

MASTER SERVICES AGREEMENT

This Master Services Agreement (this “Agreement”), is made and entered into as of the **Tuesday, August 25, 2020** by and between Paterson Habitat for Humanity, Inc. having its executive offices at 146 N 1st Street, Paterson NJ (hereinafter referred to as “PHFH”) and **Company name** having an office and place of business at **Company Address** (hereinafter referred to as “Company”).

In consideration of Company’s engagement under this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following terms and conditions:

Article 1 – Scope of Services; General Terms & Conditions

- 1.1 **The Service Services** (collectively, the “Services”) to be performed by Company, including deliverables to be provided to PHFH in connection therewith, as well as the location, timing, cost and payment schedule with respect to such Services shall be as mutually agreed upon by the parties in writing and set forth either in (a) an individual purchase order, (b) a statement of work, or (c) a release under a blanket purchase order ((a) – (c) hereinafter collectively and each individually referred to as, the “Authorization”). Each Authorization shall include the information as listed in **Exhibit A**, attached hereto and incorporated by reference herein. In the event of any inconsistency between any Authorization and this Agreement, the terms of this Agreement shall govern unless the Authorization specifically references a Section of this Agreement and expressly states that such Section is intended to be amended. Subject to the immediately preceding sentence, any terms or conditions included in an Authorization which conflict with this Agreement shall have no force or effect.
- 1.2 This Agreement is subject to PHFH’s General Terms and Conditions for Service Agreements attached hereto as **Exhibit B** and incorporated by reference herein (the “General T&Cs”). Any reference to “this Agreement” herein shall be understood as a simultaneous reference to the General T&Cs.
- 1.3 Anything to the contrary contained in this Agreement notwithstanding, Company acknowledges and agrees that this Agreement shall not be construed as limiting in any way PHFH’s rights to contract for any services with any other person or entity.
- 1.4 In no event shall this Agreement be construed as obligating PHFH to pay any amounts for Services performed under this Agreement, unless PHFH actually engages Company to perform such Services pursuant to this Agreement as evidenced by an Authorization. Company acknowledges and agrees that verbal authorization or instructions from PHFH to commence the Services shall not be sufficient and shall have no force or effect, and that any Services performed by Company prior to execution of this Agreement and a corresponding Authorization shall be at the sole risk and expense of Company.

Company Rep. Initial: _____

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Article 2 – Fee for Services; Cap; Third Party Invoices

- 2.1 In full consideration for performing the Services under this Agreement, PHFH shall pay Company the billing rates (including overtime billing rates) as specified in **Exhibit C**, which is attached hereto and incorporated herein.
- 2.2 Any Services to be performed on an overtime basis require PHFH’s specific prior written approval.
- 2.3 The total amount of all payments under all Authorizations in the aggregate for all Services to be performed during the Initial Term and any Renewal Term of this Agreement is hereinafter referred to as the “Cap”. In no event shall the Cap exceed an amount to be agreed upon in writing for each project without PHFH's prior written consent, which consent shall be solely in the form of an amendment to this Agreement executed on behalf of both parties, and then only to the extent set forth in such amendment. It shall be Company’s responsibility to maintain its records in such a manner as to insure that the above limitations are not exceeded. Regardless of the degree of completion of Company’s Services hereunder, Company shall inform PHFH as to the point in time when the Cap is, or will be, reached and Company shall cease performing any further Services after such point in time unless PHFH gives its written consent, in the form of an amendment as described above, to proceed.
- 2.4 The Cap includes any applicable state and/or local sales and/or use taxes, whether payable by Company or PHFH.
- 2.5 Should Company neglect or refuse to pay any bill incurred by Company in connection with the Services within thirty (30) days after payment for such bill is due, PHFH, after giving Company twenty-four (24) hours written notice of its intention to do so, shall have the right to pay such bill directly. Any such payment by PHFH may be set-off against any payment owed to Company by PHFH for Services under this Agreement.

Article 3 - Conduct of Company’s Services

Company acknowledges that PHFH is relying upon the expertise of Company and Company recognizes the relationship of trust and confidence established between it and PHFH by this Agreement. Company shall furnish its best professional skill and judgment and shall exercise maximum cooperation in furthering the best interests of PHFH.

Article 4 - Company’s Representations and Warranties; Defective Services

- 4.1 Company represents and warrants it is equipped, organized, and has the financial ability to perform the Services required pursuant to this Agreement.
- 4.2 Company covenants, represents and warrants that all Services performed by Company pursuant to this Agreement will meet or exceed the standards and requirements of PHFH set forth in this Agreement or any Authorization. Company further covenants and warrants that all of the Services performed hereunder by Company will be performed in a good and workmanlike manner and will be fit for the purposes intended.

Company Rep. Initial: _____

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4.3 In the event any of the Services performed by Company hereunder is found by PHFH to be inadequate or fails to meet PHFH's standards or requirements as set forth in each Authorization, or is unfit for the purposes intended, then Company shall, upon receipt of written notice from PHFH and without charge to PHFH, correct all such Services.

Article 5 – Changes to an Authorization

PHFH may, from time to time, with Company's approval (evidenced by a written amendment to the relevant Authorization), which approval shall not unreasonably be withheld, conditioned or delayed, make written changes to the scope of the Services under any Authorization, and the provisions of this Agreement shall be applicable to all such changes. Article 2 shall apply to the compensation of Company by PHFH for such additional Services.

Article 6 – Term

This Agreement shall commence on **Tuesday, August 25, 2020** and, unless earlier terminated as provided herein, shall remain in full force and effect until the later of (a) expiration of the end date of Services set forth therein, or (b) completion of the Services under such Authorization (the "Initial Term"). Thereafter it shall renew only upon written notice given by PHFH in the form of an Amendment to this document or an Authorization for a new project (a "Renewal Term"), unless either party terminates this Agreement upon at least ninety (90) days prior written notice to the other party effective to the end of the Initial Term or any of the Renewal Terms, or is terminated earlier in accordance with Sections 3 or 4 of the General T&Cs. Each Authorization shall be effective as of the start date of Services set forth therein and shall remain in force and effect until the later of (a) expiration of the end date of Services set forth therein, or (b) completion of the Services under such Authorization, unless terminated earlier in accordance with Sections 3 or 4 of the General T&Cs.

Article 7 - Schedule

TIME IS OF THE ESSENCE in the performance of Company's Services hereunder and Company agrees to use its best efforts to complete the performance of the Services hereunder as directed by PHFH in such timely manner as will serve the best interests of PHFH.

Company Rep. Initial: _____

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Article 8 – Notices

All notices required or desired to be sent to either party shall be in writing and sent by first class mail, postage prepaid, by next-day courier or by facsimile, to the attention of the person identified below, at the address shown below or to the facsimile number shown below. Either party may change such address or facsimile number by written notice to the other party. Notice shall be effective on the fifth (5th) business day after mailing, on the first (1st) day after the date of sending via next-day courier, or on the date of the transmission if sent by facsimile (provided that notice shall be effective on the first (1st) business day following the date of transmission if transmission is effected on a non-business day).

Company: Company name
 Attn: name of rep.
 Company Address
 company email
 Telephone: Phone number
 Facsimile: Fax number

PHFH: Paterson Habitat for Humanity, Inc.
 Attn: Scott Millard
 146 N. 1st Street
 Paterson, New Jersey 07509
 Telephone: (973) 595-6868
 Facsimile: (973) 595-0974

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

PATERSON HABITAT FOR HUMANITY, INC.

COMPANY

By: _____

By: _____

Name: Scott Millard
Title: CEO

Name: name of rep.
Title: Owner/rep

By: _____

Name: _____

Title: _____

Company Rep. Initial: _____

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EXHIBIT A

AUTHORIZATION

Page 1 of 2

1. This Exhibit A is hereby made a part of that certain Master Services Agreement dated Tuesday, August 25, 2020 by and between Paterson Habitat for Humanity and Company name.
2. Detailed description and scope of Services as set forth in Page 2 of 2 of Exhibit A
3. For sites located at:
address of work site
4. All sub-contractors are required to attend on-site 'Kick off' meetings that are to assure cohesiveness amongst all vendor work.
5. Start Date of Services – TBD
6. End Date of Services – the later of (a) expiration of the end date of Services set forth in the Master Agreement, or (b) completion of the Services under this Master Services Agreement except that the Master Services Agreement may be terminated as more fully set forth in the agreement.
7. Company Personnel providing the Services – name of rep.
8. PHFH's and Company's Designated Representative – Rob Alvarado for PHFH and name of rep. for Company
9. Service Fees (total amount, based on billing rates in Exhibit C) – <Contract Value>
10. Deliverables and Service Requirements – As set forth in Page 2 of 2 of Exhibit A. The Services at the property must pass all applicable federal, state and local inspections.
11. Insurance (please check applicable box)
 - General Liability Insurance per Section 19. Of the General T&Cs: yes / no/ n/a
 - Worker Compensation per Section 19. Of the General T&Cs: yes / no/ n/a
 - Professional Liability Insurance per Section 19. Of the General T&Cs: yes / no/ n/a
 - Pollution Legal Liability Insurance per Section 19 of the General T&Cs: yes / no/ n/a
12. Special Provisions, if applicable N/A
13. Exceptions N/A

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EXHIBIT A

AUTHORIZATION

Page 2 of 2

Deliverables and Service Requirements

The scope of services for this contract is for each of the following new construction projects:

address of work site

Scope of Services for work at each location:

Scope of work

Company Rep. Initial: _____

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EXHIBIT B
**GENERAL TERMS AND CONDITIONS
FOR
MASTER SERVICES AGREEMENT**

These General Terms and Conditions apply in addition to the terms and conditions set forth in the specific Master Services Agreement (“the Agreement”) to which these General Terms and Conditions are attached and incorporated as an integral part of the Agreement. In case of any inconsistencies between these General Terms and Conditions and any terms and conditions of the Agreement, the terms and conditions of the Agreement shall prevail. Any capitalized terms set forth herein shall have the same meaning as provided in the Agreement, unless specifically defined otherwise in these General Terms and Conditions.

1. Affiliates.

- (a) Any Affiliate of PHFH may participate in the Agreement by executing an Authorization under the terms and conditions of the Agreement. Execution of an Authorization under the Agreement by an Affiliate shall constitute a legally binding agreement exclusively between Company and such Affiliate. As between Company and such Affiliate, Company shall be entitled to all of the same rights and be bound by all of the same obligations of Company under the Agreement in connection with such Authorization, and the Affiliate shall be entitled to all of the same rights and shall be bound by all of the same obligations as PHFH under the Agreement, except as those rights and obligations are modified in such Authorization.
- (b) For the purposes of the Agreement, “Affiliates” shall mean, with respect to a party, any person, corporation, firm, joint venture or other entity which, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such party.

2. Personnel.

- (a) Company shall provide only fully competent, experienced, and properly qualified personnel to perform the Services. PHFH shall have the right to approve all Company personnel prior to their commencement of work for PHFH.
- (b) PHFH reserves the right to bar from its premises any employee, officer, director, agent, representative, supervisor, successor, assignee, or subcontractor of the Company for any non-discriminatory cause that PHFH deems reasonable.

3. Termination for Convenience.

- (a) PHFH may terminate the Agreement or any Authorization at any time without cause or reason and without any further obligation or responsibility by providing not less than fourteen (14) days advance written notice thereof to Company. Termination of any Authorization will not terminate any other Authorization or the Agreement. Termination of the Agreement shall serve as termination of all Authorizations thereunder. PHFH shall have no liability to Company for any damages, including, but not limited to, lost overhead or profits or any other lost opportunity costs for terminating any or all Authorizations or the Agreement pursuant to this Section 3(a).
- (b) In the event of termination, Company shall provide to PHFH all Deliverables (as that term is defined in Section 9, below), whether finalized or in progress. PHFH shall be responsible for all authorized and undisputed charges and expenses accrued through the date of termination for all Services performed by Company in conformance with the Agreement.

4. Termination for Cause. Each party reserves the right to terminate the Agreement or any Authorization and all of its obligations and liabilities thereunder by written notice to the other party if:

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- (a) The other party breaches any of the terms or conditions thereof and fails to cure the same to the terminating party's reasonable satisfaction within five (5) days of the date of the terminating party's written notice specifying the nature of such breach;
- (b) The other party is adjudicated a bankrupt or if a petition under the Bankruptcy Act is filed by it;
- (c) A petition under the Bankruptcy Act is filed against the other party and is not vacated within thirty (30) days;
- (d) The other party makes an assignment for the benefit of its creditors;
- (e) A receiver of all or any portion of the other party's property is appointed; **or**
- (f) Any action under any law for the relief of debtors is taken by or with respect to the other party.

After receipt of a notice of termination by PHFH hereunder, Company shall immediately:

- (i) Stop work as directed in the termination notice, and
- (ii) Terminate all subcontracts to the extent that they relate to the Services terminated.

5. Intentionally omitted.

6. Invoices, Payment. Unless otherwise set forth in the Agreement, Company shall submit an invoice for the Services rendered, including expenses covered, to the address set forth in the notice provision of the Agreement or any Authorization. The terms of the Agreement shall prevail over any inconsistent statements or provisions contained in any bill, purchase order or other writing between the parties. PHFH shall remit payment within sixty (60) days of the date of PHFH's receipt of Company's invoice. In the event PHFH pays such invoice within fifteen (15) days of receipt, PHFH shall be entitled to deduct 2% from the total invoice.

7. Payment Disputes. No Acceptance by Payment.

- (a) PHFH may withhold any invoiced amounts that it disputes, in which case PHFH will so notify Company and the parties agree to work in good faith to resolve any such disputes. Furthermore, PHFH may withhold all or part of any amounts due Company in the event of:
 - (i) notice from Company's subcontractors or other third-party vendors of Company's failure to make proper payments to its subcontractors or other third-party vendors for Services;
 - (ii) failure of Company to perform and/or correct defective or unsatisfactory Services; **or**
 - (iii) Company's breach of the Agreement.
- (b) No payment for, or acceptance of, Services performed by Company or any subcontractor by PHFH shall be construed to be an acceptance of Services improperly performed, or performance not in accordance with the Agreement.

8. Taxes. PHFH is responsible for payment of any sales or use taxes imposed by any government body on the delivery of Services under the Agreement. Company assumes exclusive responsibility for filing reports and making payment of all other taxes or contributions required by law or regulation with respect to Services provided by Company, its subcontractors or their respective employees under the Agreement.

9. Ownership of Deliverables. Any deliverables or work product provided to PHFH as part of the Services hereunder, whether of a business or technical nature, and any writings, discoveries, inventions or improvements made or conceived during the course of, or resulting from, the

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Services provided hereunder (“Deliverables”) shall become PHFH’s property upon delivery and Company hereby assigns all rights, title and interest therein to PHFH.

10. Complete Compensation. Company agrees that the payments hereunder are full and complete compensation for all Services performed.

11. Independent Contractor.

- (a) Company shall perform the Agreement solely as an independent contractor and not as PHFH's agent, employee or representative. Nothing in the Agreement is intended or shall be construed to create or establish an agency, partnership or joint venture relationship between the parties hereto. Company has no authority to make any statement, representation or commitment of any kind or to take any action binding upon PHFH without PHFH's prior written authorization in each instance. Company, its Affiliates, subcontractors, or any of their respective employees, representatives or agents (the “**Company Parties**”) shall not be eligible to participate in, and Company, on its own behalf and on behalf of the Company Parties, waives any claims to any type of benefits offered to employees of PHFH or PHFH's Affiliates.
- (b) Company shall be the employer of all employees involved in the Services covered by the Agreement and Company acknowledges covenants, represents and warrants that PHFH is not an employer, co-employer or joint employer with Company with respect to said employees. Company shall be solely responsible for the regulation of all working conditions and labor/employment policies for all employees involved in the Services and PHFH shall not be responsible for, or involved with, Company’s hiring, firing, disciplinary practices, working conditions or Company’s labor/employment policies.
- (c) Company shall ensure that it and its subcontractors and their respective employees, representatives and agents adhere to PHFH’s standard policies and procedures as communicated by PHFH, do not engage in misconduct or other inappropriate behavior and shall take prompt and appropriate action to remedy any such improper conduct or other inappropriate behavior.

12. Subcontractors. Company shall not engage any subcontractor(s) to perform any portion of the Services hereunder without obtaining PHFH’s prior written consent. Upon PHFH’s request, Company shall supply PHFH with a list of all subcontractors utilized by Company under the Agreement. Notwithstanding any of the foregoing;

- (a) Company shall be solely responsible for activities performed by any subcontractor(s), and the use of a subcontractor shall not relieve Company of any of Company’s obligations hereunder;
- (b) Company, and not PHFH, shall be solely responsible for all withholdings, liabilities and contributions in respect of any such subcontractor(s);
- (c) Company shall exercise its best efforts to ensure that any contract it enters into with any third party in order to provide the Services required hereunder shall be assignable to PHFH at PHFH’s request.

13. Procurement of Materials and Services on behalf of PHFH. If Company is purchasing materials and Services on behalf of PHFH pursuant to the Agreement, Company shall exercise due care in selecting the suppliers from which such materials and/or Services are purchased, and shall use best efforts to obtain the lowest price for the desired materials and/or Services.

14. Books and Records. PHFH, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Company which are directly pertinent to this Agreement and the Services hereunder for the purposes of making audit and examination for three (3) years after final payment to the Company.

15. Company Representations. Company covenants, represents and warrants that:

- (a) Company has received all necessary approvals in connection with entering into the Agreement and performing the Services hereunder;
- (b) Company is and remains properly licensed and qualified to perform the Services, and agrees that
 - (i) it will maintain such licenses and qualifications and acquire any additional licenses and qualifications as may be thereafter required by law or otherwise,
 - (ii) and promptly notify PHFH, in writing, if any licenses required by law or otherwise are revoked or
- (c) Compliance with the terms of the Agreement and performance of the Services do not and will not breach or conflict with any other agreement or arrangement to which Company is a party;
- (d) compliance with the terms of the Agreement and performance of the Services does not and will not breach any agreement to keep in confidence proprietary information acquired in confidence or in trust; **and**
- (e) Any Deliverables will not infringe the intellectual property rights of any third party.

16. Compliance with Laws and Industry Guidelines.

- (a) PHFH and Company each agree that they shall comply with all applicable federal, state and local laws and regulations in performance of its respective obligations pursuant to the Agreement. This shall include but not be limited to the Company obtaining all necessary permits, inspections and approvals as required under any applicable federal, state and/or local laws and regulations. Without limiting the generality of the foregoing, Company shall comply with the following, which are hereby incorporated by reference and made a part of the Agreement as if fully set forth herein:
 - (i) the provisions of the Equal Opportunity Clause set forth in 41 CFR §60-1.4 pursuant to the requirements of Executive Order 11246;
 - (ii) applicable contractual requirements of the Rehabilitation Act of 1973 as set forth in 41 CFR §60-741.5;
 - (iii) any applicable contractual requirements of the Vietnam Era Veterans Readjustment Act of 1974 as set forth in 41 CFR §60-250.4;
 - (iv) the provisions of the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (23 CFR, Part 3);
 - (v) the provisions of sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by the Department of Labor regulations (29 CFR, Part 5);
 - (vi) the provisions of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women’s Business Enterprise) by using its best efforts to encourage the use of minority and women’s business enterprises in connection with Contract Work;
 - (vii) the provisions governing the Drug-Free Workplace Act of 1988 which is found in 24 CFR 24, subpart F (41 U.S.C. §701 et seq.);

- (viii) the provisions of the Occupational Safety and Health Act of 1970 (29 CFR) to ensure safe and healthful working conditions while performing the Services, and
 - (ix) any law, order or regulatory provision issued in supplement or replacement of the foregoing.
- (b) Company hereby represents and warrants that:
- (i) No federally appropriated funds have been paid or will be paid, by or on behalf of the Company, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee or Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (ii) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress in connection with this Agreement, the Company shall complete and submit Standard Form–LLL Disclosure Form to Report Lobbying, in accordance with its instructions.
 - (iii) The Company and its principals (as defined herein and further defined in 24 CFR 24.105(p)) hereby represent and warrant that they:
 - (A) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction (as such term is defined in 24 CFR 24.110) by any Federal department or agency; and
 - (B) have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and
 - (C) are not presently indicted for otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in (ii) of this section; **and**
 - (D) have not within a three year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.
- (c) “The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the Project area, and that contracts for work in connection with the Project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the Project is located.”

17. Indemnification.

- (a) In consideration for being retained by PHFH as an independent contractor pursuant to the Agreement, Company agrees that it shall be liable for, and shall indemnify, defend and hold harmless any and all of PHFH, its Affiliates, and their respective officers, directors, employees and agents (collectively, the “**PHFH Parties**”) from all liabilities, damages and expenses and claims for damages, suits, proceedings, recoveries, judgments, costs, losses, penalties, fines or executions (including, but not limited to, litigation costs and

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expenses and reasonable attorneys' fees, as well as such costs, fees and expenses as may be incurred by any indemnitee in establishing and enforcing its right to indemnification hereunder) arising from or related to:

- (i) The performance, non-performance or improper performance of Services under the Agreement by any or all of the Company Parties;
- (ii) The negligence or willful misconduct of, or misrepresentation by any or all of the Company Parties;
- (iii) Any breach of the Agreement by any or all of the Company Parties;
- (iv) The failure to comply with PHFH's instructions or directions by any or all of the Company Parties; or
- (v) any actual or claimed infringement of any United States or foreign patent, copyright, tradename or other intellectual property right with respect to the Services provided by Company hereunder,

including, but not limited to, claims arising from or related to personal injuries or death, or damages to or loss of property of any kind whatsoever, suffered by the PHFH Parties or any or all of the Company Parties and/or to the person or property of any other person or entity (the liabilities, damages, expenses, claims, suits, proceedings, recoveries, judgments, costs, losses, penalties, fines and executions referred to in this subparagraph (a) are hereafter collectively referred to as the "Claims").

- (b) In consideration for being retained by PHFH as an independent contractor hereunder, Company, on its own behalf and on behalf of the other Company Parties, hereby releases the PHFH Parties from, and agrees that each of the Company Parties shall waive and not assert any Claim other than those arising from any of the PHFH Parties' failure to pay the monies owed to Company, against any or all of the PHFH Parties, including, but not limited to, any and all claims for injuries of any kind suffered by any or all of the Company Parties.
- (c) Company understands and agrees that none of the PHFH Parties shall carry any insurance or otherwise provide for the protection of any of the Company Parties.
- (d) The indemnification obligations set forth in this Section 17 shall:
 - (i) extend to any and all Claims against any or all of the PHFH Parties by any employee of Company, including, but not limited to, any legal actions claiming any rights under any employee benefit program of PHFH, and
 - (ii) not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Company or under workers' compensation acts, disability benefit acts or other employee benefit acts.For purposes of this Section 17(d), the term "Company" shall be deemed to include Company's contractors and subcontractors or anyone directly or indirectly employed by Company or any such contractor or subcontractor, or by anyone for whose acts either Company or any such contractor or subcontractor may be liable.
- (e) Each party agrees to notify the other party promptly of any claim, including, but not limited to, any Claims arising under this Section 17.

18. Liens. Company agrees that it shall be liable for, and shall indemnify, defend and hold harmless any and all of the PHFH Parties from and against, any and all liens and claims on PHFH's property resulting from any Services performed by Company hereunder or upon any PHFH site or otherwise arising from or related to the performance of such Services by Company or any subcontractors. If at any time there shall be evidence of any such lien or claim for which PHFH or the said PHFH site might become liable, PHFH shall have the right to retain out of any payment then due or thereafter to become due under the Agreement, an amount sufficient to discharge such lien or claim. Should there prove to be any such lien or claim after all payments are made to Company hereunder, then Company shall pay to PHFH all monies that PHFH may be required to pay in discharging any such

lien or claim, including, but not limited to, all costs and expenses and reasonable attorneys' fees within thirty (30) days of the date of PHFH's invoice for the same.

19. Insurance.

- (a) Company agrees to maintain, at its sole cost and expense, during the Initial Term and any Renewal Term of the Agreement and for additional time periods as specified below insurance coverages in form and from insurers reasonably acceptable to PHFH. All policies shall contain a provision requiring the insurers to provide PHFH with at least thirty (30) days written notice of cancellation, termination or adverse material change in such insurance. No less than five (5) days prior to the effective date of the Agreement Company shall furnish PHFH with original certificates evidencing the above insurance. The certificates of insurance shall show the PHFH Parties as “certificate holder” and “additional insureds” using the specific wording indicated by PHFH and showing primary and non-contributory coverage. No later than the renewal date of any insurance policies required by the Agreement, Company shall supply PHFH with a new, original certificate of insurance in compliance with the terms of the Agreement.
- (b) Company shall not permit any subcontractor to enter upon the PHFH’s premises or perform Services for PHFH unless such subcontractor is and remains insured in accordance with the above requirements. Company shall indemnify, defend and hold the PHFH Parties harmless from and against the failure of any such subcontractor to be so insured.
- (c) Company hereby irrevocably and unconditionally waives all rights of subrogation for claims against the PHFH Parties.
- (d) PHFH shall not be liable for, nor have any obligation to insure against, any loss or damage to any of the Company Parties’ interest in the following property: job materials on or off the site, mobile equipment, machinery, tools or any other non-expendable items or personal property, all whether owned, leased, rented or in the care, custody or control of the referenced entities.

Losses or expenses not compensated for by the foregoing insurance, which are due to the negligence or fault of any of the Company Parties shall not be payable by PHFH.

20. Obligations of Company. The obligations of Company under the Agreement shall be in addition to and not in limitation of any obligation imposed on it by law.

21. Remedies. All rights and remedies of PHFH under the Agreement, or at law or in equity, shall be cumulative and not exclusive.

22. Force Majeure.

- (a) Any non-performance or delay in performance of any obligation of Company or PHFH under the Agreement will be excused to the extent such failure or non-performance is caused by “Force Majeure.” “Force Majeure” means any of the following causes beyond the reasonable control of the Company or PHFH and preventing performance of an obligation under the Agreement: fire, flood, sabotage, shipwreck, embargo, explosion, strike or other labor trouble, accident, riot, acts of a governmental authority, and acts of God. In no event shall Company’s ability to sell the Services (or services similar to the Services) to a third party at a better price constitute Force Majeure or an event of commercial impracticality.
- (b) If PHFH or Company is affected by Force Majeure, it will
 - (i) promptly provide written notice to the other party, explaining the full particulars and the expected duration of the Force Majeure and

Company Rep. Initial: _____

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(ii) use its commercially reasonable efforts to remedy the interruption or delay. In the event of Force Majeure, notwithstanding any other provision of the Agreement, PHFH will have the right to purchase the Services from other sources during the period of Force Majeure. If a Force Majeure extends for more than sixty (60) days, the Agreement may be terminated by PHFH upon written notice without any liability on its part.

(c) If a Force Majeure compels Company to allocate the provision of Services, Company will make such allocation in a manner that ensures PHFH at least the same proportion of the Company's total service capacity as was purchased by PHFH prior to the Force Majeure.

23. Entire Agreement. Amendments. This Agreement, including all executed Authorizations, constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties with respect to the subject matter of the Agreement. No alterations, amendments, changes or additions to the Agreement or any of the Authorizations will be binding upon either party unless reduced to writing and signed by both parties.

24. Waiver. Any failure or delay by PHFH at any time, or from time to time, to enforce any of the terms and conditions of the Agreement or any Authorization shall not constitute a waiver of said terms and conditions or any other terms and conditions hereof, and shall not affect or impair such terms and conditions in any way, or the right of PHFH at any time to avail itself of such remedies as it may have for any breach of such terms and conditions. No waiver by PHFH shall be effective unless in writing and signed by PHFH. Any single waiver shall not operate to waive subsequent or other defaults.

25. Assignment. Company shall not assign or transfer the Agreement, either in whole or in part and shall not delegate or subcontract any of the Services to be provided hereunder, whether by operation of law or otherwise. Any such purported transfer or assignment of rights or delegation of duties hereunder shall be of no force or effect.

26. Severability. If any provision of the Agreement is held invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of the Agreement or the validity or enforceability of the Agreement in any other jurisdiction, and the parties shall replace it in good faith by a valid and enforceable provision which most closely reflects the intent of the parties hereto.

27. Governing Law. The validity, interpretation, performance and enforcement of the Agreement shall be governed by the laws of the State of New Jersey without giving effect to its conflict of laws provisions.

28. Jurisdiction; Trial by Jury Waiver. COMPANY HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE LOCATION WHERE THE SERVICES ARE PROVIDED UNDER THIS AGREEMENT. NOTWITHSTANDING ANYTHING TO THE CONTRARY, AND REGARDLESS OF THE CLAIMS INVOLVED, EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ITS RIGHT TO A JURY TRIAL.

29. Survival. Any and all obligations of the parties under the Agreement, which by their nature would continue beyond the termination or expiration of the Agreement will survive termination or expiration of the Agreement.

Company Rep. Initial: _____

< Address >

30. Counterparts. The Agreement and any Authorization may be executed in multiple counterparts, each of which shall be deemed to be an original and of equal force and effect, but all of which taken together shall constitute one and the same instrument.

PATERSON HABITAT FOR HUMANITY, INC.

COMPANY

By: _____

By: _____

Name: Scott Millard
Title: CEO

Name: name of rep.
Title: Owner/rep

By: _____

Name: _____

Title: _____

Company Rep. Initial: _____

< Address >

EXHIBIT C

BILLING RATES AND SERVICE FEES

The following section is to set rates for services described in Exhibit A. Each service is to be ordered henceforth paid as needed & directed by PHFH management.

The total value of this agreement between PHFH and Company name, for Service Services, is **<Contract Value>**.

Payment Structure:

Payments are to be made in payments within 30 days upon receipt of qualified invoices and satisfactory completion of services outlined in Exhibit A, as inspected by PHFH representative.

Payment Schedule:

Enter payment here

Price breakdown per address:

The total value of this agreement is not to exceed **<Contract Value>** without prior written change order approval by PHFH management.

Company Rep. Initial: _____

< Address >