

法學英文

美國法院集體訴訟公告

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壹、美國法院集體訴訟公告

一、集體訴訟簡介

美國集體訴訟近年來廣泛應用在投資人訴訟、平等機會訴訟、大眾侵權訴訟、消費者訴訟及環境訴訟等。其目的在於保證訴訟經濟原則，使眾多的小額被害人能夠迅速、有效、方便地獲得損害賠償。在被告特定的作為或不作為將對多數人造成廣泛的影響時，法院可以通過禁制令給予救濟。在美國法下，申請案件作為集體訴訟進行，並拘束集體之成員，應基於當事人之申請，經法院certify（審核通過）。一般須符合下列標準：

1. numerosity：須成員眾多，構成一個集體，致要求全體出庭不切實際。通常數百人視為夠多。
2. commonality：集體成員須具有法律上或事實上的共同問題。
3. typicality：代表當事人所提出的主張或抗辯，必須構成其餘成員主張或抗辯的典型。
4. adequacy：代表當事人須能公正妥適地代表集體所有成員（尤其缺席成員）之利益。

此外，正當法律程序（due process）要求凡有關集體訴訟之通知，須送達、公布或廣播予集體之成員。即需通知所有因法院裁判會受到影響的人。通常須有數次通知。最先是讓收到集體訴訟通知之人有機會參加訴訟，稱為“opting in”。如收到通知之人欲自己提起或進行訴訟，不欲受集體訴訟之拘束時，則有權退出，不作為集體之一員來參與，稱為“opt out.”。換言之，賦予各成員加入與退出集體之機會。固然通常不可能予每個此種人個人通知，但可能受影響之所有人均應得到最佳可能之通知。法院會命令集體代表透過其律師作合理努力，由一般媒體，諸如電視，雜誌或報紙之廣告或佈告（posted flyer），通知任何不知集體訴訟之成員。通知應以平易易於了解之文字清楚確實concisely地說明：



- (1) 訴訟之性質。
- (2) 審核通過之集體之定義。
- (3) 集體之請求、爭點或抗辯。
- (4) 一個集體成員可由律師代為出庭。
- (5) 法院會將要求除外之任何成員排除在集體之外。
- (6) 要求自集體除外之時間與方式。
- (7) 集體判決對成員之拘束力。

集體之代表負擔審核通過集體成員與通知集體成員之費用。其次如有（尤其對造）和解提議，法院通常會命集體之律師（class counsel）將和解提議之通知發給所有已審核通過（certified）集體之成員，告知和解草案之詳情。

關於美國集體訴訟之詳情，可參照楊崇森新著「遨遊美國法第三冊」（華藝學術出版社）第62頁以下。

二、本公告簡介

以下為美國法院某案集體訴訟之公告，刊登在紐約時報。由於集體訴訟之運作英文書本已甚少提到，且具體集體訴訟之通知內容亦不易在報紙看到，致不但國人甚至美國人士對其實際運作，多懵然不知。本人偶然看到紐約時報上一則有關集體訴訟之法院公告，雖非該案首次通告，但究屬難得一見，機不可失，爰特別加以介紹以饗讀者。除了使讀者了解相關英文法律術語外，更可使讀者對集體訴訟之通知，甚至訴訟本身之運作增加了解。當然亦可由此接觸到美國法院公文之不同體裁或程式，窺知他們處理公事之作法與態度，也許有不少地方可供我們借鏡。

本通告首先告知利害關係人所謂「公平性審訊」（fairness hearing）定於2001年3月6日上午九時在法院開庭，決定事項為：(1)為了和解，該集體是否應作最後審定？(2)和解草案是否公平合理充分，而可通過？(3)可否依和解草案將訴駁回？(4)集體成員是否應受和解草案所定棄權（release）之拘束？(5)集體成員是否應在任何州，基於或有關該訴訟及/或棄權之行為所定之請求、事實或情況，永久被禁止，提起、繼續、介入、參加或收領任何利益？(6)集體律師（顧問）申請發給之律師費與支出是否通過？

該通告指出該集體訴訟和解草案之詳情及公平性審訊，已寄與被影響之人壽保險單所有人之最後已知地址。法院為了和解，已初步審定了集體，詳列了該集體包括那種人及不包括那種人。凡是該集體之成員，在集體期間內，有數種選擇。他亦可提正式書面，請求排除在集體之外。依和解草案，如通過，可享有三種利益（詳全文），但為了交換和解草案之利益，原告要免除被告若干請求之責任。此免責全文印在本通

告附件A內。(如需進一步有關和解條款之資訊、或需大字之版本、可打電話或以文字電話索取。)

三、公告本身原文暨中文《注釋》

THE NEW YORK TIMES, Legal Notice

STATE OF MINNESOTA DISTRICT COURT, FOURTH DISTRICT BENACQUISTO, ET AL. v. Nos. 96-18477 AMERICAN EXPRESS 97-4742,98-15681 FINANCIAL CORP., ET AL. UNITED STATES DISTRICT COURT, DISTRICT OF MINNESOTA BENACQUISTO, ET AL. v. No.00-1980DSD AMERICAN EXPRESS FINANCIAL CORP., ET AL.

TO: ALL PERSONS OR ENTITIES WHO HAVE OR HAD AN INTEREST IN A CASH VALUE LIFE INSURANCE POLICY OR DEFERRED ANNUITY CONTRACT ISSUED BY IDS LIFE INSURANCE COMPANY, IDS LIFE INSURANCE COMPANY OF NEW YORK, AMERICAN CENTURION LIFE ASSUR-ANCE COMPANY, AMERICAN ENTERPRISE LIFE INSURANCE COMPANY OR AMERICAN PARTNERS LIFE INSURANCE COMPANY THAT WAS ISSUED (FOR CASH VALUE LIFE INSURANCE POLICIES) OR IN FORCE (FOR DEFERRED ANNUITY CONTRACTS) AT ANY TIME FROM JANUARY 1, 1985 THROUGH FEBRUARY 29, 2000 (THE “CLASS PERIOD”).

The above-captioned class action lawsuits (the “Actions”) have been pending against the above-listed companies and their related entities American Express Financial Corporation and American Express Financial Advisors (collectively, the “Defendants”) in the Minnesota State Court for Hennepin County and the United States District Court for the District of Minnesota (the “Courts”). The parties to the Actions have reached a proposed settlement pursuant to a Stipulation of Settlement and exhibits thereto (the “Settlement Agreement”). The Courts have conditionally certified a Class for settlement purposes and have authorized the publication of this notice.

《注釋》

legal notice：法律公告

et al.：等人

class period：集體適用之期間

above-captioned：上開標題之…



class action：集體訴訟

lawsuit：訴訟

actions：訴訟

pending against above-listed：控告上面所列舉之人，

related entities：相關法人

collectively defendants：（共同地）通稱被告

parties reached a proposed settlement：當事人已達初步和解

pursuant to：按照

stipulation：約定

stipulation of settlement：和解約定

exhibits thereto：…之附件

conditionally certified：附條件批准，證明，

class：集體

authorized the publication of this notice：授權刊登此通告

PLEASE TAKE NOTICE that a hearing (the “Fairness Hearing”) will be held on March 6, 2001 at 9:00a.m., at the Hennepin County Government Center, 300 South Sixth Street, Minneapolis, MN 55487, in Courtroom 1759, to determine: (1) whether the Class should be finally certified for settlement purposes; (2) whether the proposed settlement of the Actions should be approved as fair, reasonable and adequate; (3) whether the Actions should be dismissed with prejudice pursuant to the terms of the proposed settlement; (4) Whether Class Members should be bound by the release set forth in the proposed settlement; (5) whether Class Members should be permanently enjoined from, among other things, starting, continuing, intervening in, participating in, or receiving any benefits (as Class Members or otherwise) from any lawsuit, arbitration, administrative, regulatory or other proceeding or order in any jurisdiction based on or relating to the claims, facts or circumstances set forth in the Actions and/or the Released Conduct (as defined in the Settlement Agreement); and (6) whether Class Counsel's application for an award of attorney's fees and expenses should be approved.

《注釋》

take note：注意
 hearing：審訊
 held on：於…舉行
 approved：通過、准許
 action dismissed with prejudice：駁回訴訟
 terms：條款
 bound：拘束
 release set forth：該棄權（免責）定出
 class members or otherwise：集體成員或另外
 permanently enjoined from：永遠被禁止…
 among other things：其中包括
 intervening：介入，
 administrative：行政上
 regulatory：規範性的
 proceeding：程序
 order：命令
 jurisdiction：管轄權
 based on or relating to：基於或相關的
 claims：請求，債權
 set forth：訂定
 released conduct：免責之行為
 class counsel：集體之律師
 award：判斷、判給
 attorneys' fees：律師費

A detailed Notice of Class Action, Proposed Settlement and Fairness Hearing (the “Class Notice”) has been mailed to the last known address, as reflected by the Defendants’ records, of the current or last owner(s) of record of affected life insurance policies and deferred annuity contracts and participants in group annuities. The Class Notice describes in detail the proposed



settlement and Class Member's rights. The proposed settlement and the scheduled court hearing may affect those rights.

《注釋》

detailed notice：詳細通告

fairness hearing：公平性之審訊

last known address：最後已知住址

reflected by：被反映

affected life insurance policy：受影響之人壽保險單

deferred annuity contract：延期年金契約

scheduled court hearing：預定法院審查庭

affect：影響

If you believe you are a member of the Class and have not received a copy of the Class Notice, you should obtain one immediately, either by (i) calling 1-800-433-5314 (or if you use TDD/TTY, 1-877-657-8808) or(ii) writing to the IDS Life Class Action Information Center at P.O. Box 1602, Faribault, MN 55021-1602.

The Settlement Class. The Court has preliminarily certified a Class for settlement purposes only. The Class includes (a) all persons or entities who have or had an ownership interest in a cash value life insurance policy issued by IDS Life Insurance Company or IDS Life Insurance Company of New York as a result of an individual sale at any time during the Class Period (“Policies”); (b) all persons or entities who have or had an ownership interest in an individual deferred annuity contract or participation interest in a tax-qualified group deferred annuity contract issued by any of the Defendants, that was in force at any time during the Class Period; and (c) all tax-qualified retirement plans or arrangements and persons or entities acting on behalf of such a plan or arrangement and its participants and beneficiaries, including but not limited to trustees, plan administrators and plan sponsors, that purchased, owned, held or had any interest with respect to a group deferred annuity contract issued by one of the Defendants that was purchased to fund or constitute all or part of a retirement plan or arrangement and that was in force at any time during the Class Period. (As used in this notice,

the term “Annuities” refers to any deferred annuity contract, including participation interests in group annuities, covered by the Class.)

《注釋》

preliminarily：初步地，預備地

ownership interest：所有權利益

cash value：現金價值

as a result of：…其結果

deferred annuity contract：延期年金契約

participation interest：參加利益

tax -qualified group deferred annuity contract：符合稅法上集體延期年金契約

issued：發出

in force：有效

retirement plan：退休計畫

acting on behalf of：代…行動

participants or beneficiaries：參加人或受益人

including but not limited to：包括但不限於

trustees：受託人

plan sponsors：計畫主辦單位

fund：基金，資金

constitute：構成

referred to：指

covered by…：涵蓋在…

The Class does not include the following persons or entities: (a) any present officer any former officer (of grade 50 and above, or equivalent), or any financial advisor of the Defendants; and (b) an insurance company that owns or owned a Policy or Annuity pursuant to an absolute assignment effected as part of an exchange under section 1035 of the Internal Revenue Code. The Class also does not include certain other persons or entities (unless and to the extent such persons or entities are Class Members by virtue of their ownership interest



in another Policy or Annuity that otherwise falls within the Class definition) who have or had an ownership interest in Policies or Annuities that: (a) are timely excluded from the Class in accordance with the steps described below and in Part H of the Class Notice; (b) were terminated by reason of death, and, in the case of a Policy, death benefits were paid; (c) were not accepted or paid for by the customer, or were returned to the issuer as part of the exercise of a free look provision in the Policy or Annuity; (d) were rescinded as part of a reissue of a new policy or annuity, or because of a material misrepresentation on a Policy or Annuity application, or where the Policy or Annuity was rescinded and the premiums and other monies paid were returned to the Policy or Annuity owner; (e) were the subject of a release signed by any person or entity while represented by counsel settling a claim or dispute and releasing the issuer from any further liability concerning such Policy or Annuity; (f) were term life insurance policies Graded premium whole life insurance policies, immediate annuities, or deferred annuities that were settled (that is, annuitized) prior to January 1, 1985.

《注釋》

officer：團體之理事

and above：以上

equivalent：相同數

assignment：讓與

effected：影響

Internal Revenue Code：美國稅法

unless and to the extent：除非且在…限度內

by virtue of：由於

falls within the Class definition：符合（包括在）集體之定義

are timely excluded from：及時排除在…之外

in accordance with：依照

terminated by reason of：因…而終止

issuer：發行人

exercise of a free look provision：行使免費審閱條款，行使猶豫條款

rescinded：撤銷

reissue：再發，重發

because of：因

material misrepresentation：重大不正表述

premiums：保險費

release from：免…之責

graded premium：級差保險費

immediate annuity,deferred annuity：即期年金，延期年金

settle：解決

annuitized：分年

(2) Choices and Deadlines for Class Members. If you are a Class Member, you have the following choices for each Policy or Annuity issued during the Class Period in which you have (or had) an ownership interest:

You may remain in the Class and participate in the benefits under the proposed settlement if it is approved. Your interests will be represented without cost to you by Class Counsel. If you remain in the Class, you will be bound by all orders and judgments entered in these cases, whether favorable or unfavorable. You will not be able to start or continue any other claim, lawsuit or other proceeding against the Defendants relating to the Policies or Annuities that are encompassed by the Release which is reprinted in full as Appendix A to the Class Notice.

If you remain in the Class, you must decide now on the type of relief you want for each Policy or Annuity you decide to keep in the Class from among the types relief offered under the proposed settlement (described below). To receive the General Relief, you need not do anything now. To receive either the internal Replacement Relief (if you are eligible or the Claim Review Process, you must submit an Election Form (included with the Class Notice), following the instructions in the Class Notice, so that it is postmarked no later than January 29, 2001.

If you remain in the Class, you may object to any aspect of the proposed settlement. To do so, you must file a written objection in accordance with Part I.2 of the Class Notice. Your written objection must be postmarked no later than January 29, 2001 and sent to each of the following addresses: Clerk of the Court Minnesota State Court for Hennepin County,



Hennepin County Government Center, 300 South Sixth Street, Minneapolis, MN 55487; Clerk of the Court. United States District Court for the District of Minnesota, 300 South Fourth Street, Minneapolis MN, 55415; Milberg Weiss Bershad Hynes & Lerach LLP. One Pennsylvania Plaza, NY, NY 10119, Attention: Brad A. Friedman; LeBoeuf, Lamb, Greene & MacRae, LLP, 125 West 55th Street, NY, NY 10019, Attention: Charles C. Platt; and Leonard, Street and Deinard, P.A., 150 South Fifth Street, Minneapolis, MN 55402, Attention: George F. McGunnigle. If you submit a written objection, you (or an attorney acting for you at your own expense) may appear at the Court hearing to make your objection. If the Court does not agree with your objection, you nevertheless will be bound by the orders and judgment in the Actions, but will still be eligible for relief under the settlement.

You may exclude yourself from the Class by submitting a formal, written request for exclusion for each Policy or Annuity that you wish to exclude. The exclusion request must comply with Part H of the Class Notice and must be mailed to the following address with a postmark no later than January 29, 2001: IDS Life Class Action Information Center, P.O. Box 1602, Faribault, Minnesota 55021-1602, Re: Exclusion from the Class. Please write the words “EXCLUSION REQUEST” on the lower left-hand corner of the front of the envelope. If you are excluded from the Class (i) you will not be eligible for any benefits under the proposed settlement; (ii) you will not be allowed to object to the proposed settlement, and (iii) you will not be bound by any orders or judgments entered in these cases.

《注釋》

deadline：截止日

remain：留在

without cost to you：您不用付費

bound：受…拘束

judgment entered in：下判決

favorable or unfavorable：有利或不利

encompassed：包含

release：免責，棄權

in full as appendix：詳如附件

general relief：一般救濟

Internal Replacement Relief：內部更換救濟

Instruction：指示

claim review process：審查申請程序

submit：提出，呈報

election form：選擇表格

postmarked：蓋郵戳

object to：反對、

LLP：律師事務所

attention：（某人）收

appear at the court：出庭

eligible for：可…，有資格

for exclusion：排除

exclusion request：請求除名

comply with：符合

re：案由，事由

lower left-hand corner of the front of the envelope：信封正面左下角

(3) Settlement Relief. There are three types of benefits available under the proposed settlement. Only one type of benefit will be provided for each Policy and Annuity.

General Relief. Simply by remaining in the Class and not electing another remedy for a particular Policy or Annuity, you automatically will receive the General Relief for which you are eligible. The General Relief Consists of an accidental death benefit which provides for payment of a benefit upon due proof of the accidental death within the prescribed coverage period of the person designated as you “measuring life.” The duration and amount of the accidental death benefit will depend on such factors as whether it relates to a tax-qualified Annuity and the account value of or premiums paid on an Annuity, or the face amount of a Policy, and the age of the measuring life. The prescribed period will last up to three years.



《注釋》

simply：只要

automatically：自動

remedy：救濟方法

accidental death benefit：意外死亡利益

provide for：提供

due proof：適當證明

prescribed coverage period：所定涵蓋期間

designated as：作為，指定為

measuring life：計算標準之壽命

duration：期間

premium：保險費

face amount：面額

Internal Replacement Relief. If you owned a policy issued by one of the Defendants and you replaced it with another Policy issued by one of the Defendants and you satisfy the other criteria described in the Class Notice, you may elect to receive the internal Replacement Relief with respect to the Policy instead of another form of relief. The Statement of Eligibility, which is enclosed with the Class Notice, will indicate whether, according to the Defendants' records, you are eligible for the Internal Replacement Relief. Depending on the facts relating to you, the internal Replacement Relief will consist of a repayment of certain transaction costs incurred as a result of the replacement, an adjustment to the cost of insurance charges applicable to your Policy, a one-time bonus to the cash value of your Policy, or the opportunity to purchase an enhanced value policy.

The Claim Review Process. If you believe that you were misled, or that wrongdoing with economic consequences otherwise occurred, with respect to the marketing, sale, administration or servicing of your Policy or Annuity, you may elect to submit your claim to the Claim Review Process under the proposed settlement instead of receiving another form of relief. Once submitted, your claim will be evaluated by a Claim Evaluator chosen by Class Counsel. In the Claim Review Process, the relief awarded can range from none at all to relief

designed to redress any loss that may have resulted from the alleged wrongdoing, based on the particular facts of your claim as evidenced by your written description of your claim and any other documents or other materials you submit, as well as the documents and information that the Defendants will assemble about your Policy or Annuity. Do not submit your claim at this time. The Claim Review Process is provided at no cost to you.

Each of the forms of settlement relief is described in greater detail at Part E of the Class Notice. Receipt of relief under the proposed settlement may have tax consequences for you. You should consult your own tax advisor about possible tax consequences.

《注釋》

replacement：取代（更換）

Internal replacement relief：內部取代（更換）救濟

satisfy criteria：滿足要件

Statement of Eligibility：資格說明

enclosed with：檢附、檢同

repayment：償還

transaction：交易

adjustment：調整

one-time bonus：一次性分紅

enhanced value：增值，提高價值

once submitted：一旦提出後

claim evaluator：債權評估人

relief awarded：所給救濟

range from...to：自…至…

redress：救濟

resulted from：來自

alleged wrongdoing：聲稱之不法行為

based on the particular facts：基於特定事實

assemble：蒐集

receipt：收到



tax consequence：稅捐結果

consult：諮詢

(4) Preliminary Injunction. The Courts, in their orders of October 12, 2000, preliminarily barred and enjoined all Class Members who have not been timely excluded with respect to a Policy or Annuity from filing, commencing, prosecuting, maintaining, intervening in participating in (as Class Members or otherwise), or receiving any benefits or other relief from, any other claim, lawsuit, arbitration or administrative, regulatory or other proceeding or order in any jurisdiction based on, arising out of, or relating to the Claims and Causes of Action, or the facts and circumstances relating thereto, in these Actions and/or the Released Conduct as to that Policy or annuity (as those terms are defined in the Release, which is attached to the Class Notice). The courts also preliminarily barred and enjoined all persons from organizing or soliciting the participation of any class Members into a separate

Class for purposes of pursuing as a purported class action (including by seeking to amend a pending complaint to include class allegations, or by seeking class certification in a pending action) any claim, lawsuit or other proceeding based on, arising out of, or relating to the Claims and Causes of Action, or the facts and circumstances relating thereto, in these Actions and/or the Released Conduct as to that policy or Annuity. The parties will ask the Courts to make the preliminary injunction permanent as to all Class Members upon final approval of the settlement. All class Members who do not timely exclude themselves from the Class with respect to a particular Policy or Annuity will be bound by the permanent injunction with respect to that Policy or Annuity

(5) Release. In exchange for the benefits to be provided under the proposed settlement, Class Members will release the Defendants from liability for certain claims relation to Policies and Annuities. This Release is reprinted in full in Appendix A to the Class Notice. The Release may affect your rights if you decide to stay in the Class, You should read it carefully.

(6) Attorneys' Fees and Expenses. At the Fairness Hearing, Class Counsel will ask the Courts for an award of attorneys' fees and expenses not to exceed \$28 million, to be paid by the Defendants. The Defendants will not oppose Class Counsel's application for an award of fees and expenses up to these amounts. The Defendants' payment of any such fees and expenses will not reduce or affect any benefits to be provided to the Class under the proposed settlement.

(7) Further Information. This is only a short summary of the proposed settlement. Further details are contained in the Class Notice mentioned above. If you need further information about the terms of the settlement, or if you need a large-print version of the Class Notice, please call the IDS Life Class Action Information Center at 1-800-433-5314, or if you use TDD/TTY, 1-877-657-8808. Telephone calls may be monitored by counsel for Plaintiffs.

PLEASE DO NOT TELEPHONE THE COURTS OR THE CLERKS OF THE COURTS.

《注釋》

- preliminary injunction：預備禁制令
- prosecuting：追訴
- arbitration：仲裁
- cause of action：訴因
- relating thereto：關於…
- attached to：附於
- bar and enjoin：禁止
- solicit：招攬
- purported class action：擬提起之集體訴訟
- amend：修改
- pending complaint：繫屬中告訴
- class allegation：集體之主張（聲稱）
- class certification：是否成立集體之 審核
- pending action：繫屬中之訴訟
- in exchange for：為了與…交換
- release：免除（棄權，放棄）作動詞用時，後面加from
- reprinted in full：完全重印
- award：下
- exceed：逾
- up to：至
- reduce or affect：減少或影響
- further information：進一步訊息



further details : 更詳細

summary : 摘要

large -print version : 大字版 (為老人或視力退化之人所長印刷)

TDD-TTY : 文字電話

monitored : 監聽

貳、公司章程(ARTICLES OF INCORPORATION)

I The name of this corporation is _____.

II This organization is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable purposes.

The Specific purposes for which this corporation is organized include, but are not limited to: [the preservation and management of parkland and delivery of programs for scientific, historic, educational, ecological, recreational, agricultural, scenic or open space opportunities.]

《注釋》

ARTICLES OF INCORPORATION : 法人章程

corporation : 法人

organization : 組織

nonprofit public benefit corporation : 非營利之公益組織 (法人)

private gain : 私人利益

organized under... : 依...組成

charitable purposes : 慈善目的

Specific purposes : 特定目的

include, but are not limited to : 包括但不限於...

preservation and management of parkland : 公園土地之維護管理

ecological : 環境的

recreational : 休憩的

III The name and address in the State of [eg. California] of this Corporation's initial agent for service of process is: Name _____ Address _____

《注釋》

initial agent：原始代理人

service of process：送達（訴訟）文件

COMMENT: Section III indicates to the Secretary of State and other interested parties the name of the person to whom legal documents must be sent. The initial agent is usually one of the initial directors of the corporation. If the corporation has established a principal office, this address should be listed as the agent's address. Otherwise, the agent's home address is acceptable.

《注釋》

COMMENT：注釋

Section III：第三條

Secretary of State：州務卿

interested parties：利害關係人

legal documents：法律文獻

initial agent：原始代理人

directors：董事

principal office：主事務所

acceptable：亦可

IV The corporation is organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

Notwithstanding any other provision of these Articles, the corporation shall not carry on any other activities not permitted to be carried on (1) by a corporation exempt from



federal income tax under Section 501 (c)(3) of the Internal Revenue Code or (2) by a corporation contributions to which are deductible under Section 170(c)(2) of said Code, or the corresponding provisions of any future statute of the United States.

No substantial part of the activities of this corporation shall consist of carrying on propaganda or otherwise attempting to influence legislation; nor shall the corporation participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

《注釋》

organized and operated：組織運作
exclusively：純粹，完全
charitable purposes：慈善目的
Notwithstanding：雖然
provision：條文，規定
exempt from federal income tax：免於聯邦所得稅
Internal Revenue Code：內國稅法
corresponding provisions：
future statute：將來制定法
deductible：可扣除
distribution：散佈
statements：聲明
on behalf of：代

V The names and addresses and office held of the persons designated to act as the initial Board of Directors of this corporation are: [List their names and addresses. Most states require a minimum of three Board Members/ Officers for incorporation purposes.]

《注釋》

designated：被指定

Board of Directors：董事會
require a minimum：要求至少
incorporation purposes：組織目的

VI The property of this Corporation is irrevocably dedicated to charitable purposes and no part of the net income or assets of the corporation shall ever inure to the benefit of any director, trustee, member or officer of this corporation, or to any private person.

Upon the dissolution or winding up of the corporation, any assets remaining after payment of, or provision for payment of, all debts and liabilities shall be distributed to a governmental entity described in Section 170(b)(1) (A)(v) of the Internal Revenue Code, or to a nonprofit fund, foundation, or corporation which is organized and operated exclusively for charitable purposes, which has established its tax exempt status under Section 501(c) (3) of the Internal Revenue Code, and which is qualified to receive "qualified conservation contributions" within the meaning of Section 170(h) of said Code, or the corresponding provisions of any future statute of the United States.

In the event of a liquidation of this corporation, all corporate assets shall be disposed of in such a manner as may be directed by decree of the superior court for the county in which the corporation has its principal office, on petition therefore by the Attorney General or by any person concerned in the dissolution, in a proceeding to which the Attorney General is a party.

《注釋》

irrevocably：不可撤回地
inure to：適合於
trustee：受託人
private person：私人
dissolution or winding up：解散或了結
assets：資產
governmental entity：政府機構
foundation：基金會
nonprofit：非營利



tax exempt status : 免稅身份

qualified conservation contributions :

In the event of : 倘

liquidation : 清算

disposed of : 處分

decree of the superior court : 高院? 命令

petition : 聲請

Attorney General : 司法部長

dissolution : 解散

proceeding : 程序

party : 當事人

IN WITNESS WHEREOF, the undersigned, being the Incorporators of [name of nonprofit] and the initial directors named in these Articles of Incorporation on _____, 20__.

INCORPORATORS

[signature]

[typed name], Incorporator

[signature]

[typed name], Incorporator

DIRECTORS

[signature]

[typed name], Director

[signature]

[typed name], Director

[signature]

[typed name], Director

《注釋》

IN WITNESS WHEREOF：基於上述…

undersigned：簽名在下面之人

Incorporators：發起人

COMMENT: The minimum actual number of Incorporators and the number of Directors depends on your state's non profit incorporation requirements that can be obtained from the Secretary of State or known to law offices or published in non profit guidebooks.. It is advisable to have at least three directors.



Also note that if the initial directors are named in the Articles of Incorporation, it is not necessary to have incorporators. However, having both incorporators and initial directors may be advisable if the nonprofit wishes to demonstrate broad community support.

Remember that any incorporators and all named directors must sign the Articles of Incorporation, as provided for above, and must also acknowledge having signed the Articles. This acknowledgement must be a separate form from the body of the instrument (see sample declaration below).

《注釋》

COMMENT：注釋

depends on：視…而定

requirements：要求，規定

guidebooks：手冊

advisable：適合，宜

named：記載於…

broad community support：廣大社區支援

as provided for above：如上所定

acknowledge：承認

body of the instrument：文件本身

sample declaration：樣本聲明

DECLARATION

We are the persons whose names are subscribed below. We collectively are all of the incorporators of _____ [name of nonprofit] _____ and all of the initial directors named in the Articles of Incorporation, and we have executed these Articles of Incorporation. The foregoing Articles of Incorporation are out act and deed, joint and severally.

Executed on _____, 20____,

at _____, [city and state]

We, and each of us, declare that the foregoing is true and correct.

[signature]

[typed name], Incorporator

[signature]

[typed name], Incorporator

[signature]

[typed name], Director

[signature]

[typed name], Director

《注釋》

DECLARATION：聲明

subscribed below：

collectively：共同

executed：作成

foregoing：上開

out act and deed,

joint and severally：連帶



參、合夥契約(PARTNERSHIP AGREEMENT)

This PARTNERSHIP AGREEMENT is made on _____, 20____ between _____ and _____.

1. NAME AND BUSINESS. The parties hereby form a partnership under the name of _____ to conduct a _____. The principal office of the business shall be in _____.

《注釋》

PARTNERSHIP AGREEMENT：合夥契約

made on：作成於

hereby：茲

form：組成

conduct：經營，辦理

2. TERM. The partnership shall begin on _____, 20____, and shall continue until terminated as herein provided.

《注釋》

TERM：期間

terminated：終止

as herein provided：如此處所定

3. CAPITAL. The capital of the partnership shall be contributed in cash by the partners as follows: A separate capital account shall be maintained for each partner. Neither partner shall withdraw any part of his capital account. Upon the demand of either partner, the capital accounts of the partners shall be maintained at all times in the proportions in which the partners share in the profits and losses of the partnership.

《注釋》

CAPITAL：資本
contributed in cash：以現金出資
separate capital account：單獨資本戶頭
withdraw：撤回，取回
demand：要求
maintained at all times：經常維持
proportions：比例
profits and losses：盈虧

4. PROFIT AND LOSS. The net profits of the partnership shall be divided equally between the partners and the net losses shall be borne equally by them. A separate income account shall be maintained for each partner. Partnership profits and losses shall be charged or credited to the separate income account of each partner. If a partner has no credit balance in his income account, losses shall be charged to his capital account.

《注釋》

net profits：純收益
borne equally：平均負擔
charged or credited：歸其負擔或記入（債權）
income account：收入帳戶
credit balance：結餘

5. SALARIES AND WITHDRAWINGS. Neither partner shall receive any salary for services rendered to the partnership. Each partner may, from time to time, withdraw the credit balance in his income account.



《注釋》

rendered to：提供

withdraw：撤回

6. INTEREST. No interest shall be paid on the initial contributions to the capital of the partnership or on any subsequent contributions of capital.

《注釋》

interest：利息

initial contributions：原始出資

subsequent contributions：後來出資

7. MANAGEMENT DUTIES AND RESTRICTIONS. The partners shall have equal rights in the management of the partnership business, and each partner shall devote his entire time to the conduct of the business. Without the consent of the other partner neither partner shall on behalf of the partnership borrow or lend money, or make, deliver, or accept any commercial paper, or execute any mortgage, security agreement, bond, or lease, or purchase or contract to purchase, or sell or contract to sell any property for or of the partnership other than the type of property bought and sold in the regular course of its business.

《注釋》

MANAGEMENT DUTIES AND RESTRICTIONS：管理責任與限制

partnership business：合夥事務

devote his entire time：奉獻全部時間

conduct of the business：處理事務

Without the consent：未經…同意

deliver：交付

commercial paper：商業證券

execute any mortgage：設定抵押
 security agreement：擔保契約
 bond：債券
 lease：租賃
 purchase or contract to purchase：買賣或買賣契約
 other than：…以外
 regular course of its business：正常業務

8. BANKING. All funds of the partnership shall be deposited in its name in such checking account or accounts as shall be designated by the partners. All withdrawals are to be made upon checks signed by either partner.

《注釋》

BANKING：
 funds：資金
 deposited：存款，存放
 checking account：支票戶頭
 designated：…指定之
 withdrawals：提款
 made upon checks：以支票為之

9. BOOKS. The partnership books shall be maintained at the principal office of the partnership, and each partner shall at all times have access thereto. The books shall be kept on a fiscal year basis, commencing _____ and ending _____, and shall be closed and balanced at the end of each fiscal year. An audit shall be made as of the closing date.

《注釋》

BOOKS：簿冊
 at all times：經常，隨時



have access : 可檢閱…

thereto : to it

kept on a fiscal year basis : 按會計年度保持

commencing ___ and ending ___ : 自…始, 至…止

audit : 監查, 查核

closing date : 截止日, 最後日

10. VOLUNTARY TERMINATION. The partnership may be dissolved at any time by agreement of the partners, in which event the partners shall proceed with reasonable promptness to liquidate the business of the partnership. The partnership name shall be sold with the other assets of the business. The assets of the partnership business shall be used and distributed in the following order: (a) to pay or provide for the payment of all partnership liabilities and liquidating expenses and obligations; (b) to equalize the income accounts of the partners; (c) to discharge the balance of the income accounts of the partners; (d) to equalize the capital accounts of the partners; and (e) to discharge the balance of the capital accounts of the partners.

《注釋》

VOLUNTARY TERMINATION : 自動 (自願) 終止

dissolved : 解散

in which event : 此時

proceed with reasonable promptness : 以合理速度進行

liquidate the business : 解散營業

liabilities : 責任

expenses and obligations : 費用與債務

equalize : 平均

discharge : 償還

balance : 差額

11. DEATH. Upon the death of either partner, the surviving partner shall have the right either to purchase the interest of the decedent in the partnership or to terminate and liquidate the partnership business. If the surviving partner elects to purchase the decedent's interest, he shall serve notice in writing of such election, within three months after the death of the decedent, upon the executor or administrator of the decedent, or, if at the time of such election no legal representative has been appointed, upon any one of the known legal heirs of the decedent at the last-known address of such heir. (a) If the surviving partner elects to purchase the interest of the decedent in the partnership, the purchase price shall be equal to the decedent's capital account as at the date of his death plus the decedent's income account as at the end of the prior fiscal year, increased by his share of partnership profits or decreased by his share of partnership losses for the period from the beginning of the fiscal year in which his death occurred until the end of the calendar month in which his death occurred, and decreased by withdrawals charged to his income account during such period. No allowance shall be made for goodwill, trade name, patents, or other intangible assets, except as those assets have been reflected on the partnership books immediately prior to the decedent's death; but the survivor shall nevertheless be entitled to use the trade name of the partnership. (b) Except as herein otherwise stated, the procedure as to liquidation and distribution of the assets of the partnership business shall be the same as stated in paragraph 10 with reference to voluntary termination.

《注釋》

surviving partner：生存之合夥人

decedent：死者

terminate and liquidate the partnership business：終止並清算合夥營業

notice in writing：書面通知

serve upon the executor or administrator：送達遺囑執行人或遺產管理人

legal representative has been appointed：已指派法定代理人

known legal heirs：已知法律上繼承人

last-known address：最後已知地址

purchase price：價金

prior fiscal year：上一會計年度



decreased：減少

calendar month：曆月

No allowance shall be made for：對…並無例外或優待

goodwill：商譽

trade name：商號

patents：專利

other intangible assets：其他無形財產

prior to：在…之前

nevertheless：但

be entitled to：有權…

Except as herein otherwise stated：除此處另有規定外

procedure：程序

stated in paragraph 10：在第十條所定

with reference to voluntary termination：關於自動終止

12. ARBITRATION. Any controversy or claim arising out of or relating to this Agreement, or the breach hereof, shall be settled by arbitration in accordance with the rules, then obtaining, of the American Arbitration Association, and judgment upon the award rendered may be entered in any court having jurisdiction thereof.

《注釋》

ARBITRATION：仲裁

controversy or claim：爭議或請求

arising out of or relating to：由…所生或與…有關

breach hereof：其違反

settled：解決

In accordance with：依照…

American Arbitration Association：美國仲裁協會

award rendered：所下判斷

having jurisdiction thereof：對其有管轄權之…

Executed this _____ day of _____, 20____ in _____ [city], _____
[state]._____

Fly-by-Night Construction

100 Main St.

Anytown, USA

888-000-0000

Proposal Submitted to Date

Company Name Home Phone Work/Cell Phone

Street Address Job Name Job Location

City, State, Zip Proposal good until:

We hereby submit an estimate for the following work:

We propose to furnish labor and materials, in accordance with the above specifications for the
sum of: \$ _____ (_____ Dollars)

Payments shall be made as follows: _____

Contractor's Signature

《注釋》

hereby：茲

submit an estimate：送估價單

Construction：建造

propose：建議

furnish labor and materials：提供勞力與材料

the above specifications：上述規格

Payments shall be made：應支付

Contractor's Signature：承攬人簽名



肆、住宅承攬(建造)契約(RESIDENTIAL CONSTRUCTION AGREEMENT)

License No.

THIS AGREEMENT is made this _____ day of _____, 20_____, by and between

(ABuilder@), and

(AOwners@) for the construction of a single-family residence for the owners of property located in _____ County, State of Florida, and legally described as Lot _____ Block of the _____ Subdivision and also known and numbered as _____

《注釋》

construction：建造

single-family residence：獨院住宅

License No.：執照號碼

lot：土地單位名稱

block：土地單位名稱，市街的一街位

Subdivision：土地單位名稱

The Builder and Owners agree as set follows:

1) Contract Documents.

The terms of this contract include the conditions of this contract and by reference the provisions in the other documents specifically listed in Exhibit A. The terms of this agreement shall prevail over any conflicting provisions in the documents incorporated by reference. If a conflict exists between the plans and the specifications, the specifications shall govern.

《注釋》

Builder：建造人

specifically listed：特別列舉

Exhibit：附件

terms：條款
 prevail over：優先於
 conflicting provisions：牴觸條文
 incorporated by reference：為參考列入
 specifications：規格
 govern：適用，規範

2) The Work.

Unless otherwise specifically noted, Builder shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, transportation, and other facilities and services necessary for the proper execution and completion of the residence. The work shall be done substantially in conformance with the plans and specifications that have been initialed or signed by each party. These plans and specifications are attached to this contract and incorporated into it as Exhibit A.

Builder shall not be responsible for the following work: hauling excavation and existing debris from the property, off-site utility connections; installation or construction of walks, pavements, or curbing; installation of cable television wiring; interior painting of garage; and any other work not described in the Plans and Specifications.

《注釋》

Unless otherwise specifically noted：除另有訂定外
 substantially：實質上
 in conformance with：符合
 initialed or signed：簽姓名頭一個字母或簽名
 attached to：附於
 incorporated into：加入，併入
 hauling excavation：搬運挖掘出土之物
 debris：碎片
 off-site utility connections：現場以外之水電連接
 walks, pavements, or curbing：走道、路邊人行道



cable television wiring：有線電視線路

interior painting of garage：車庫內部圖畫

3) Financing.

This contract is contingent upon Owners obtaining a construction loan in the amount of Dollars (\$)). All fees and expenses of obtaining a loan including all commissions, title charges, and credit reports shall be borne by Owners. Builder is not required to begin construction until Owners provide Builder with written notice from the lender that Owners have closed on said loan. If Owners cannot obtain financing within thirty (30) days from the date Builder approves this contract, either party has ten (10) days thereafter to elect to terminate this contract by giving written notice to the other party. Builder shall refund to Owners all money paid less costs and obligations incurred by Builder at Owners' request.

《注釋》

Financing：融資

contingent upon：以…為條件，端視

construction loan：建屋貸款

commissions：佣金

title charges：權利費用

credit reports：信用報告

borne：負擔

closed：已償還

financing：融資

approves：同意

thereafter：此後

refund：償還，退款

less：扣除，減去

incurred：負擔

4) Contract Price.

Owners agree to pay the total contract price for all labor and materials furnished and work performed by Builder, of _____ Dollars (\$ _____), including Florida State sales tax, subject to additions and deletions by change order as provided in paragraph 11. The contract price includes the allowances listed in the Allowance Schedule attached to this contract and incorporated into it as Exhibit B.

The allowance includes both materials and installation unless expressly noted otherwise. The parties agree that the allowances are not to be construed as bids by Builder and that the allowances may vary from the actual cost based on Owners' selections. If the cost of Owner-selected materials or their installation exceeds the material or installation allowance, the amount of that excess will be added to the next progress payment or the final payment. If the amount is less than the allowance amount, that amount will be subtracted from the final amount of the contract.

《注釋》

sales tax：交易稅

subject to：受…之限制

additions and deletions：增減

change order：改變訂單

allowances：會計津貼

construed：解釋

vary：異於

exceeds：超過

excess：超過

progress payment：工程進度款

subtracted：減去

5) Payments.

The contract price will be paid as follows:



a) \$_____ as a deposit upon signing the contract, receipt of which is hereby acknowledged.

THE BUYER/OWNER OF A ONE-FAMILY OR TWO-FAMILY RESIDENTIAL DWELLING UNIT HAS THE RIGHT TO HAVE ALL DEPOSIT FUNDS (UP TO 10 PERCENT OF THE PURCHASE PRICE) DEPOSITED IN AN INTEREST-BEARING ESCROW ACCOUNT. THIS RIGHT MAY BE WAIVED IN WRITING BY THE BUYER/OWNER. The failure to waive the escrow requirement may result in an extra charge to OWNER at the time of closing. The BUILDER shall be entitled to all interest accrued on the account.

Buyer/Owner hereby WAIVES the request for escrow of any portion of the deposit monies received.

Buyer/Owner hereby requests BUILDER to escrow all deposit monies received, up to 10% of the purchase price, to be held pursuant to Florida Statute 501.1375. In this event, BUILDER may borrow money in an amount equal to the funds held in escrow for construction purposes only, in which case any interest which the BUILDER pays on such loan shall be paid by Buyer/Owner at time of closing, but the Buyer/Owner shall be credited for any interest accrued on the escrow account. Any deposit monies received from Buyer/Owner in excess of 10% of the purchase price, or for change orders, if any, shall not be held in escrow by BUILDER or be otherwise restricted.

《注釋》

INTEREST-BEARING ESCROW ACCOUNT：有利息之保管帳戶

WAIVED：放棄，拋棄

extra charge：額外費用

In this event：此時

escrow：保管

deposit monies：擔保金

held in escrow：由第三人保管

time of closing：交易完成日

credited for：記帳（債權）

accrued on : 歸屬於...

in excess of : 超過

otherwise restricted : 其他方面受到限制

b) Based on applications for payment submitted by Builder, Owners shall make progress payments toward the contract price in accordance with the Construction Draw Schedule of Owners construction lender as work is completed and certified by Owners' construction lender. Owners will pay the cost of each inspection for each draw request. (The Construction Draw Schedule is attached to this contract and incorporated into it as Exhibit C.)

《注釋》

submitted : 提交

Draw Schedule : 付款時間表

construction lender : 建築放款人

draw request : 付款請求

c) Owners agree to make the progress payments within five (5) days of certification by Owners' construction lender. Payments due and unpaid shall bear interest at the rate of 1 2 % per month payable to Builder from the date the payment is due. If Owners fail to pay Builder within seven (7) days of the date the payment is due through no fault of Builder, upon three (3) additional days written notice to Owners, Builder may stop the work. Builder may keep the job idle until such time as payments that are due to Builder are paid.

《注釋》

progress payments : 工程進度付款

bear interest : 負擔利息

keep the job idle : 不思工作

due : 到期



6) Acceptance, Final Payment, and Occupancy.

Upon receipt of written notice that the work is ready for final inspection and acceptance, Owners will promptly inspect the work. When the Work receives a certificate of occupancy, Owners will promptly pay (or cause to be paid) the balance due under the contract less an amount equal to the cost to complete any missing or unfinished punchlist items.

Builder agrees to provide Owners with a Contractor=s Final Affidavit stating that all subcontractors and suppliers have been paid or showing those unpaid and the amounts thereof. The amounts withheld for punchlist items will be paid to Builder immediately upon completion of each of the punchlist items. Occupancy will be granted to Owners when construction is substantially completed, the certificate of occupancy is issued, and Builder receives payment of the final draw (including payment for all change orders and overages of allowances), less any money held for incomplete items.

《注釋》

Acceptance：承諾

Occupancy：居住，入住，占有

receipt：收據，收到

inspection：檢查

cause to be paid：使別人付

missing or unfinished punchlist items：未完成項目

Affidavit：宣誓書，具結

thereof：它的

subcontractors and suppliers：次承攬人（轉包商與供應商）

withheld for punchlist items：扣住零星項目

Occupancy：占有、入住

substantially completed：實質完工

certificate of occupancy：使用執照

issued：發給

final draw：尾款

change orders and overages of allowances：訂單改變與會計津貼

less : 減去

7) Commencement and Completion.

The work will begin promptly after Owners have obtained the financing referred to above, any other contingencies are cleared, all permits have been issued and Owners provide Builder with a title report containing a correct statement of (a) the recorded legal title to the property on which the residence is to be built and (b) Owners' interest therein at the time of the signing of this contract. The work will be substantially completed within days () from the date all the contingencies are met.

Any time lost by reason of change in plans or requested by Owners, other acts of Owners, strikes, weather conditions not reasonably anticipated, or any other conditions that are not within Builder's control shall be added to the specified time of completion and Builder shall not be liable for such delay. For any delays not the responsibility of Builder, the contract price shall increase by the difference, if any, in Builder's costs occasioned by such delay.

《注釋》

Commencement and Completion : 開工與完工

referred to above : 上述

therein : 等於in it

contingencies : 條件，

contingencies are cleared : 條件已滿足，已清除

title report : 權利報告

permits : 執照

by reason of : 由於

specifications : 規格

strikes : 罷工

anticipated : 預期

delay : 遲延

occasioned : 導致，引起



8) Selections.

Builder will provide Owners with information to help them select allowance items, materials, and colors required during the construction process. All selections must be made within _____ days of request by Builder.

《注釋》

allowance items：有優惠項目

process：程序

9) Permits, Fees, and Tests.

Builder shall secure and pay for only any building permits which are required. Owners shall be responsible for all other fees and permits including any impact fees and connection fees. If necessary, Owners agree to assist Builder in obtaining any such permits and licenses by completing all necessary applications and forms. If a covenant or an architectural review committee requires the approval of plans and specifications, Owners shall be responsible for obtaining these approvals and paying for any fees connected with them. If no soil report is currently available, Owners shall provide one at their expense.

《注釋》

Permits：執照

secure：取得

building permits：建築執照

impact fees and connection fees：接通費

licenses：執照

forms：表件

covenant：條款

architectural review committee：建築審查委員會

connected with them：與他們有關

soil report：土壤報告

at their expense : 歸他們負擔

10) Taxes.

Owners shall pay all real property taxes and taxes imposed upon the improvements on the residence when they are due. Builder shall pay all necessary sales, use, and similar taxes on materials used in construction that are legally enacted at the time this contract is signed.

《注釋》

real property taxes : 不動產稅

imposed upon : 課予

improvements : 改良

due : 到期

enacted : 制定

11) Change Orders.

a) Owners may, from time to time, order changes in the work which will be authorized by a written Change Order. Owners shall pay the reasonable cost of any such changes including overhead of _____ % and profit of _____ %.

b) In the event the Builder is required by the Owners to perform additional work for which the amount of compensation is not previously agreed upon, the Builder shall prepare and submit to the Owners a proposal describing the estimated quantities and cost involved. The Builder shall keep accurate, detailed and itemized records of the costs of any such change and shall report such costs to the Owners. The Builder shall furnish to the Owners all documents required by the Owners, to evidence the expenditures of the Builder as a result of such change.

c) Builder is not responsible for unknown conditions that cannot be observed in a non-destructive inspection of the premises or conditions that differ materially from those (a) indicated or referred to in the contract documents or (b) ordinarily encountered and generally recognized as inherent in the work of the character provided for in this contract.



《注釋》

overhead：經常費

in the event：倘…

estimated quantities and cost involved：估計所涉之數量與費用

accurate, detailed and itemized records：正確詳盡與逐一記載之紀錄

expenditures：費用

observed：遵守

non-destructive inspection：不毀損之檢查

premises：土地

differ materially：重大不同

indicated or referred to：提到

ordinarily encountered：通常遭遇

inherent：固有的

12) Insurance.

Builder shall purchase and maintain at Builder's own expense, all necessary workers' compensation and employer's liability insurance, commercial general liability insurance, and comprehensive automobile liability insurance to protect Builder from claims for damages because of bodily injury, including death, and for damages to property that may arise both out of and during operations under this contract.

Owners shall purchase and maintain their own liability insurance, including fire and casualty insurance upon the residence, to the full insurable value and shall name Builder as an additional insured. Each party shall issue a certificate of insurance to the other prior to construction.

《注釋》

own expense：自己負擔

liability insurance：責任保險

workers' compensation and employer's liability insurance：勞工補償與雇主責任險

comprehensive：廣泛的

claims for damages：賠償請求

bodily injury：身體損害

operations：運作

fire and casualty insurance：火災與意外險

certificate of insurance：保險證書

prior to：在…之前

construction：營造

13) Owners' Obligations.

Owners shall (a) furnish all surveys describing the physical characteristics, and utility locations for the residence and (b) secure and pay for easements necessary for the completion of the work. Owners shall furnish information and services under their control to Builder promptly to avoid delay.

Owners warrant that the property upon which the residence is to be built conforms to all zoning, planning, environmental, and other building requirements. Owners warrant that all utilities necessary for the completion of construction are to the property line.

《注釋》

surveys：調查

physical characteristics：外觀特性

utility locations：水電所在

easements：地役權

warrant：擔保

conforms to all zoning：符合分區（法令）

utilities：水電

are to the property line 在所擁有的財產上



14) Supervision.

Owners agree that the supervision of the work performed under this Agreement is under the exclusive direction of the Builder, and Builder shall have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work. Owners shall not interfere with the work, nor cause additional work to be carried on without the written consent of the Builder. All of the work shall be done by the Builder or subcontractors in direct contract with the Builder.

《注釋》

Supervision：監督

exclusive direction：完全指揮

sequences：順序

interfere with：干擾

15) Disputes.

Should any dispute arise relative to the performance of this contract that the parties cannot satisfactorily resolve, then the parties agree that the dispute shall be resolved by binding arbitration conducted by the American Arbitration Association. The party demanding arbitration shall give written notice to the opposite party and the American Arbitration Association promptly after the matter in dispute arises. In no event, however, shall a written notice of demand for arbitration be given after the date on which a legal action concerning the matter in dispute would be barred by the appropriate statute of limitations.

《注釋》

Disputes：爭端

relative to：有關

satisfactorily resolve：滿意解決

binding arbitration：有拘束力仲裁

conducted：進行

American Arbitration Association：美國仲裁協會

demanding arbitration：聲請仲裁

opposite party：相對人

In no event：絕不

legal action：訴訟

barred：不能提起

appropriate：適當

statute of limitations：時效

16) Termination.

If Builder fails to supply proper materials and skilled workers; make payments for materials, labor, and subcontractors in accordance with their respective agreements; disregards ordinances, regulations, or orders of a public authority; or fails to materially comply with the provisions of the contract, Owners may give Builder written notice to terminate. After seven (7) days if Builder has failed to remedy the breach of contract, Owners can give a second notice to terminate. If Builder still fails to cure the breach within three (3) days after the second notice, Owners may terminate the contract.

《注釋》

Termination：終止

respective agreements：各自約定

disregards ordinances, regulations：不遵守規章、法規矩

comply with：符合

remedy the breach of contract：彌補違約

cure the breach：補救違約

17) Warranties.

a) Builder agrees to promptly make good, without cost to Owners, any and all defects due to faulty workmanship and/or materials which may appear within one (1) year from the date of completion and acceptance of the work by Owners.



b) THIS LIMITED WARRANTY IS THE ONLY EXPRESS WARRANTY PROVIDED BY Builder. IMPLIED WARRANTIES, INCLUDING (BUT NOT LIMITED TO) WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, HABITABILITY, AND GOOD WORKMANSHIP ARE DISCLAIMED AND LIMITED TO THIS WARRANTY.

《注釋》

make good：補償，補正

defects：瑕疵

due to faulty workmanship：由於工手施工不良

EXPRESS WARRANTY：明示擔保責任

IMPLIED WARRANTIES：默示擔保責任

INCLUDING (BUT NOT LIMITED TO) WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, HABITABILITY：包括（但不限於）適於販賣之保證，合於特定目的、適於居住之擔保責任

DISCLAIMED：放棄

18) Right to Cure. FLORIDA LAW CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST A CONTRACTOR, SUBCONTRACTOR, SUPPLIER, OR DESIGN PROFESSIONAL FOR AN ALLEGED CONSTRUCTION DEFECT IN YOUR HOME. SIXTY DAYS BEFORE YOU FILE YOUR LAWSUIT, YOU MUST DELIVER TO THE CONTRACTOR, SUBCONTRACTOR, SUPPLIER, OR DESIGN PROFESSIONAL A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE YOUR CONTRACTOR AND ANY SUBCONTRACTORS, SUPPLIERS, OR DESIGN PROFESSIONALS THE OPPORTUNITY TO INSPECT THE ALLEGED CONSTRUCTION DEFECTS AND MAKE AN OFFER TO REPAIR OR PAY FOR THE ALLEGED CONSTRUCTION DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE CONTRACTOR OR ANY SUBCONTRACTORS, SUPPLIERS, OR DESIGN PROFESSIONALS. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER FLORIDA LAW.

《注釋》

FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION：提起建造瑕疵之訴訟

DESIGN PROFESSIONAL：設計專業人員

ALLEGED CONSTRUCTION DEFECTS：聲稱之建造瑕疵

STRICT DEADLINES AND PROCEDURES：嚴格截止日與程序

OBLIGATED：負義務，有義務

19) Representations.

This Agreement constitutes the entire agreement between Owners and Builder, and supersedes all prior negotiations, representations, understandings and agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owners and Builder. Owners acknowledge that Builder has made no guarantees, warranties, understandings, nor representations (nor have any been made by any representatives of Builder) that are not included in the contract documents.

《注釋》

representations：表述

constitutes：構成

supersedes：取代

prior negotiations：以前磋商

amended：修改

written instrument：書面文件

guarantees：保證

representatives：代表

included：包括



CONSTRUCTION INDUSTRIES RECOVERY FUND

PAYMENT MAY BE AVAILABLE FROM THE CONSTRUCTION INDUSTRIES RECOVERY FUND IF YOU LOSE MONEY ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A STATELICENSED 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:

FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD

1940 N. Monroe St., Tallahassee, FL 32399-1039(850) 487-1395

《注釋》

RECOVERY FUND：賠償基金

CONSTRUCTION INDUSTRY LICENSING BOARD：建築業發照局

20) Miscellaneous.

Until Owners make the final payment and take possession, Owners agree that Builder shall have the right to place signs on or about the property and to show the residence to other prospective clients and customers.

《注釋》

Miscellaneous：雜項

take possession：占有，接管

signs：號誌，招牌

prospective clients：可能之當事人

21) Governing Law and Assignment.

This contract will be construed, interpreted, and applied according to the law of Florida. This contract shall not be assigned without the written consent of all parties.

《注釋》

Governing Law and Assignment：準據法與移轉
construed, interpreted：解釋
assigned：移轉

22) Effective Date and Signature.

This contract shall become effective on the day it is signed by both parties.

《注釋》

become effective：生效

23) OWNERS ACKNOWLEDGE RECEIPT OF THE FLORIDA CONSTRUCTION LIEN LAW WARNING ATTACHED AS EXHIBIT D.

We the undersigned, have read, understand and agree to each of the provisions of this contract and hereby acknowledge receipt of a copy of this contract.

Owner		
Date	Builder/Agent	Date
Owner		
Date		

《注釋》

undersigned：下面簽名之人
hereby：茲
receipt：收到



伍、普通合夥契約 (General Partnership Agreement)

_____, residing at _____ and _____.
_____, residing at _____, ' as the "Partners" agree as follows:

《注釋》

hereinafter referred to : 以下 (嗣後) 稱為...

General Partnership Agreement : 普通合夥契約

1. Type of Business. The Partners voluntarily associate themselves together as general partners for the purpose of conducting the general business of _____, and any other type of business that may from time to time be agreed on by the Partners.

《注釋》

associate together : 合作

2. Name of Partnership. The name of the Partnership shall be _____. This name will be registered in the office of the Secretary of State as the fictitious name of the Partnership.

《注釋》

Secretary of State : 州務卿

registered : 登記 (註冊)

fictitious name : 虛構名稱

3. Term of Partnership. The Partnership shall commence on _____ and shall continue until _____ or terminated as provided in this Agreement.

《注釋》

term：期間

commence：開始於…

terminated：終止

as provided in：如…所定

4. Place of Business. The principal place of business of the Partnership shall be at _____, _____, _____, _____ and any other place or places that may be mutually agreed on by the parties to this Agreement. (name of partner) (name of partner) (address) (address) (type of business) (name) (“the execution of this Agreement” or specify date) (specify date or “dissolved by mutual agreement of the parties”) (address) (city) (county) (state)

《注釋》

principal place：主事務所

mutually agreed on：對…相互同意

execution：執行

specify date：指定日期

5. Initial Capital. The initial capital of this Partnership shall be the sum of \$ _____, to which each Partner shall contribute by depositing in a checking account in the name of the Partnership at the _____ in _____ on or before _____, the following amounts: _____ shall contribute \$ _____ shall contribute \$ _____

《注釋》

Initial Capital：初次資本

contribute by：以…分配

depositing：存入

in a checking account：在支票帳戶



6. Withdrawal of Capital. No Partner shall withdraw any portion of the capital of the Partnership without the express written consent of the other Partners.

《注釋》

Withdrawal：退夥

portion：部分

express written consent：明顯書面同意

7. Profits and Losses. Any net profits or losses that may accrue to the Partnership shall be distributed to or borne by the Partners. _____

《注釋》

Profits and Losses：盈虧

accrue to：歸屬於

borne：負擔

8. Partnership Books. At all times during the continuation of the Partnership, the Partners shall keep accurate books of account in which all matters relating to the Partnership, including all of its income, expenditures, assets, and liabilities, shall be entered. These books shall be kept on _____ basis and shall be open to examination by either Partner at any time.

《注釋》

Partnership Books：合夥名冊

continuation：繼續

entered：下

open to examination：應予審查

9. Fiscal Year. The fiscal year of the Partnership shall end on the _____ day of _____ each year. (amount) (bank) (city) (state) (date) (name) (name) (in equal proportions or in the following proportions: _____ specify proportions. e.g. [name], 60%; [name], 40%) (Accrual or Cash) (month)

《注釋》

Fiscal Year：會計年度

end on：於…結束

equal proportions：平等（相同）比例

Accrual or Cash：收益或現金

10. Accountings. A complete accounting of the Partnership affairs as of the close of business on the last day of March, June, September, and December of each year shall be rendered to each Partner within _____ days after the close of each of those months. On each accounting, the net profits of the Partnership shall be distributed to the Partners as provided in this Agreement to the extent that cash is available for this distribution. Except as to manifest errors discovered within _____ days after its rendition, each accounting shall be final and conclusive to each Partner.

《注釋》

Accountings：結算

rendered to：提到…

the close of each of those months：此數月中每月底

distributed to：分予

to the extent：在…之限度內

manifest errors：明顯錯誤

Except as to manifest errors discovered within：除了在…發現之明顯錯誤外，

final and conclusive to each Partner：對各合夥人為最後與結論性的



11. Time Devoted to Partnership. Each Partner shall devote his or her undivided time and attention and use the utmost of his or her skills and ability in furtherance of the Partnership business.

《注釋》

Devoted to：致力於…

devote his or her undivided time and attention：以時間與注意致力於…

utmost：最，盡最大努力

in furtherance of：促進…

the Partnership business：合夥營業

12. Management and Authority. Each Partner shall have an equal voice in the management of the Partnership and shall have authority to bind the Partnership in making contracts and incurring obligations in the name and on the credit of the firm. However, no Partner shall incur any obligations in the name or on the credit of the firm exceeding \$_____ without the express written consent of the other Partner. Any obligation incurred in violation of this provision shall be charged to and collected from the individual Partner incurring the obligation.

《注釋》

Authority：主權，權威

equal voice：相同聲響

bind：拘束

without the express written consent：非有明示書面同意

incurred in violation of：因違反…而產生

charged to and collected from：由（他）負擔，且向（他）收取

incurring the obligation：負擔義務

13. Salaries. As compensation for his or her services in and to the Partnership business, each Partner shall be entitled to a salary of \$_____ each month, which shall be deducted by the Partnership as an ordinary and necessary business expense before determination of net profits. The salary of any Partner may, however, be increased or reduced at any time by mutual agreement of all the Partners. (Number) (Number

《注釋》

compensation：報酬

be entitled to：有權得到…

deducted by：扣以

ordinary and necessary business expense：通常與必要之營業支出

increased or reduced：增減

mutual agreement：相互約定

14. Net Profits Defined. The term “net profits” as used in this Agreement shall mean the net profits of the Partnership as determined by generally accepted accounting principles for each accounting period provided for in this Agreement.

《注釋》

Net Profits：純益

defined：下定義

determined by：由…所定

generally accepted accounting principles：通常會計原則

provided for in this Agreement：於本契約所定

15. Withdrawal of Partner. Any Partner may withdraw from the Partnership at the end of any accounting period by giving the other Partner _____ days, written notice of his or her intention to do so.



《注釋》

Withdrawal of Partner：合夥人之退夥

accounting period：結算期間

written notice of：書面通知

his or her intention to do so：其如此作為之意思

16. Option to Purchase Terminated Interest. On dissolution of the Partnership by the withdrawal or other act of a Partner, the remaining Partner, on written notice to the other Partner within _____ days of the dissolution, may continue the Partnership business by purchasing the interest of the other Partner in the assets and good will of the Partnership. The remaining Partner shall have the option to purchase the interest of the withdrawing Partner by paying to this Partner or the Partner's personal representative the value of the interest determined as provided in Paragraph 17 of this Agreement.

《注釋》

Option to Purchase Terminated Interest：買取終結利益之選擇權

other act：其他行為

in the assets and good will of：在…之資產與商譽價值

remaining Partner：其餘合夥人

17. Purchase Price of Partnership Interest. On exercise of the option described in Paragraph 16 above, the remaining Partner shall pay to the person who is legally entitled to it the net book value of the interest as shown on the last regular accounting of the Partnership preceding the dissolution together with the full unwithdrawn portion of the deceased, withdrawing, or terminated Partner's distributive share of any net profits as shown on the last regular accounting of the Partnership preceding the dissolution together with the full unwithdrawn portion the Partnership between the date of the accounting and the date of dissolution of the Partnership.

《注釋》

On exercise of the option：於實施選擇權時
 net book value：純 賬面淨值
 as shown on the last regular accounting：如上次結算所示
 preceding the dissolution：解散前
 together with：連同
 the full unwithdrawn portion：所有未退夥部分

18. Buy-Sell Agreement on Death of Partner. If the Partnership is dissolved by the death of a Partner, the remaining Partner shall have the obligation within _____ days from the death of the deceased partner to purchase the interest of the deceased Partner in the Partnership and to pay to the personal representative of the deceased Partner the value of that interest as provided in Paragraph 17 of this Agreement. During (Number) (Number) (Number) this _____-day period following the death of a Partner, the remaining Partner may continue the business of the Partnership but the estate or personal representative of the deceased Partner shall not be liable for any obligations incurred in the Partnership business that are greater than any amount includable in the estate of the deceased Partner that was previously invested or involved in the Partnership and remained so on the date of death. The estate of the deceased Partner shall be obligated to sell his or her Partnership interest as provided in this Agreement and shall be entitled, at the election of the personal representative of the deceased Partner, either to one-half of the net profits earned by the Partnership business during this _____-day period or to interest for the use during this period of the deceased's interest in the Partnership business, _____ percent a year on the value of the partnership interest determined as provided in Paragraph 17 of this Agreement.

《注釋》

Buy-Sell Agreement：買賣契約
 obligations incurred in：在…發生之義務
 includable in the estate：包含在遺產內



previously invested or involved in the Partnership and remained so：合夥以前所投資或涉及，且現仍舊如此

shall be obligated to：應負…義務

at the election of the personal representative：依法定代理人選擇

as provided in this Agreement：如本契約所定

19. Duties of Purchasing Partner. On any purchase and sale pursuant to the provisions of Paragraphs 16, 17, or 18 of this Agreement, the remaining Partner shall assume all obligations and shall hold the withdrawing Partner, the personal representative and estate of a deceased Partner, and the property of any withdrawing or deceased Partner, free and harmless from all liability for these obligations. Furthermore, the remaining partner, at his or her own expense, shall immediately cause：to be prepared, filed, served, and published all notices that may be required by law to protect the withdrawing Partner or the personal representative or estate of a deceased Partner from liability for the future obligations of the partnership business.

《注釋》

Purchasing Partner：購買之合夥人

remaining Partner：其餘合夥人

shall assume all obligations：承擔一切義務

shall hold the withdrawing Partner：令退夥之合夥人…

free and harmless from all liability：不負（免於）一切責任

personal representative：法定代理人

estate：遺產

deceased Partner：已故合夥人

Furthermore：此外

remaining partner,：其餘合夥人

at his or her own expense：以其費用

immediately cause to be prepared, filed, served：立即製作、提出、送達

published all notices：刊登所有通知

20. Dissolution. On dissolution of the Partnership other than as provided in Paragraphs 16, 17, and 18 of this Agreement, the affairs of the Partnership shall be wound up, the assets of the Partnership liquidated, the debts paid, and the surplus divided equally among the Partners.
(Number) (Number)

《注釋》

On dissolution：於解散時
other than as provided：除了…所定外
wound up：了結
liquidated：清算
the surplus divided equally：贖餘平等分配

21. Notices. All notices between the parties provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to a Partner or, instead of personal service, when deposited in the United States mail, as certified, with postage prepaid, and addressed to the partner at the address of the principal place of business of the Partnership or to another place that may from time to time be specified in a notice given pursuant to this paragraph as the address for service of notice on the Partner.

《注釋》

Notices：通知
deemed：視為
duly served：正當送達
personally delivered：親自送交
certified：掛號
postage prepaid：預付郵費
addressed to：送給
pursuant to：依照



22. Consents and Agreement: All consents and agreements provided for or permitted by this Agreement shall be in writing and a signed copy of them shall be filed and kept with the books of the Partnership.

《注釋》

provided for : 規定

filed and kept : 提出並保存

23. Sole Agreement. This instrument contains the sole agreement of the parties relating to their Partnership and correctly sets forth the rights, duties and obligations of each to the other in connection with it as of its date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. Executed this _____ day of _____, 19 _____ at _____ County _____ (State). _____ **

《注釋》

Sole Agreement : 唯一契約

instrument : 文件

sets forth : 訂定

as of its date : 本日

prior agreements, promises, negotiations, or representations : 以前契約、允諾、磋商或表述

expressly set forth : 明文規定

no force or effect : 無效