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CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT (this "Agreement") is made effective on the date upon which CONSTRUCTION AND HOSPITALITY SERVICES, LLC executes this Agreement ("Effective Date"), between the following parties:

"CHS": CONSTRUCTION AND HOSPITALITY SERVICES, LLC
3865 TOBY AVENUE
MALABAR, FL 32950
Phone: (321) 403-5367 ~ (321) 343-1246
Email: nick@chsbuild.com
Lic. No. CBC1264697

And the "Client": Space Coast Hospitality LLC
3881 NW Blitchton Road
Ocala, FL 34475
Phone: (941) 544-8326

Regarding the "Project": Days Inn
3811 NW Blitchton Road
Ocala, FL 34475

WHEREAS, Client desires to retain CHS to perform certain work and/or services at the Project, as more specifically described herein; and

WHEREAS, the parties desire to set forth the terms, conditions, and provisions by which they shall be bound in relation to CHS's performance of work and/or services at the Project on behalf of Client.

NOW, THEREFORE, subject to and in consideration of the mutual rights and obligations of the parties set forth hereinbelow, CHS and Client (also referred to herein individually as a "party", or collectively as the "parties") hereby agree as follows:

The above definitions and representations are affirmed and reincorporated throughout this entire Agreement.

1. Contract Documents; Performance of Work.

- a. The term "Contract Documents" as used in this Agreement refers to and means the following: (i). this Agreement and all exhibits, schedules, and other documents which are attached hereto or incorporated herein by reference; (ii). the Work (as defined below); (iii). the plans, drawings, specifications, Project Documents, and written modifications

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made thereto relating to the Project which are attached hereto or incorporated herein by reference; and (iv). any authorized Change Orders, modifications, or revisions made to this Agreement.

- b. By executing this Agreement, Client expressly acknowledges that Client has received, read, and has become fully familiar with all Contract Documents in existence as of the date thereof. Furthermore, Client expressly acknowledges that it has thoroughly investigated the Project and surrounding areas, and has determined that CHS's Work will not be hindered, delayed, frustrated, or prevented by any conditions, whether natural or manmade, present on or at the Project.
- c. CHS shall perform the Work (as defined below) in accordance with the provisions and requirements of the Contract Documents. However, to the extent there exists any inconsistency or conflict between any of the Contract Documents, CHS shall be expressly permitted to, in its sole and absolute discretion, defer to and follow the obligation (or enforce the right) which is most consistent with its standard business practices, as amended from time to time, and as determined in its sole and absolute discretion.
- d. Client payment of all or any portion of the Contract Amount (as defined below) shall constitute Client's unequivocal and absolute acceptance, certification, adoption, satisfaction, approval, and inspection of the portions of the Work for which payment is made.

2. Scope of CHS's Work.

- a. CHS shall perform its work and services (the "Work") in two (2) phases:
 - i. **Pre-Construction Phase** – CHS shall review and comment upon the Contract Documents (including the Project Drawings), and shall correspond with Design Professional to address any necessary revisions, clarifications, or additions. CHS shall also attempt to 'value engineer' the Project Drawings to take advantage of any efficiencies and cost-savings which may be available.
 - ii. **Construction Phase** – Upon CHS's receipt of approved Project Drawings by Client, as well as all other items, payments, permits, notices, or information required or requested by CHS in order to proceed, CHS shall perform the work and/or services set forth in its proposal, attached hereto and incorporated herein as Exhibit A.
- b. CHS shall, as part of the Contract Amount for the Work, and unless excluded in Exhibit A, furnish and provide all necessary supervision, management, labor, materials, tools, equipment, supplies, and services to perform and complete the Work in a good and workmanlike manner in accordance with both the Contract Documents (subject to its discretion reserved above).
- c. CHS shall perform its Work consistent with the plan/specifications prepared by N/A (the "Design Professional") with a project or identification number of N/A and a version/revision date of N/A (the "Project Drawings"), which Project Drawings are expressly incorporated herein by reference as part of the Contract Documents.

3. Contract Amount; Payment Terms. The "Contract Amount" consists of the following:

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- a. **Pre-Construction Phase** – CHS shall be compensated for its Work performed in the Pre-Construction Phase on an hourly basis in accordance with the rates set forth in Exhibit A (or, if no rates are set forth in Exhibit A, then in accordance with CHS's customary and usual hourly rates in effect at the time of performing work or rendering services). All costs, fees, and expenses incurred by CHS in the Pre-Construction Phase shall be reimbursed by Client together with its overhead and administration fee of Ten Percent (10%).
- b. **Construction Phase** – CHS shall be compensated for its Work performed in the Construction Phase via a lump sum of \$295,000, subject to the provisions of this Agreement. The foregoing lump sum represents all costs, fees, and expenses (exclusive of impact fees, zoning variance fees, or other related fees or things which are excluded herein) for all materials, services, supplies, labor, and equipment necessary to complete the Construction Phase in accordance with this Agreement, absent material changes to the Work, the Contract Documents, or the Project. CHS's Schedule of Values supporting the foregoing sum is attached hereto as Exhibit B.
- c. **Timing for Payment** – Payment of the Contract Amount associated with the Construction Phase shall be payable upon accomplishment of the following milestones, time being of the essence:

Milestone	Payment Amount
Execution of Agreement	30%
1 st Draw	50%
Substantial Completion	20%

- d. CHS may use its standard form of payment application or invoice to request payment of the above amounts. Client shall have five (5) days within which to review and approve each application for payment made by CHS. If Client rejects any application for payment, Client shall specifically set forth the grounds for such rejection, as well as Client's requested correction or adjustment to the application for payment. Client's rejection of a portion of an application for payment shall not relieve Client's obligation to pay for all other portions of that or other payment applications. Client's failure to reject any application for payment within the foregoing time period shall constitute its absolute and unequivocal acceptance thereof. Client shall make payment of the amount set forth in CHS's payment application within twenty (20) days of its receipt thereof. Time of the essence with regards to all of Client's obligations hereunder.
- e. With each progress payment, CHS shall submit a conditional lien release in the form prescribed by Section 713, *Florida Statutes* covering the Work performed during the applicable period. At the request of Client, CHS shall also obtain and provide conditional lien releases (on forms established by CHS) from subcontractors and vendors engaged to perform portions of the Work during the applicable period.
- f. Client shall be entitled to withhold retainage of Ten Percent (10%) on each application for payment made prior to the date upon which half of the Construction Phase of the Work is completed, as determined by CHS. Once half of the Construction Phase of the Work is completed, as determined by CHS, Client shall remit to CHS along with its next application for payment Fifty Percent (50%) of all retainage withheld to the date thereof. Thereafter, Client shall be entitled to withhold retainage of only Five Percent (5%) of all future applications for payment made by CHS. Alternatively, CHS may outline different retainage requirements in Exhibit "B" or in section 3(c).

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- g. Final payment of the Contract Amount, less retainage, shall be due upon the date of substantial completion, as determined by CHS.
- h. Within five (5) days of substantial completion, Client shall submit to CHS an initial punch list of items Client deems to be outstanding as part of the Work. Provided CHS has received the payment referenced in the section immediately above, CHS shall take steps to address those items contained in the Client's punch list which are its responsibility hereunder and, if certain items are not CHS's responsibility, shall identify such items to Client. Upon CHS's completion of the initial punch list (or appropriate portions thereof), CHS shall make its final application for payment for all retainage and other sums owed hereunder. Client's failure to supply a punch list within five (5) days of substantial completion shall be considered a waiver of any right of Client to insist upon further work by CHS, and shall constitute Client's absolute and unequivocal acceptance and certification that all Work has been completed. Final payment, inclusive of all retainage withheld, shall be due within ten (10) days after CHS's performance of its punch list work, or the date of substantial completion (if no punch list is timely given). In exchange for final payment, CHS shall provide Client conditional final lien releases for itself and from all subcontractors and vendors that have served notices to owner pursuant to Section 713.06, *Florida Statutes*. In addition, In the event any sums are outstanding pending resolution of a claim, CHS may furnish a partial conditional lien waiver and the parties will promptly endeavor to resolve any outstanding matters and closeout the Project.

4. **[Intentionally omitted]**.

5. **Commencement of Work.**

- a. CHS anticipates commencing mobilization of Construction Phase of the Work within 10 days of the last of the following to occur, as applicable:
- i. CHS has received the initial payment from Client required hereunder;
 - ii. CHS has received the permit(s) necessary for completion of the Work from the applicable building department having jurisdiction over the Project;
 - iii. CHS has received all necessary information, selections, and approvals from Client and other third parties from whom such items are required in order to commence and complete the Work (including final approval of the Project Documents);
 - iv. CHS has received from Client satisfactory proof of financing or funds sufficient to cover the anticipated Contract Amount, unless waived by CHS; and
 - v. Client has issued a 'notice to proceed' to CHS in written form satisfactory to CHS, if requested by CHS or required by Client.
- b. The parties understand and acknowledge that, given the uncertainties and variables inherent in the performance of the Work, CHS cannot guarantee or warrant the actual date of commencement or completion of the Work. As such, any date or time for commencement or completion of all or any portion of the Work given by CHS shall be

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considered to be a rough estimate only, and not a guarantee or warranty of the same. Client shall not rely upon any such estimate in taking action based on this Agreement.

- c. The Client shall not interfere with the Project site once the Construction Phase of the Work has begun. Client shall not take any action, nor shall the Client refrain from taking required action, which would prevent, delay, or impede the performance of any portion of the Work. Client shall provide advance written notice to CHS prior to entering upon the Project, and shall only do so while accompanied by an CHS representative.

6. Change Orders & Modifications.

- a. No change, deviation, or modification may be made to or from the Work, Contract Amount, Contract Documents, or other provision of this Agreement unless either: (i). expressly authorized by the provisions of this Agreement; or (ii). made in the form of a written document referencing this Agreement which authorizes the same and is signed by CHS (a "Change Order"). Neither the Client nor CHS has the authority to orally modify any portion of the Work, Contract Amount, Contract Documents, or other provision of this Agreement or any schedule, timeline, or critical path made incidental hereto. Any such purported oral modification is unenforceable and void *ab initio*.
- b. In the event that CHS submits a request for Change Order to Client, Client shall promptly review and respond to the same; but in no event less than three (3) business days from Client's receipt thereof. In the event Client rejects a request for a Change Order, Client shall specifically state the grounds therefor. In the event Client delays in responding to or approving a request for Change Order, or in the event Client wrongfully rejects a request for Change Order which CHS deems necessary, proper, or incidental to the Work, Client shall be responsible for all costs, fees, and expenses arising from or relating to such delay and/or rejection, together with an overhead and administrative fee of Fifteen Percent (15%) thereon. The foregoing is in addition to, and not to the exclusion of any other rights or remedies of CHS.
- c. CHS shall not be responsible for a directive or substitution to the Work or the Project made without CHS's prior written approval. The performance of CHS's Work is contingent upon the timely provision of, and Client hereby covenants to timely provide all information, selections, and approvals by Client to CHS (including materials, colors, specifications, and designs) which are necessary or incidental to the Work, and Client shall promptly pay all fees and costs for which it is responsible (including, but not limited to impact fees and revision fees). Client's failure to promptly perform any of the foregoing obligations shall excuse CHS's further performance of any obligations hereunder until corrective measures are taken by Client as appropriate.
- d. Notwithstanding any other provision of this Agreement to the contrary, and regardless of the Contract Amount option selected, in no event shall CHS be required to pay for any impact fees, zoning fees, variance fees, or any other cost, fee, or expense arising from or relating to the Client's use, ownership, or occupancy of the Project.

7. Cleaning Up; Access to Project Site.

- a. CHS shall employ reasonable efforts to keep the portion of the Project on which the Construction Phase of its Work is performed free from accumulation of waste materials or rubbish caused or occasioned by the Work. Upon completion of the Work, CHS shall remove all of its waste materials, rubbish, tools, equipment, personnel, machinery, all

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other items or things used in performance of the Work, and all surplus materials which have not been incorporated into the Work.

- b. During performance of the Work, and until final payment of the Contract Amount has been received by CHS, Client shall use its best efforts to protect from and restrict unauthorized access to the Project by any persons not expressly permitted to enter upon the same by CHS. Client shall be solely responsible for any damage, loss, theft, or injury arising from or relating to Client's failure to do.
- c. Client shall not, nor shall Client permit any third party not expressly authorized by CHS, to enter upon or loiter near the Project at any time during the Construction Phase of the Work. Client shall first obtain the prior written consent of CHS before touring, observing, or entering upon the Project Site during the Construction Phase. Client shall not self-perform or attempt to self-perform any portion of the Work. A violation of this section shall constitute a material breach of this Agreement, for which Client shall not be entitled to cure, notwithstanding any provision of this Agreement to the contrary, and shall entitle CHS to terminate this Agreement immediately upon notice to Client. To the extent any portion of the Work is self-performed by Client, CHS shall not be deemed to have accepted or incorporated such self-performed work into its Work for any reason, regardless of whether CHS elects to terminate this Agreement or not. Furthermore, Client hereby expressly releases and discharges CHS for all costs, fees, fines, liabilities expenses, losses, damages, injuries, and death, and expressly waives and all rights, claims, and causes of actions, whether at law or in equity, against CHS arising from or relating to any violation of this section. CLIENT'S SELF-PERFORMANCE OF ANY PORTION OF THE WORK SHALL VOID CHS'S LIMITED WARRANTY.

8. **Permits; Safety; Subcontractors.**

- a. Unless expressly excluded in *Exhibit A* (or other attachments made hereto, or elsewhere in the Contract Documents), CHS shall be responsible for securing and paying for all required permits for the completion of the Work, as well as facilitating all inspections of the Work necessary to obtain approval thereof from the governmental entity or entities having jurisdiction over the same. However, CHS shall not be responsible for any work or services additional to the Work, nor for any costs, fees, or expenses related to the same, including, but not limited to additional work or services required due to changes in applicable code, law, or regulation, Project conditions, or Client changes.
- b. CHS shall observe the reasonable safety and access rules and regulations of Client which are provided to CHS in advance of the execution of this Agreement. In addition, CHS shall comply with the Occupational Safety and Health Act (OSHA) of 1970, as amended, the Consumers Product Safety Act of 1972, as amended, and all other similar or related laws, rules, or regulations applicable to the Work. However, CHS shall not be liable for any loss, damage, injury, or death which arises from or relates to a failure to comply with any of the foregoing by or on behalf of Client or any of its employees, agents, affiliates, or contractors, or the agents, contractors, or employees of any of them.

9. **Insurance.**

- a. Upon request, CHS shall provide to Client a Certificate of Insurance evidencing the coverage and limits set forth herein. CHS shall cooperate with its insurance carrier and Client's insurance carriers in facilitating the adjustment or investigation of any claim or demand arising out of the Work.

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- b. In the event CHS fails or neglects to obtain or renew the required insurance and furnish evidence thereof to Client, Client shall have the right, but not the obligation, to produce such insurance and reduce the Contract Amount by the premium cost thereof.
- c. CHS shall provide and maintain all the following insurance policies:
- i. **Workers' Compensation:** As required by the state in which the Work is to be performed.
 - ii. **Commercial General Liability:** CHS shall carry Commercial General Liability insurance written on an occurrence basis using a commercial general liability form (1988 or equivalent) and including contractual liability, products/completed operations, broad form property damage and no limitation for explosion, collapse and underground hazards, with limits of:
 1. Bodily Injury: \$1,000,000 Each Occurrence, \$2,000,000 Annual Aggregate
 2. Property Damage: \$1,000,000 Each Occurrence, \$2,000,000 Annual Aggregate
- d. CHS and Client hereby agree to each waive their rights of subrogation as against one another, and shall cause such waiver to be evidenced by their respective insurers.
- e. CHS may achieve compliance with the limits of insurance policies set forth above by combining one or more umbrella insurance policies.
10. **Limited Warranty.** Provided that CHS has been paid in full hereunder for all amounts owed, including the Contract Amount, CHS shall warrant its workmanship furnished as part of the Work for a period of one (1) year from the date of substantial completion of the Construction Phase of the Work. As Client's sole and exclusive remedy hereunder, it shall be entitled to, within the foregoing time period, submit a claim for workmanship to CHS in writing and, if such claim is timely and properly received by CHS, and provided the claim properly relates to a valid defect in the workmanship of CHS, CHS shall, at its option, either repair or replace, or pay for the reasonable value of the repair or replacement of such workmanship. THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, GIVEN BY CHS OTHER THAN THE FOREGOING LIMITED WARRANTY. CHS HEREBY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
11. **Binding Dispute Resolution.**
- A. ALL CLAIMS, DISPUTES, ACTIONS, CONTROVERSIES, AND OTHER MATTERS WHICH ARISE FROM OR RELATE TO THIS AGREEMENT, THE WORK, THE CONTRACT DOCUMENTS, THE PROJECT, OR THE PARTIES' RELATIONSHIP WITH ONE ANOTHER (EXCEPT FOR THOSE CLAIMS BY CHS AGAINST CLIENT FOR INDEMNIFICATION, OR FOR NON-PAYMENT TO CHS OF ANY SUM OWED HEREUNDER, IN WHICH CASE THE PROVISIONS OF THIS SECTION SHALL BE AT THE OPTION OF CHS), SHALL BE RESOLVED SOLELY AND EXCLUSIVELY BY BINDING ARBITRATION IN ACCORDANCE WITH THE CONSTRUCTION INDUSTRY RULES OF THE AMERICAN ARBITRATION ASSOCIATION (AAA).
 - B. AS A CONDITION PRECEDENT TO FILING FOR ARBITRATION, THE PARTIES SHALL FIRST PARTICIPATE IN MEDIATION IN ACCORDANCE WITH THE RULES OF THE AAA. HOWEVER, NOTWITHSTANDING THE RULES OF THE AAA TO THE CONTRARY, IF A CLAIM THE SUBJECT OF MEDIATION IS BASED UPON NONPAYMENT TO CHS, CLIENT SHALL BE RESPONSIBLE FOR ALL COSTS, FEES, AND EXPENSES OF THE MEDIATOR FOR THE FIRST EIGHT (8) HOURS OF MEDIATION.
 - C. IF A CLAIM FILED IN COURT OR ARBITRATION IS COMMENCED AGAINST CHS WHICH RELATES OR PERTAINS TO THIS AGREEMENT, THE WORK, THE PROJECT, THE CONTRACT DOCUMENTS, OR CHS'S RELATIONSHIP

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WITH CLIENT, CHS MAY, AT ITS SOLE DISCRETION, JOIN CLIENT IN SUCH PROCEEDING, AND CLIENT EXPRESSLY AGREES TO BE SO JOINED.

- D. IN ANY ARBITRATION INVOLVING CHS AND THE CLIENT, THE ARBITRATOR(S) THEREIN SHALL BE EMPOWERED TO DETERMINE ENTITLEMENT TO AND THE AMOUNT OF ATTORNEY'S FEES, LEGAL COSTS, EXPERT WITNESS COSTS, AND ARBITRATOR FEES TO BE AWARDED TO THE PREVAILING PARTY IN SUCH ARBITRATION.
- E. JURISDICTION AND VENUE FOR ANY ARBITRATION, MEDIATION, OR LITIGATION CONDUCTED PURSUANT TO THIS AGREEMENT SHALL BE PROPER, CONVENIENT, AND EXCLUSIVELY HELD IN THE COUNTY WHEREIN CHS'S PRINCIPAL OFFICE IS LOCATED. ANY LEGAL ACTION OR ENTRY OF FINAL JUDGMENT IN ARBITRATION SHALL BE PROPER, CONVENIENT, AND EXCLUSIVELY HELD IN THE COURTS OF SUCH COUNTY. THE CLIENT HEREBY EXPRESSLY CONSENTS TO THE PERSONAL JURISDICTION OF SUCH ARBITRATOR(S) AND SUCH COURTS OVER THE CLIENT IN THE FOREGOING VENUE.
- F. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND EXPRESSLY WAIVE THEIR RIGHT TO TRIAL BY JURY IN ANY CLAIM, DISPUTE, ACTION, OR CONTROVERSY ARISING FROM OR RELATING TO THIS AGREEMENT, THE WORK, OR THE CONTRACT DOCUMENTS.
- G. THE FILING OR INITIATION OF ANY CLAIM, DISPUTE, ACTION, OR CONTROVERSY SHALL NOT RELIEVE THE CLIENT OF CLIENT'S OBLIGATIONS HEREUNDER, INCLUDING CLIENT'S OBLIGATION TO PAY FOR ALL WORK PERFORMED OR DEBTS INCURRED.
- H. THIS AGREEMENT SHALL BE GOVERNED EXCLUSIVELY BY THE LAWS OF THE STATE OF FLORIDA, WITHOUT REGARD TO ITS CHOICE OF LAW PRINCIPLES.

12. Indemnification.

- a. To the fullest extent permitted by law, the Client hereby covenants and agrees to indemnify, protect, defend, save, and hold harmless CHS and its agents, affiliates, and assignees, as well as the employees, contractors, agents, customers, and suppliers of each of them (collectively, the "**Indemnified Parties**") from and against any and all claims, allegations (whether true or false, meritorious or not), actions, liabilities (whether actual or alleged), losses, damages, expenses, and costs, including, but not limited to reasonable attorney's fees, brought or alleged against, or incurred by any of the Indemnified Parties arising out of or resulting from any of the following:
 - i. The Client's breach of any provision of this Agreement;
 - ii. The presence on, at, or near the Project of either the Client, any Responsible Party, or any agent, employee, contractor, supplier, or affiliate of Client, whether approved by CHS or not;
 - iii. Any act, inaction, omission, or negligence of the Client or Client's agents, guests, invitees, licensees, contractors, employees, suppliers, and subcontractors, or any person or entity directly or indirectly engaged by any of them, or anyone for whose acts they may be liable, including the employees, agents, customers and suppliers of all of them (individually a "**Responsible Party**", and collectively, the "**Responsible Parties**"); or
 - iv. Any act, inaction, omission, or negligence of CHS or its officers, directors, agents, or employees—however, such indemnification shall not include claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of CHS or its officers, directors, agents or employees, or for statutory violation or punitive damages, except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of Client or any of Client's contractors (other than CHS), subcontractors, lower tier subcontractors, materialmen, or agents of any tier or their respective employees. Client agrees that the indemnification given herein shall be limited to the amount of loss suffered by CHS, or \$1,000,000 per occurrence, whichever is less, which

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amount is stipulated by the parties to bear a reasonable commercial relationship to this Agreement.

- b. The Client's obligations under this section include, but are not limited to, all costs relating to the Client's compliance, or failure to comply with all laws applicable to the Project and this Agreement, and all costs related to one of the Indemnified Parties' enforcement of this Agreement against Client or any of the Responsible Parties.
 - c. The foregoing obligations of Client shall remain in effect regardless of any actual or alleged act or contributory negligence, comparative fault or other act or omission of or on behalf of any of the Indemnified Parties. This section shall not be construed to negate, limit, abridge or reduce other rights of the Indemnified Parties, nor any obligation or duty of any of the Responsible Parties which would otherwise exist as to a party or person described herein.
13. **No Assignment; Delegation.** Neither party shall be permitted to assign this Agreement without the prior written consent of the other party. CHS is expressly authorized to subcontract all or any portion of the Work, or to delegate any of its duties under this Agreement, to one or more third parties.
14. **Binding Effect.** The parties each bind themselves and, to the extent permitted herein, its successors and assigns, to the other party and, and to the extent permitted herein, the other party's successors and assigns, in respect to all covenants, agreements, and obligations contained in this Agreement.
15. **Severability.** Should any provision of this Agreement be held by a court of competent jurisdiction, an arbitrator, or an arbitration panel to be enforceable only if modified, or if any portion of this Agreement shall be held as unenforceable and thus stricken, such holding shall not affect the validity of the remainder of this Agreement, the balance of which shall continue to be binding upon the parties with any such modification to become a part hereof and treated as though originally set forth in this Agreement. The parties further agree that any such court, arbitrator, or arbitration panel is expressly authorized to modify any such unenforceable provision of this Agreement in lieu of severing such unenforceable provision from this Agreement in its entirety, whether by rewriting the offending provision, deleting any or all of the offending provision, adding additional language to this Agreement or by making such other modifications as it deems warranted to carry out the intent and agreement of the parties as embodied herein to the maximum extent permitted by law. The parties expressly agree that this Agreement as so modified by the court, arbitrator, or arbitration panel shall be binding upon and enforceable against each of them. In any event, should one or more of the provisions of this Agreement be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and if such provision or provisions are not modified as provided above, this Agreement shall be construed as if such provision or provisions had not been set forth herein.
16. **Prompt Payment.** Timely payment by Client of all amounts owed hereunder is intended by the parties to be an express and absolute condition precedent to CHS's continued performance of its obligations under this Agreement, and the failure of Client to pay, when due, any sum due CHS hereunder shall be considered a material breach of this Agreement, excusing CHS's continued performance hereof. Client acknowledges and agrees that delays in payment, or nonpayment to CHS may necessarily result in nonpayment to vendors, suppliers, and subcontractors engaged by CHS, and/or the recordation of construction liens on the Project. The obligation of Client to pay all sums owed to CHS arising from this Agreement shall continue after and survive the termination of this Agreement, regardless of

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reason or cause, by whom it is terminated, or whether notice is properly given. The Client shall not withhold amounts from CHS's compensation to impose a penalty or liquidated damages on CHS, or to offset sums requested by or paid to contractors for the cost of changes in their work.

17. **Headings; Interpretation of Agreement.** The titles of the sections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement. Reference to a "section" means the entire numbered section, and not just the subsection in which such reference is made. Unless the context of this Agreement clearly requires otherwise: (a). references to the plural include the singular, the singular the plural, and the part the whole; (b). references to one gender include both genders; (c). "or" has the inclusive meaning frequently identified with the phrase "and/or"; (d). "including" has the inclusive meaning frequently identified with the phrase "including but not limited to" or "including without limitation"; (e). references to "hereunder," "herein" or "hereof" relate to this Agreement as a whole; and (f). reference to "day" or "days" means calendar days. Any reference in this Agreement to any statute, rule, regulation or agreement, including this Agreement, shall be deemed to include such statute, rule, regulation or agreement as it may be modified, varied, amended or supplemented from time to time. The parties agree that each has participated equally in the drafting of this Agreement. Accordingly, no part of this Agreement is to be presumptively construed either in favor of or against any party. In particular, with respect to the interpretation of this Agreement, the parties waive any benefits from the principles of *contra proferentum* or other principles that would result in the interpretation of any ambiguities against any of them.
18. **Counterparts.** This Agreement may be in any number of counterparts, including via electronic signature platform or facsimile, each of which will be deemed an original, but all of which together will constitute one instrument.
19. **Prevailing Party.** In the event that legal action or arbitration is initiated by a party which arises from or relates in any way to this Agreement, the prevailing party from such action or arbitration shall be entitled to recover its attorney's fees and costs arising from such action or arbitration, together with any fees or costs incurred in determining the amount of fees to be recovered. As used in this section the term "prevailing party" prevailing on the substantial matters of law at issue in such action or arbitration. However, in the event that a party fails to comply with the mandatory arbitration provisions of this Agreement, the non-failing party shall be entitled to separately and immediately recover its attorney's fees and costs incurred in securing the dismissal or stay of an action initiated by the failing party in contravention of such arbitration provisions.
20. **Termination; Suspension.**
- a. If either party breaches this Agreement and fails, within ten (10) business days after receipt of written notice thereof, to cure such breach, then the other party may, without prejudice to any other right or remedy, terminate this Agreement. However, termination of this Agreement shall not relieve Client of its obligation to pay for all portions of the Contract Amount owed and incurred to the date of termination.
 - b. If Client fails to timely take any action required hereunder, or which is necessary or incidental to the Work (including, but not limited to payment of all sums owed hereunder, approval of all requests for Change Orders, approval of the Project Documents, and payment of impact fees), or if the Client acts or fails to act in any way that causes a delay in the progression of the Work, except for causes attributable solely to CHS's negligence or intentional wrongful conduct, CHS may, without terminating this Agreement, and without restricting its other rights or remedies, suspend the Work and charge to Client all costs, fees, and expenses related to such suspension, including any

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customary remobilization or other fees which CHS would incur upon the re-commencement of the Work, together with an administrative and overhead fee of Fifteen Percent (15%) on all of the foregoing.

21. **Notices.** Any and all notices required or permitted to be sent by this Agreement shall be in writing and shall be deemed duly and properly served when personally delivered to the party to whom it is addressed; or, in lieu of personal delivery, notices may be sent by reputable overnight carrier (e.g., Federal Express, DHL) or certified United States mail, and addressed to each party as set forth below. Either party may change its address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this section. If sent by mail, notices shall be deemed duly and properly served upon receipt by the recipient, or after forty-eight (48) hours of being sent; whichever occurs first.

If to CHS:

CONSTRUCTION AND HOSPITALITY SERVICES, LLC

Attn: Nicholas Larrow & Rusty Rich

3865 TOBY AVENUE

MALABAR, FL 32950

Email: nick@chsbuild.com and rusty@chsbuild.com

If to Client:

Space Coast Hospitality LLC

3881 NW Blitchton Road

Ocala, FL 34475

Phone: (941)544-8326

22. **No Waiver.** A failure of CHS to insist upon strict performance of any of the terms and conditions of this Agreement, or to exercise any rights and remedies set forth herein or therein, shall not be construed as a waiver of CHS's rights to assert any of the same as against Client or otherwise, or rely on such terms at any time thereafter.

23. **Confidentiality; Non-Circumvention.**

- a. The parties hereto hereby covenant to hold in strictest confidence the conversations, details, information, data or other knowledge (the "Information") derived from or related to the Work and this Agreement; provided that, the parties may disclose the Information on a "need to know" basis to its employees or agents for the limited purpose fulfilling such party's obligations under this Agreement.
- b. As a material inducement to CHS's execution of this Agreement, Client covenants to refrain from, directly or indirectly, doing, attempting to do, or permitting any other person or entity to do any of the following during the term of this Agreement or during the period of two (2) years after the date of termination of this Agreement (or substantial completion, if the Work is performed):
 - i. employ, solicit for employment, divert, or take away any employee, agent, or subagent of CHS;
 - ii. contract with, solicit, or accept work from any subcontractor of CHS who was engaged by CHS for any portion of the Work; or
 - iii. contract with, solicit, or accept materials or supplies from any supplier or vendor of CHS who was engaged by CHS for any portion of the Work; or

CHS's Initials:

Client's Initials:

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- iv. bypass or circumvent CHS in seeking, permitting, or bringing about the performance of any portion of the Work (or future work of a similar nature) by any subcontractors, suppliers, or vendors of CHS.
- c. Client agrees that each of the foregoing provisions are distinct and individual covenants that are each material to this Agreement and gravely affects the legitimate business interests of CHS and affects its value, reputation and goodwill. If Client breaches any provision of this section, CHS shall be entitled to obtain both temporary and permanent injunctions, as well as an accounting for lost profits and damages. Client also expressly agrees that the provisions of this section are reasonable and appropriate.
- d. If Client is approached or solicited by any subcontractors, suppliers, or vendors of CHS for the performance of work or the furnishing of supplies, materials, or services at any time during the term of this Agreement or during the period of two (2) years after the date of termination of this Agreement (or substantial completion, if the Work is performed), Client shall promptly notify CHS in writing of the same.
24. **Limitation on Damages.** Notwithstanding anything to the contrary contained herein, under no circumstances will CHS or any of the CHS Indemnitees be liable to Client or any of the Client Indemnitees for any consequential, indirect, exemplary, or punitive damages (including lost profits) arising out of or related to this Agreement, the Work, the Contract Documents, or the performance, failure to perform, or termination of any Work without regard to the nature of the claim (e.g., breach of contract, negligence or otherwise), even if CHS or the CHS Indemnitees have been advised of the possibility of such damages.
25. **Survival.** All of Client's obligations, representations, warranties, covenants, and restrictions herein contained and contained in this Agreement which would, by their ordinary interpretation and intent, survive the termination of thereof, shall so survive, regardless of by whom this Agreement is terminated, by what method this Agreement is terminated, or whether or not proper notice is given of such termination.
26. **Hazardous Materials.** Notwithstanding any provision of this Agreement to the contrary, CHS shall have no responsibility or liability to anyone for the investigation, discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project.
27. **Promotional Materials.** CHS shall have the right to include photographic or artistic representations of the Project and the Work among CHS's promotional and professional materials. CHS shall be given reasonable access to the completed Project to make such renderings. However, CHS's materials shall not include the Client's confidential or proprietary information if the Client has previously advised CHS in writing of the specific information considered by the Client to be confidential or proprietary. The Client shall provide professional credit for CHS in any of the Client's promotional materials for the Project.
28. **Entire Agreement.** This Agreement and its exhibits, schedules, Change Orders, and those documents and things which are expressly incorporated herein by reference (the "Integrated Documents") constitute the entire, final, and exclusive agreement between CHS and Client with regard to the subject matter hereof, and hereby supersede all prior or contemporaneous agreements, representations, and understandings by or between the parties, whether written or verbal, express or implied, which are inconsistent with or contrary to the express provisions of the Integrated Documents. Except as expressly provided for herein, this Agreement may only be amended in the form of a writing that is signed by an authorized representative of CHS.
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29. **Force Majeure.** CHS's performance of its Work may be delayed, prevented, made impracticable, or made cost prohibitive due to unforeseeable and unavoidable delays or circumstances, including, but not limited to, those caused by federal, state or municipal actions, statutes, ordinances or regulations, acts of god, pandemics, epidemics, biological risks, public health emergencies, emergency orders, state of unrest or emergency, hurricanes, earthquakes, war, terrorism, civil strife, strike, material or labor shortage, increase in the cost of materials or labor, or any act, condition, thing, or circumstance which is either beyond CHS's reasonable control, is unforeseen or unanticipated by CHS, or would render CHS's continued performance impossible, impracticable, or cost ineffective as determined by CHS in its sole and absolute discretion (each, a "Force Majeure Event", and collectively, "Force Majeure Events"). If CHS determines, in its sole and absolute discretion, that a Force Majeure Event has occurred, then CHS shall be entitled to, at its option, do any of the following: (i). receive a reasonable extension and modification of the terms of this Agreement (including the Contract Amount and Work schedule, commencement date, and completion date); or (ii). suspend or terminate this Agreement, the Work, or a Change Order (as the case may be), in which case Client shall be responsible for all actual costs, fees, and expenses actually incurred by CHS to the date thereof, together with all costs, fees, or expenses to be incurred thereafter which cannot be reasonably avoided by CHS. Under no circumstances shall CHS be deemed in breach of this Agreement, or to have abandoned the Work or Project in the event of a Force Majeure Event. The parties expressly agree that increases in labor or materials cost are not foreseeable by CHS. Accordingly, in the event that CHS experiences any increase in material or labor costs after this Contract has been executed, CHS shall be entitled, without the need for a Change Order, to add to the Contract Amount the actual direct cost of such increases upon notice to Client.

30. **Statutory Disclosures.**

a. **Construction Liens:** ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR PROVIDE MATERIALS AND SERVICES AND ARE NOT PAID IN FULL HAVE A RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS, OR MATERIAL SUPPLIERS, THOSE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE ALREADY PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS PROVIDED TO YOU A "NOTICE TO OWNER." FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX, AND IT IS RECOMMENDED THAT YOU CONSULT AN ATTORNEY.

b. **Florida Statutes 558 Notice:** ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558,

CHS's Initials: 

Client's Initials:  _____

YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS PROVIDED TO YOU A "NOTICE TO OWNER." FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX, AND IT IS RECOMMENDED THAT YOU CONSULT AN ATTORNEY.

- b. **Florida Statutes 558 Notice:** ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.
- c. **Florida Homeowners' Construction Recovery Fund:** PAYMENT MAY BE AVAILABLE FROM THE FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND IF YOU LOSE MONEY ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A LICENSED CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS:

CONSTRUCTION INDUSTRY LICENSING BOARD
2601 BLAIR STONE ROAD
TALLAHASSEE, FL 32399-0783
(850) 487-1395

IN WITNESS WHEREOF, the parties hereto executed this Agreement below:

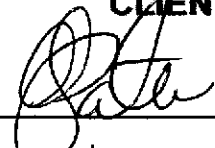
CHS

By: 

Name: Rusty Rich

Title: owner

CLIENT

By: 

Name: Chandrakant J Patel

Title: Manager (owner)

CHS's Initials: RR

Client's Initials:

Exhibit A: Scope of Work

Construction and Hospitality Services, LLC proposed to complete the below scope of work. Work not specifically listed below is outside the walls of this contract and therefore, not included.

Description: Guest room renovation of 40 rooms and 2 corridors, bid per discussion and site visit. CHS proposes to provide the labor to complete the following, all materials to be provided by client:

1. Guestroom Interior Framing:
Install interior framing for ceiling and walls as necessary. To include not more than a 5% change in existing layout/footprint.
2. Interior Insulation:
Install interior insulation as/if needed. Up to 50% of existing footprint included.
3. Interior Finish:
Install drywall, texture, and paint walls and ceilings.
4. Interior Plumbing:
Install plumbing per provided plans and in accordance with local code (guest rooms only). Plumbing work outside of rooms, underground, overhead, or other locations not noted will be billed for time and material. Does not include any repair, relocation, and/or troubleshooting and these items will be billed for time and materials. This proposal assumes that all existing plumbing is in good working condition. "
5. Interior Electrical:
Install new electrical in guest rooms per provided plans and in accordance with local code (guest rooms only). Electrical work outside of rooms, underground, overhead, or other locations not noted will be billed for time and material. Does not include any repair, relocation, and/or troubleshooting and these items will be billed for time and materials. This proposal assumes that all existing electrical is in good working condition.
6. Corridors (2):
 - Frame and install new ceilings.
 - Paint walls.
7. Guestroom Bath/Shower Tile:
Install bathroom floor and shower tile.
8. Poolside sliding glass door elimination:
 - Eliminate sliding glass doors in 10 rooms on the downstairs of the building facing the pool.
 - Frame in opening with wood frame per detail provided by client.
 - Frame rough opening for 3'x5' approx windows.
 - Set windows in frame.
 - Sheet with plywood.

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- Dry-in with appropriate water-resistant material.
 - Install lathe and stucco to match existing building.

Notes: Client to demo/remove existing sliding glass doors. Stucco will be matched as closely as possible; however, an exact match is not possible due to weathering, age, different mixtures, etc.

9. Parking lot facing sliding glass door removal:

- Eliminate sliding glass doors in 2 rooms of the building facing the parking lot.
- Frame in opening with wood frame per detail provided by client.
- Frame rough opening for 3'x5' approx windows.
- Frame rough opening for standard size exterior door.
- Set windows in frame.
- Install exterior door.
- Sheet with plywood.
- Dry-in with appropriate water-resistant material.
- Install lathe and stucco to match existing building.

Notes: Client to demo/remove existing sliding glass doors. Stucco will be matched as closely as possible; however, an exact match is not possible due to weathering, age, different mixtures, etc.

10. Poolside sliding glass door elimination (with door installation):

- Eliminate sliding glass doors in 8 rooms on the upstairs of the building facing the pool.
- Frame in opening with wood frame per detail provided by client.
- Frame rough opening for 3'x5' approx windows.
- Frame rough opening for standard size exterior door.
- Set windows in frame.
- Install exterior door.
- Sheet with plywood.
- Dry-in with appropriate water-resistant material.
- Install lathe and stucco to match existing building.

Notes: Client to demo/remove existing sliding glass doors. Stucco will be matched as closely as possible; however, an exact match is not possible due to weathering, age, different mixtures, etc.

11. Exterior door elimination: Close 10 exterior doors on the parking lot side of the building

- Remove existing exterior doors.
- Frame in opening with wood frame per detail provided by client.
- Sheet with plywood.
- Dry-in with appropriate water-resistant material.
- Install lathe and stucco to match existing building.

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Notes: Client to demo/remove existing exterior doors. Stucco will be matched as closely as possible; however, an exact match is not possible due to weathering, age, different mixtures, etc.

12. Modification of existing guest room door frames:

Frame down existing door header to accommodate new 6'8" entry doors. Frame to be wood and built per detail provided by client.

Exhibit A: Contractual Clauses

- A. The client agrees that all work performed by the client or the clients' subcontractors, that falls under the umbrella of the building permit issued under CHS license, will be performed by licensed, qualified individuals/companies, and will be performed to the requirements of local and state building codes.
- B. CHS proposes to provide labor only for the above scope of work. Nothing else is to be included or assumed to be included.
- C. Clients to install the items in the following list. This list is not exhaustive and does not limit client responsibility for items that are not included on it and do not fall within CHS scope above.
- Guest room flooring
 - Guest room baseboard
 - New Entry doors
 - New Bathroom doors
 - New bathroom trim
 - New A/C units.
- D. Clients to supply all materials for guest rooms framing, drywall, texture, paint, all plumbing materials needed, all electrical materials needed, all tile, grout, thin set, acoustic ceiling tile and grid for corridors, and all other material needed to complete the scope of work in Exhibit A.
- E. Material provided by CHS to complete the scope of Exhibit A, or any other work agreed upon between CHS and the client will be billed as material cost plus 20%.
- F. Price does not include permit fees, all work related to the fire alarm and/or sprinkler system (if needed), or housing for CHS workers.
- G. Client to provide/supply housing for CHS workers or will reimburse CHS for off-site housing at cost plus 20%.
- H. Change orders that result in re-work will result in the client being billed for the re-work. Re-work will not be completed without approval from client for the cost of the re-work.
- I. Client to be billed for re-work that results from items not communicated to the contractor, inaccuracies of the plans, or any other reason for re-work that could not be reasonably foreseen by the contractor.
- J. It is the client's responsibility to provide materials within a timely manner. If material deliveries slow the progress of work so that all or part of the contractors' subs or crew are idle, and these materials are readily

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available or could have been foreseeable (to have been ordered as a lead item by the client) then CHS may bill the client for man hours spent idle or CHS may source the material themselves at cost plus 20%.

- K. At all points within the walls of this contract where a matching of materials is referenced or where plans and design documents detail specific colors, finishes, etc., the below applies:
- An exact match is not guaranteed due to many factors (i.e., changes in manufacturing methods, discontinuation, aging of existing construction, etc.)
 - We will do our best to match what is existing with material that is commonly available.
 - Discrepancies of color, finish, grade, or any other discrepancy that may occur when the correct product has been applied by the contractor will not be the fault of the contractor.
- L. Any costs that arise due to a deficiency of the plans will be the responsibility of client.
- M. Client to provide all required plans, specs, and engineering. Plans, specs, and engineering supplied by the contractor to be billed at cost plus 20%.
- N. The client is to be responsible for the cost of all building permits, inspections, plans, specs, engineering, shipping, storage, security, bathroom facilities and all other costs, excluding the installation labor noted in "Exhibit A: Scope of Work".
- O. The client agrees that this is an exclusive contract, and not an inclusive contract. Meaning that no items are included or are assumed to be included unless specifically outlined within the walls of this contract.
- P. While CHS will take all reasonable precautions to maintain the integrity of the property, CHS is not responsible for damages that may occur, excepting gross negligence, as a result of construction.
- Q. We, as the builder, absolve ourselves of liability for any delays, shortages, inconveniences, inability to fulfill scope, etc. due to the covid 19 pandemic, supplier shortages, natural disasters, and/or acts of God.
- R. The Contractor shall provide partial lien releases at each draw and a final lien release upon final payment.
- S. CHS will accept shipments on behalf of the client with the below stipulations:
- CHS will only inspect for visible damage and report visible damage to shipper or refuse the shipment. Damage that is not visible will not be the responsibility of CHS.
 - CHS will not de-palletize shipments to inspect for damages at the time of delivery.
 - CHS will maintain a file onsite of all BOL's for shipments accepted by us.

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Exhibit B: Pricing and Draw Schedule**Pricing:****Contract Amount: \$295,000****Draw Schedule:****Deposit:** 30% Due upon contract signing.**\$88,500****1st Draw:** 50% Due upon substantial completion of electrical rough, plumbing rough, and installation of drywall.**\$147,500****Final Draw:** 20% Retainage due upon completion of line items 1-7 of "Exhibit A: Scope of Work".**\$59,000**CHS's Initials: Client's Initials:  _____