. Wood rots, sealants fail, roofs can leak and a host of other situations can and do occur. You acknowledge this and you agree to properly maintain your project to prevent these from occurring & from continuing, including adding flashings, sealants, reroofing & other measures as fine-tuning to help maintain your project over the years, including periodic material, coating, system & component replacements, by means of your employing licensed Contractors to perform these maintenance activities.
7. **YOUR APPROVALS/CHANGES**: you accept that when you allow us to continue on to other drawings & activities of the project, that you are approving the work that has been accomplished prior to that date. For instance, when we send you an e-mail requesting your permission to allow us to proceed to prepare exterior building elevations, & you respond affirmatively, you are approving the Floor Plans & other work done to the point upon which the elevations depend. This is because elevations depend on the Floor Plans. Changes you request to the Floor Plans after this point, if we are on a fixed fee agreement with you, will be accomplished as an additional services hourly charge. This applies to any work item of ours that depends on previous work items being done that need to be adjusted prior to new work being done. If our services are hourly, you are welcome to request whatever legal changes you wish, whenever you wish, understanding that you are paying us to accomplish your requested changes & any other items affected by your requested change, as long as we agree that such changes are prudent and represent good design practice. If we have a fixed fee agreement with you, we will control the amount of changes you can make to our work within that fixed amount (typically none, meaning that any and all changes will be charged hourly). We will advise you if you are requesting something that we intend to charge you for as an additional service, & receive your written agreement (typically in the form of an e-mail from you indicating your acceptance) for that before we do such additional work. You are paying us (in any fixed fee arrangement) to design your project once. Should you want multiple optional arrangements or changes to designs, those will be accomplished at our hourly rate.
8. **ASSIGNMENT OF OUR CONTRACT TO ANY 3rd PARTY**: We do Not agree to have his work assigned to any 3rd party entity such as, but not limited to: a bank, surety, or other entity.
9. **REFUNDS**: there will be none. You understand that we are providing you with services (not physically built products) and that once a service is performed, it cannot be undone & that you agree to pay us for what we have done, in full, along with the initial payment. If you decide that there is something about our services that you do not like, you still agree to pay us for what we have done. We may or may not agree to modify whatever it is that you may not like, but that is solely our choice, particularly if this is a fixed fee agreement. If we are on an open-ended hourly basis with you, we will modify whatever you wish, as long as it is legal and complies with what we feel is good design practice.
10. **SOIL BORINGS**: we highly recommend that you have soil borings/investigation provided by State licensed geotechnical engineers with a scientific report analyzing such borings, revealing the nature & structural stability of the ground and bedrock under your proposed project, including recommendations for structure, foundations & other site stability features, such as grade stabilization, & send this to us & Structural Engineer immediately. Lack of information about your soils can have serious consequences for your project & we strongly recommend that you have your soil analyzed prior to any design & construction work. This analysis may or may not be required by local regulations & you are responsible for determining this & for providing this service. If you decide to have this analysis performed, provide us with the contact information of your soils engineer, in writing, before the soils professional quotes their fee to you. We will want to request certain features of the soils analysis. If not provided by you, your structural engineer & we will assume 2,000 psf bearing capacity and cohesive soils not subject to erosion by rainfall or other water or other elements moving over or underground. You agree that we are not responsible for the stabilization of your soils.
11. **EXISTING CONDITIONS**: we make no certifications or representations as to the stability, suitability, quality, code compliance, durability, healthiness, functionality, fitness or correctness of purpose or any other characteristic of existing buildings & grounds, including but not limited to: septic systems, soils, geology, forests, pavements, tanks, fencing, gates, locks, systems, drainage, structural elements, roofs, floors, walls, foundations, electrical, plumbing, HVAC (Heating Ventilating Air-Conditioning), doors, windows, appliances, sloping or level grades, boulder walls, retaining walls, or any other existing items you have that may or may not be involved with this new project. You agree that we shall be held harmless by you for existing conditions created by you, your workforce or by any other and/or previous 3rd parties & you agree to indemnify and defend us against any and all claims, whether raised by you or 3rd parties, in any way arising out of existing conditions (and other conditions created by others over which we have had no control in creating) associated with your project.
12. **USE OF OUR DOCUMENTS**: Our final, completed signed & sealed Construction Documents (CDs) are what you need to build the Architectural portions of your project. You agree to not attempt to build the project without these. Should you decide to stop our services prior to our completion of our CDs, you agree that no use will be made of our incomplete documents by you or others who may be involved with your project(s). You will also need your Structural Engineering and other items to permit & build this project.
13. **MISC**: this agreement is the entire understanding between you and us, unless modified in writing with our mutual handwritten signatures and signature date. This agreement shall not be deemed to create any contractual relationship with any 3rd party. There shall be no 3rd party beneficiaries to this agreement. We are allowed to place a yard sign on the project property until completion of the construction (approx. 2’ x 3’ with our logo, name & contact information). Perfection is neither promised nor expected in our and other’s documents. We adhere to a professional standard of care (per Par. 1). You understand that our specifications indicate that you are to provide your own Builder’s Risk Insurance on your proposed home construction project (note: make sure that your specs or other project notes indicate the foregoing & following), covering such things (but not limited to): fire, theft, wind, earthquake, flood and other risks to your under-construction project. The Builder is being told that you are providing your own insurance in this regard (if you have us managing the Bidding for this project). We make no claims as to appraised value of this designed project(s), amount of money to be loaned, insurance value, project sales price or other valuations. We may photograph the site & home before, during & after construction and when occupied, inside & outside, and may use these images as we wish, copyright protected by us. We determine what & how information & things are included & illustrated on our documents, including the level of detail. See attached pages for Additional Conditions & Optional Services. You and we agree to Not disparage each other publically through social media or other publically displayed means, for any reason. Should you violate this, you agree to pay us for our efforts & those of our attorneys to have you remove such items. Nature of services is iterative: we create something, then edit it with your input until it is adjusted. Rarely is anything created that is perfect immediately. A “Not For Construction” notice will remain on our drawings/ sheets & until we are paid through CD completion, after you provide item(s) in par. 12, 13 & 15 to us, after our coordination with consultants, and after we have determined that other issues we believe are important have been resolved. You agree that we are Not responsible for changes made by others after the issue date of our documents and for changes made by others who did not coordinate those changes with us, including construction changes made without our involvement.
14. AGREEMENT: signatures immediately below indicate agreement with all of the above, previous and following ArCH-AOA-2015 provisions:

X\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ X\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ X\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Client 1print name: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Client 2print name:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** (your firm name here-you sign

above)

**ADDITIONAL CONDITIONS and OPTIONAL SERVICES** (even though some or all of the following optional services may not be selected by you and you will owe nothing for them if they are not selected by you, the conditions in each paragraph below and on the following pages still apply to and are part of this entire agreement). **You are agreeing for us to perform each additional service where you initial the boxes to the left of each option:**

1. **OPTIONAL BIDDING SERVICES & CONTRACTOR PRICING UNDERSTANDINGS**: We recommend that you have us perform this additional service for you. Bidding is Not part of Basic Services. You are paying us for our services, if you decide to have us bid out this project for you. You are not paying us for the results of our services. We do not guarantee any particular result from bidders, whether we are bidding the project for you or not. We do not control what Contractors decide to do: if you decide to have us provide Bidding Services, our services do not guarantee that contractors will submit proposals or that any prices from any contractors will reflect numbers that you will find acceptable or that such proposals will reflect our documents. Our bidding services primarily have to do with trying to find interested bidders by means of Internet research, phone calls, distribution of our documents (typically electronically) to interested bidders, answering contractor questions, creating & distributing addenda as we deem necessary, & reviewing proposals, if any. If you are not satisfied with contractor bids (or lack thereof), you may request us to rebid the project, understanding that you will pay us for this repeat service, if requested by you in writing. You understand & agree that we are not responsible for the results of the bidding. We are not responsible for finding and securing bidders for your project, nor do we promise that you will. We make no representations, warrantees or guarantees that there are qualified interested Contractors local to your project that are willing to undertake this project and that are used to dealing with technical documents of the sort we produce. We do not control the resources or manpower available in any particular area. You may possibly find it necessary to engage a more commercially oriented contractor from a more metropolitan area that is more used to working with technical documents. If you decide to bid this project without our assistance, the above possibilities still exist. You understand this paragraph & agree to hold us harmless for any lack of Contractor interest in your project, or for Contractors’ possible unresponsiveness to requested procedures in our documents, for bid amounts that you find unacceptable, for contractor’s suggestions as to other materials or ways of doing things that differ from our documents, or for any reason relating to bidding and contractor’s preferences. You understand that some contractors may find our documents as having more detail than they are accustomed to seeing. You understand that we typically provide specifications and we also often use a numbered notation system (note: coordinate this with your practice) and some contractors not used to working with detail-oriented Architects may not be used to these. You agree not to take any action against us for contractors’ comments and actions (or lack thereof) regarding our methods, documents, specifications, notes and other procedures. You have read and understand “How to Read an Architect’s Drawings” article at this link online on the internet: <http://www.homearchitects.com/main-menu/firm-info-history-biography/how-to-read-an-architects-drawings> (note: you may wish to copy & paste that online article onto your own website & edit it to reflect your practice, with ArCH’s and Home Architects’ permission (which is hereby granted to you), which means you will need to update that URL). We include what we believe is professionally prudent, which may exceed minimum code. You understand that Minimum Code does not necessarily make a good project. You may ask a contractor if he can reduce the cost of your project, after you see the bids. Undoubtedly, your contractor will be able to suggest degrading the quality of several items to reduce your cost and may even suggest having the project documents redrawn to reflect his cost cutting/ degradation efforts. He and others may say: “this is the way we’ve always done it,” or similar comments. This is because some builders may be used to building lower quality projects for a broader range of clients who typically may not engage architects & engineers for their design, or who do not care what lies hidden behind the walls, under the floors and ceilings of their projects, that is, until there is a problem. Some of these projects may look acceptable when they are new, however, what is concealed underground, in the walls, in the connections and other areas can be where there are cheaper elements that can make these projects weaker, more prone to leak, less energy efficient and can have materials that need replacing more frequently, require more maintenance and can even be destroyed in certain conditions. While such degradation of the quality of the project will certainly cut costs, we do not feel it is prudent to degrade the ability of your project to deal with such elements. We will consider substitutions if you or the contractor pay us our hourly rate (see Par. 7) for the additional service of Substitution Analysis. We will not degrade the quality of our documents that we do not consider prudent and not in accord with your health, safety & welfare. Any changes you request that we make to our documents will be at our hourly rate in par. 7 and we will proceed with mutually agreed to, hand-signed changes (approved by you and us) after advance additional estimated payment for these changes is received from you to us. If you decide to accept any of the Contractor’s quality degrading suggestions without our written, dated & hand-signed consent, our design responsibility is nullified for such changes and related elements (which can include the entire project and grounds in our sole opinion). During Bidding, we may provide addenda as we deem necessary to further update and coordinate the documents; with technical content we solely determine is necessary. Not including analyzing substitutions, nor client-requested changes to our documents, our **Fee for the Bidding service at present is a flat fee of $\_\_\_\_\_\_\_\_.** (🡨enter the amount you deem appropriate, or hourly) If not selected at time of contract signing, this service may be charged at a higher rate later, if Client decides to add this service at a later date. This is to be paid for in advance, just prior to the service starting.
2. **OPTIONAL CONSTRUCTION ADMINISTRATION (CA)**: we highly recommend that you have us perform this additional service for you. While it is not typically required by building departments, having your architect periodically observe the in-progress construction and review and approve Contractor submittals, including pay requests, monitoring changes, shop drawings and the like, is one of the few methods you will have available to you for an impartial professional review of your project, which is likely to cost you hundreds of thousands of dollars, or more. Having your design professional(s) involved during construction can assist you in understanding that your project is being built in general conformance to project documents. If you have us periodically visit the under-construction project, we will note easily observable non-conforming items seen by us on our construction site visit reports, if those items are conveniently visible when we observe your project. CA services are Not part of Basic Services and must be requested by you in writing (a dated e-mail is acceptable, with our confirmation back to you, confirming the date). We will document with you what specific CA services we will be performing and when in writing, should you decide to have us perform some of these optional additional services. We are Not responsible for what the Contractor builds; we do Not control the Contractor, nor are we responsible for finding and determining all instances of non-conforming construction. **Fee for these services will be at our standard hourly rate** per paragraph 7(plus reimbursable costs associated with our CA services). Services during CA will be outlined in writing by us in an e-mail and sent to you for your approval prior to any CA services being rendered. (🡨 make sure that you do this) We determine extent of CA services. Note: your GC (General Contractor) will be having shop drawings prepared for various detailed items and the cost of such shop drawings will no doubt be passed along to you, along with the other GC costs. **Should you wish us to provide any CA, you agree to pay us in advance, a minimum of a non-refundable $\_\_\_\_\_** (🡨fill in amount for a minimum) **prior to us beginning any CA** (if your project is within 50 miles of our location, otherwise this amount will be more). We will apply this amount to our time and expenses, until that amount is used, then we will request additional CA funding in such amounts as we deem appropriate to cover a portion of foreseen future CA costs, should you wish to have us continue CA services.

If you do NOT have us perform CA in amounts we deem advisable: You assume all responsibility for issues arising out of the construction phase, including, without limitation: the interpretation of the construction documents (and all contract documents) and construction observation. You waive any and all claims against us and you agree to defend, indemnify and hold us harmless from any and all claims, liabilities, damages, demands or costs, including reasonable attorney’s fees, arising out of or in any way connected with the performance of CA by any others.

1. **OPTIONAL ELECTRICAL SCHEMATICS**: we recommend that you engage us to provide this service. It is Not typically required by building departments (and even if it is, we will charge you additional for this service, as it is Not included in our Basic Services). Confusion can result when you try to communicate what you want & where you want it to an electrician in the field during a brief walk through the rough-framed house. There are hundreds of items to be considered. This is not engineering, but rather: location of items. Our services include: Electrical Legend Sheet, and schematic Electrical Floor Plan of each level of your proposed home & garage, indicating electrical receptacle locations, light switches, built-in lighting locations in plan view, ceiling fans, bathroom & kitchen exhaust fan locations, assumed appliance connections (subject to contractor’s verification of appliances you choose), TV outlets, computer outlets, main & secondary electrical panels assumed (size and loads to be engineered by Electrical subcontractor), Technology panel assumed location, any heated floors, outdoor lighting attached to the house. You may elect to not have some of these features. **Fixed fee for this service is presently $\_\_\_\_\_**. (🡨 enter amount, or hourly) If not selected at time of contract signing, this service may be increased later, if Client decides to add later. This is to be paid for in advance, just prior to this service starting. We recommend that if you have us create your electrical schematics that you also have us create your Cabinetry Elevations, as the two services are closely related.
2. **OPTIONAL CABINETRY ELEVATIONS**: if we perform the Electrical schematic service, we suggest that you also have us perform this service. The two are closely related. For instance, when drawing the wall elevations of the cabinets, we will also indicate the switches and outlets and visible task lighting above and below the cabinets & indicate appliance connections, if we have done the electrical schematics. Cabinetry drawings are Not included in our Basic Services. **Fixed fee for this service is presently $\_\_\_\_\_**. (🡨 enter amount, or hourly) If not selected at time of contract signing, this service may be increased later, if Client decides to add later. This is to be paid for in advance, just prior to this service starting.
3. **OPTIONAL INTERIOR DESIGN**: in our Basic Services, we are not detailing everything, especially interior items which may involve enlarged elevations, details and enlarged plan & section views. Should you desire this, this will be charged at our hourly rate in par. 7.
4. **OPTIONAL 3D IMAGERY**: This is Not included in our Basic Services (with the exception of a single 3D static view of the project). We suggest that you consider this three-dimensional electronic rendering service. These services can greatly assist your ability to understand the design, as well as assist the bidding contractors to understand the project. Contractors often bid higher when they do not completely understand something and having 3D imagery all but eliminates geometric questions from builders about how things fit together.
   1. BASIC 3D PACKAGE: (modify or eliminate below to suit your practice)
      1. Includes 1 additional still electronic computerized JPG image renderings of Exterior of the proposed house, each view from a different corner, looking at the front from an angle and probably looking at the rear from an angle. We will choose the angles we feel best depicts your project and we will choose colors we feel best work for your project for the renderings. We will control amount of detail. As we pay a one-time charge and you are being charged a one-time fee for this service, you will not be able to modify the renderings unless you pay extra to us so that we can pay technicians more to modify their initial work, such additional amount(s) to be determined by the nature of your requests for any changes. Payments for 3D services will be in advance.
      2. Includes one 360 degree electronic computerized MOV (or other file type determined solely by us) animation moving around the Exterior of the house, from 10 seconds to 30 seconds long (we determine length). The same conditions regarding changes for the still renderings apply to this animation as well. You may need to purchase a Pro version of Quicktime for this MOV file to load on your computer. This movie will Not likely have things moving in the movie, like people or vehicles, unless you pay extra for this. All elements will likely be stationary, with the viewpoint of the viewer being what moves around the home, as we determine.
      3. **Fixed Fee for this Basic 3D Package: $\_\_\_\_\_** (🡨 enter amount, or hourly) paid in advance to us. This fee could increase prior to the services being performed. If this occurs, we will notify you prior to payment being requested.
      4. Time of service: this may take about a month or more, depending on complexity.
   2. INTERIOR 3D PACKAGE:
      1. Includes one electronic computerized MOV (or other file type determined by us) of 10 to 30 seconds (we determine length), moving through a portion of the Interior of the proposed house project. This may Not include interior views of all rooms and will Not include interior design services of interior treatments if you have not previously paid to us to design interior design elements. We will possibly select default generic furniture for animation purposes (not necessarily your furniture choices, unless you wish to pay extra).
      2. Includes 2 still electronic computerized JPG image renderings depicting 2 Interior scenes we feel best illustrates the character of the Interior.
      3. **Fixed Fee for this Interior 3D Package: $\_\_\_\_\_**(🡨 enter amount, or hourly) paid in advance to us. This fee could increase prior to the services being performed. If this occurs, we will notify you prior to requesting payment.
      4. Client changes requested to Interior 3D images has the same conditions as the Basic 3D package.
      5. Conditions regarding moving objects will be the same conditions as in the Basic 3D package.
   3. ADVANCED 3D PACKAGES:
      1. This will be on a customized quote basis, with us proposing prices for services you request, then obtaining your approval in writing & payment in advance, prior to services being performed.
5. **OPTIONAL RECORD DRAWING SERVICES**: In our Basic Services, we do Not include any existing documentation of existing conditions if this project involves any existing buildings or elements of any kind. If the client does not have accurate existing drawings of any existing homes or buildings or other features or elements, the client will need to obtain those Record Drawings from either a professional computerized drawing 3rd party, upon whose accuracy we will be allowed to rely, using the software that we require (per par. 10.) or you can pay us to take measurements in the field of such existing homes, portions of homes or buildings (if we decide to offer those services to you), then transfer such field notes to custom created Record Drawings by us. All such Record Drawing work on our part will be charged at our hourly rate in par. 7 (in addition to our Basic Services fees) and you agree to pay us for this service. You may activate this paragraph at any time before our design services begin, by the means of an e-mail, requesting this service or agreeing to it. **You will make an advance payment of $\_\_\_\_\_\_** (🡨 enter starting amount) to us prior to these services beginning, to be applied to the total for this work. It is expressly declared that any such Record Drawing documentation provided by us (Architect) is approximate & general and will Not precisely define where existing elements, components, walls, roofs, floors, windows, doors, driveways, paving, decks, beams, structure & other items may be located to any degree of precision. We are not Surveyors and do Not use lasers or other high-technology means to document existing conditions. We are limited primarily by our use of tape measures and what surfaces are conveniently available to position the start & stop points of the measuring tape. The tape can sag or be bent around obstructions encountered in the field, making measurement approximate and not precise. Therefore, we typically will have notes on our drawings indicating that the Record Drawings upon which new work depends is Not perfect and that the Contractor will need to field verify dimensions & locations in the field of existing & proposed improvements dependent on existing conditions. (🡨 make sure that you do this)
6. **OPTIONAL PROJECT MANAGEMENT (PM) SERVICES**: such as creating & monitoring project time schedules, cost estimating (for which we are not responsible), coordination between your consultants or helping you obtain consultants, color- finish- fixture- appliance selections/purchasing, and misc. services not covered in other services. These will be paid by you to us at our hourly rate in par. 7, beginning with **an advance payment of $\_\_\_\_\_** (🡨 enter starting amount) applied to these services, when such services are begun. We will document which PM services we are providing in writing.
7. **OPTIONAL VALUE-ENGINEERING SERVICES**: it is highly likely that your project, like many projects, will have a Contractor proposed price that will be higher than you will want to pay to build your project. This is normal. You are agreeing to this understanding. What usually occurs next is a Value Engineering process often involving the Architect, Engineer(s), Contractor, and in the end, you. This is where Contractor, Engineer & Architect make suggestions to reduce the construction cost, with the Contractor deciding what reduced amount he/she would be willing to build the project for, subject to the cost-cutting items with which you agree. We can spearhead this process, if you desire. It will be based on our hourly rate in par. 7. There will be **an advance payment of $\_\_\_\_\_** (🡨 enter starting amount) to begin this process, if you would like us to perform these services for you, in an effort to assist you and your Contractor to reduce costs to build your project. These services are Not included in our Basic Services and there is a charge to perform them. You understand and agree that we are not responsible for whatever cost your Contractor decides to charge you to build your project.
8. **OPTIONAL CHANGES/CONFORMED DOCUMENTS**: Should we assist you by providing the optional Value Engineering services, or not, and a reduced price to build your project is offered to you by the Contractor and the Contractor and you desire to have our documents changed to reflect the changes necessary to reduce the project cost, you agree to pay us to produce those modified documents at our hourly rate in par. 7. To begin work on this task, you agree to pay us **an initial sum of $\_\_\_\_\_** (🡨 enter initial amount) to begin this work, with the total amount being our hourly rate x the hours we expend in making the changes. You agree and understand that you will need to pay us an additional amount to make these changes, and that these changes are Not part of our Basic Services.

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1. **PROJECT ROLES:** In the event that this project is located in a place where we do not believe it is realistically possible to obtain architectural licensure in a reasonable amount of time (and if we believe architectural licensure for this project is required or wise), you agree that our project role will become that of Project Designer & Project Manager, and that we will engage another Architectural firm that is licensed in the location of the project, who will act in the role of AOR (Architect Of Record). This paragraph is not an option for you. It is our option, which we will exercise when and if we deem it necessary, as we will likely do in the State of California (delete CA if you are licensed there) in the USA, and elsewhere we deem it prudent. In this event, the AOR will be legally responsible for the project by the AHJ (Authority Having Jurisdiction). We will divide the various project duties with the AOR as we and the AOR deem appropriate. Your agreement will remain with us. We will invoice you for all charges from the AOR, at a rate of their actual invoices + \_\_\_% (🡨 adjust % to reflect your markup), + our own billing per this agreement. Any phrasing in this agreement referencing “Architect” may be applied to us as the Project Designer & Project Manager and/or applied to the AOR, with us retaining all controlling aspects of the agreement(s), as we are the entity with whom you are signing this agreement. In the event we deem it appropriate to make a change in the AOR, we, as your Project Manager will do so.

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**Client Contact Information**:

Client 1: printed name:\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** Client 1 cell phone:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Client 2 printed name:\_\_ **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** Client 2 cell phone:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Client main home phone(s):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Client main office phone(s):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Client1 e-mail(s):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Client 2 e-mail(s):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Client mailing address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Client physical address (if different from mailing address):\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**EXHIBIT A:** (adjust below to reflect a brief description of the important aspects of this project)

Client(s) has indicated that the Architect is to design a new 3bedroom/3.5 bath house on their property, with such features as will be Programmed.

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THE FOLLOWING ARE NOTES REGARDING YOUR USE OF THIS FORM:

YOU ARE AGREEING TO THE FOLLOWING AS A CONDITION OF USING THIS FORM:

A. NOT A CONTRACT UNTIL…:

This form is NOT a contract until you and your Attorney review, edit and adjust it to suit the location of this project. This is the most important issue. Various states have different requirements about how certain clauses are phrased, where they may be located in an agreement and whether or not there must be additional signature lines next to certain critical clauses, as determined by each state. We hoped to create, along with the Attorneys helping us during the last several years, an Architect-Owner Agreement form that would work in all 50 States, but that is a moving target: laws are constantly changing in every state. That is why there are Lawyers: it is their job to protect you and provide counsel regarding modifications to insure that whatever form of agreement you, as an Architect of residential projects uses, will be effective. However, some of ArCH’s members have used evolving versions of this form successfully in various states (not in all) during the last decade. No doubt there will be special circumstances in some states that may require more adjustments to this form than others. CONSULT AN ATTORNEY LICENSED IN THE STATE WHERE THE PROJECT IS LOCATED. Have them review the form of agreement after you have adjusted it to suit your practice and the project information. That will be some of the best money you will have invested in the project (your consulting Attorney). If you mainly practice in one state, it is suggested that you keep your Attorney informed about changes to your practice and that you have them review, edit and revise your adjusted form of this agreement, at least once a year (or more frequently, depending on your State legislature), to insure that any changes in State law affecting your practice are incorporated by you & your Attorney in this agreement.

B. WORDING CREATED AROUND RESIDENTIAL ARCHITECTURE PRACTICE:

The wordings suggested in this form have worked well for those Architects using this form to date. This does not mean that you may not have problems or other issues with your Client or the final form of your modified version of this agreement. Nothing is iron-clad. However, ArCH believes that if you compare this form against others, that you will find that you may prefer this agreement, as it is specifically adjusted by licensed Architects practicing residential design, along with periodic reviews by their legal counsel. Do NOT believe that you can use this form “out of the box”. You Must have a consulting Attorney(s) review and adjust it to suit the laws of the state where the project is located and for the state of venue.

C. INDEMNIFICATION:

By using this form, you hereby agree to protect, defend, and hold harmless ArCH: Architects Creating Homes, LLC (also called “ArCH”) and their officers, members, founders and other related ArCH parties, from any actions made by you or others under your direction or guidance. You are using this form at your own choice, as a point of beginning, which you agree to have reviewed, edited and revised by your Attorney(s) who is/are licensed in the state(s) of whatever projects you choose to engage yourself, and in the state of selected venue (near your location). Your Attorney will turn this form into the final Contract you will use. Without your Attorney’s guidance, this will remain a form, and not a legal instrument.

D. Fill out all blanks in this form, or revise to suit your practice.

E. Delete all RED items before printing the using the agreement, after you have filled out and adjusted the agreement to suit your practice and your project, after having your Attorney(s) provide their advice to you.

F. VENUE:

1. You will need at least one Attorney if your venue is the same state as the state of the project.

2. You will need two Attorneys if your state of venue is different than the state location of the project.

3. It is suggested that you indicate your venue location as the street address of your local Attorney’s office that has his/her office closest to your physical location of your office/home.

a. This is so that if you ever have a dispute, that your inconvenience, is minimized, as well as your legal expense, if the agreement is honored by all parties. Most residential Architects do not have the financial means to travel all over the USA for unpaid disputes, so this is a crucial matter.

b. It is suggested that you simply indicate the address of the venue. Venue in this context = physical location for any proceedings.

4. Our counsel to date believes that Binding Arbitration through the AAA procedures allows for the “forum selection” naming the venue as an approved method of indicating the location of any proceedings. As long as all parties agree to this forum location (venue) in the agreement, this should be an enforceable provision. However, this is not guaranteed.

5. In a dispute, it is certainly possible that one of the parties to this agreement could challenge the Dispute Resolution Process (arbitration) along with the venue location provision, however, this is an issue which should be contested by you, if this occurs, as the AAA rules, as part of this agreement, should allow enforcement of both the arbitration & the venue provision. Nothing involving a legal dispute is guaranteed, and judges, arbitrators and juries do things that mystify Attorneys every day. So, it is not known if this arbitration & venue provision could be successfully challenged. However, see the Recoverable Costs paragraph 3., which allows you to be compensated for any efforts you make defending your position of the original Arbitration and venue selection dispute resolution process. In other words, it may be that a state of a physical project location may hold up both the Arbitration and its AAA venue forum agreement, in which case, any expenses you have made, according to the present agreement wording, would allow you to recoup those costs to require the challenging party to pay you for your costs. Knowing this, and the possibly likelihood of a state supporting the AAA Arbitration & venue forum clause, the psychology of another party initiating such a challenge may be less likely to occur. That is the rationale. Once again, the law is a malleable thing, and different legal minds interpret issues differently. So while there is no guarantee that these clauses will be enforced, there is certainly greater likelihood of them being beneficial, than if they did not exist, once all parties agree to them.

6. Modifications: It is suggested that you Not sign an agreement where all the parties do not agree to paragraphs 1, 2, & 3. Those are deal-breakers in ArCH’s opinion.

G. MODIFICATIONS:

As a matter of fact, it is suggested that no one be given the idea that any of the clauses are modifiable, but rather that this is the standard form of agreement (which it is), and that this is how you conduct your business. Other ArCH members are using this. It is being approved and signed by other parties. The entire agreement is an inter-linked series of paragraphs that depend on each other, so do not take modifying this agreement lightly.

H. DISPUTE RESOLUTION PROCESS INDICATED ON THIS FORM:

This is near the top of Page 1, because our counsel indicated that in some states, in order to be recognized and enforceable, it needed to be located there, especially when involving Binding Arbitration. Whether or not it needs to be there in your State of the project (and of venue), remains to be seen, and is a matter for your Attorney(s) to review, verify and adjust, if necessary. Also: the initials of the signing parties needs to be next to the clause (in at least one state). What makes this so important: if you don’t have this clause in the correct location in the agreement and without the initial blanks where they are required to be by that state’s contract laws, it could be declared invalid, if one party wished to challenge it. You want binding arbitration and your declared venue forum location. Binding arbitration will resolve matters much more readily than legal court proceedings, and having matters resolved quickly is in everyone’s best interests and relieves an over-burdened justice system from having to deal with highly technical matters, with which it does not fare well.

I. LOCATION OF CLAUSES/ SIGNATURE BLANKS, INITIAL BLANKS:

It may be that the Dispute Resolution Process may be the primary clause that is required to be in a specific location on an agreement in particular states, however, your Attorney(s) should carefully review the entire agreement and make sure that any clauses that need to be in a certain location to be legal in that state should be moved to be where that state’s laws require them to be located. Furthermore, in at least one state where some of our ArCH members are practicing, there needs to be initial blanks for the parties signing the agreement, directly next to certain clauses, such as the Dispute Resolution paragraph. Therefore, your Attorney(s) should carefully review, edit and revise this as required, to be legal in the state(s) of project location and venue.

J. YOUR ATTORNEY(s):

Only engage a highly experienced Construction Contracts Lawyer in both your state and in the state of the project.

K. STATE OF THE PROJECT, YOUR STATE:

If you have a strictly local practice and are in the center of your state and never practice anywhere else, your life will be simpler. You will likely be able to hopefully depend on your one main local Attorney. However, if you have a nationwide practice, or a practice involving more than one state, you will need to consult with other Attorneys who are either located or licensed to practice in the locations of the projects, in addition to your local Attorney. See the red instruction paragraphs above to understand why. This is critical and should keep the agreement and the project moving smoothly.

L. MERCHANTABILITY:

ArCH does not warrant the usefulness of this form for any particular purpose. You will decide what use you may wish to make of it.

M. YOU ARE RESPONSIBLE FOR THE PURPOSE(s) USED:

By using this form, you are agreeing that ArCH, its members, founders, officers and other associated with ArCH have no responsibility for whatever use you make of this form.

N. YOUR PRACTICE:  
Modify the various clauses to reflect how you conduct your business. Fill in the blanks to reflect your charges, fees, percentages and other factors, as applicable, and heed the Red notes.

O. DELETE ALL RED NOTES:

Delete all the red notes before printing or sending or transmitting this form to anyone other than your Attorney(s).

As instructions regarding how to fill out this form, rather than the agreement itself, leaving the red notes in place will only confuse the agreement from its intended final form.

P. SOFTWARE:

This form is made available in MS Word. Intentions at this point are for versions 2003 and 2013.

It is intended that you be allowed to use and edit this agreement in this native software for your ease of use. There are no special software complications that you may have found in other agreements from other parties of this type. It is fully editable, as you and your counsel deem fit. Know that this allows you to damage the form and to remove inter-dependent clauses. It will be up to you and your counsel to familiarize yourselves with this form and for you to understand these inter-dependencies.

Q. CONSULTANTS:

Attorneys guiding practicing Architects that helped create this form have advised that Architects, particularly of residential projects have No consultants. Therefore, this form indicates this. There is legal thought that you can be held accountable for your consultants’ work, particularly of a structural nature. It is ArCH’s belief that any financial profit markups you might have enjoyed by running these services through your practice will be more than offset by the potential legal exposure of your being in direct privity with those consultants. This form still allows you to coordinate, however, you are suggested to require the Owner to directly contract with any consultants. This has not proved to be an issue with other ArCH members to date.

R. PROJECT CONSTRUCTION COST:

There is no end of the trouble Architects make for themselves by indicating what something might cost to build. Legal counsel to ArCH members recommends that Architects should not do this. Doing so can create significant problems for any Architects that make such comments or worse, put such indications in writing. Even very large architectural firms continue to generate tremendous disputes over such actions. Therefore, this form specifically indicates that you do not make any promises regarding this. You are not a licensed General Contractor, nor a professional Cost Estimator. Should the Owner want an indication of cost, you might suggest that they engage a professional Cost Estimator or Contractor to render this service. Do not, under any circumstances make predictions as to possible construction costs to build their project. You are the Architect: you design, specify and detail. Firms much larger than yours have thought that they could estimate project costs and have failed, terribly. Don’t make that mistake.

S. LIMITS OF LIABILITY:  
This is one of the most important clauses in the entire agreement. It limits what you might have to pay to resolve a potential dispute. Study it carefully. While any opponent in any dispute can try to challenge any agreement clause, contract law tends to support the agreement signed by all parties prior to beginning of the work. In other words, do not allow anyone to revise this, unless your Attorney indicates that you need to do so for it to remain legal in the state of the project and your state of declared venue. Case law is something that can test just about any provision, however, the Attorney of one of the ArCH members, instrumental in this clause, indicated that his courtroom litigation experience tended to support the wording.

T. RESPONSIBILITY FOR CONSTRUCTION:

You are the Architect, not the Builder. You provide professional services, the Contractor provides the physical product: the house. Do nothing to modify this provision, other than technical elements that your Attorney(s) might require to remain legal in the states involved with this project.

U. OTHER CLAUSES:  
These are self-explanatory. Read them and understand them. This agreement was created to result in a fair arrangement for all parties, understanding that a residential Architect quite often has a limited profit margin that requires that his business be conducted in a prudent manner.

V. ADDITIONAL SERVICES:

Do not allow anyone to remove these from the agreement. Even though the Owner owes nothing for them and you do not have to perform them unless the Owner requests them, these provisions still apply to the project. DO NOT REMOVE THEM UNDER ANY CIRCUMSTANCES.

W. INITIAL BLANKS, SIGNATURE BLANKS:

Your Clients are requested to sign the agreement in the signature blanks, just prior to the Additional Conditions section, and to also initial ALL of the initial blanks wherever they exist throughout the agreement. The Client signing and initial blanks have been color coded for each of 2 possible clients (such as a man & wife), and to call attention to them. If anyone ever misses any of these, politely request that they fill them in. You do not have a complete agreement until they do so.

X. CONSTRUCTION ADMINISTRATION:

Review this carefully. You need to list in detail precisely what activities you are going to perform (if any). Do Not assume that your Client will understand what you intend. Spell it out, and how you will charge for what you do. Hourly is recommended. Do not make unscheduled, undocumented jobsite visits, gratis. That can result in unintended liability. Document each and every visit carefully, with digital photos as part of an official report.

Y. STANDARD OF CARE:  
You will notice that the ArCH-RASoC2014 (ArCH Residential Architecture Standards of Care, 2014 edition) is listed in paragraph 1. This is the basis by which your work will be judged. Make sure you are familiar with this residential architecture standard and conduct your practice by it. To our knowledge, this is the only nationwide residential architecture practice standard in the USA. This allows the Owner to have a 3rd party Architect in the venue of the project to review your work against this standard. While you may not like the sound of this, it is far better to have this publicized, worldwide published SoC (Standard of Care) for residential architectural practice than allowing others, who are not Architects, to invent their own. You may find this standard at the URL indicated in the form, which should be clickable. Hover your mouse over this URL and see if the link appears in an information block. You may need to Cntrl-Click the URL to call up the linked website page for the SoC.

Z. DATE OF AGREEMENT:

According to some Attorneys who write agreements for large companies, nationwide, the ArCH agreement uses the practice of indicating the Date of Agreement at the top of the form, on Page 1. This makes this a single, enforceable date, rather than when the parties signed the agreement (which can be on different dates). Make sure that the Date of Agreement is acceptable top your Client before sending the agreement to them.

AA. PROJECT LOCATION:  
Near the top of Page 1, you will notice both an address location and Latitude & Longitude. It is quite common for project sites to not have a 911 address before something is built on that property. If you do have a street address, use it. However, you may also want to indicate the Latitude & Longitude to remove any doubt as to the location of the project, particularly where no address exists.

BB. FORM OF AGREEMENT LENGTH:

It is highly recommended that you endeavor to keep this agreement as short as possible. It should be 8 pages when the red notes are removed. Print it out double-sided. That = 4 physical pages. This has as much to do with psychology as anything else, but making this any longer than necessary will not help reach agreement. In other words: avoid the temptation to reformat and provide lots of white space. That may make it look graphically more pleasant, but the sheer added size will become a possible issue. Also, do not shrink the font any more. It is 10 point. Any less and it could become more difficult to read.

CC. PROJECT ROLES, PAR. 42:

Delete this paragraph if you are licensed in the state of the project location (and of course, in your home state). However, if you are being asked to provide your services in a state where you know that it is highly unlikely that you will be able to obtain reciprocity (such as California), without retaking the entire ARE (Architectural Registration Exam) again, which would require an inordinate amount of your time to prepare for, then you will need to have a serious talk with your potential Client(s). About: the fact that you will probably not be able to function as a licensed Architect on their project, and that in order to participate in the design (if anything larger than the state laws regarding residential design for unlicensed individuals) that you will probably have to engage a partnership firm of a licensed Architect in that state to become the AOR (Architect of Record).

DD. EXHIBIT A:  
Often overlooked. Make sure that you indicate at least as much as indicated in this sample, and possibly more, possibly the rough HSF (Heated Square Foot) range and other unique aspects, but this is Not the Program.

EE. BIDDING/PRICING:  
You may find some wording here more of an informational and educational nature than contractual. That is intentional. This agreement seeks to educate and inform Clients as well as to state provisions. Clients that understand these thorny issues will be less likely to become controversial when such situations arise, particularly if stated in the agreement. You are hereby licensed to copy & paste and revise the “How to Read an Architect’s Drawings” online article to your own firm website as you deem fit. Be careful, as much of that correlates to this agreement and the ArCH-RASoC. Look at all of these documents before unilaterally changing any one of them. And look for the soon to be released Owner-Contractor Agreement (ArCH-OCA-2015) that will further coordinate these provisions. In other words, tread carefully making changes to any one of these forms.

FF. CLIENT CHANGES:  
Beware of making Client-demanded changes that you know can cause performance problems. Even though it might seem politically expedient to do whatever the Client says, you have a paragraph in this agreement that allows you to exercise your professional judgment. Making a change that results in future problems such as leaking, mold, structural issues and other negative situations can only come back to haunt you, so be careful of what you agree to do, if it contradicts what you know is the correct thing to do. In the end, adhering to good architectural practices will also be in your Client’s best interests and that of the public Health, Safety & Welfare.

GG. SURVEY, GEOTECHNICAL   
Make sure that you are the one to send a list of your requirements to the Surveyor and Soils Consultant before they quote a fee to the Client. ArCH will be publishing and making available related documents to assist you in this regard, on the ArCHstore, under ArCHforms. You may, however, already have your own list of requirements for such services. Why: because you will likely not receive the Survey or Geotechnical Report with all of the information you want if you don’t request it in writing, before those professionals quote their fees. And you don’t want to be responsible for them having to return to the jobsite and charging the Client more to obtain information that should have requested earlier.