



Wiker Developments, Inc.
 "Every problem has a solution!"

3337 Turnbull Rd., W. Kelowna, BC, V4T-1W3
 PH: 250-878-9090 conradwiker@gmail.com

Construction Agreement

Re: Construction/Management of a New Single Family Residential Home

Job number: 2021-001

Location of Build: Lot 76 – 655 Feathertop Way, Big White

PID:

Legal Description: #76 Osoyoos Division Yale District Strata Plan: KAS3732 DL:1184

Type of Construction: Single Family Residential Chalet

BETWEEN:

Builder/General Contractor: Wiker Developments, Inc. – Rep. by C. Wiker

Of 3337 Turnbull Road, West Kelowna, BC, V4T-1W3, (Hereinafter called the **"Builder"**)

The Builder is a Licensed Residential Builder pursuant to the Homeowner Protection Act, S.B.C. 1998 C. 31, Home Protection Organization Registration #42411, and has been accepted by the New Home Warranty program of Canada and Pacific Insurance Company of Canada.

AND

Client/Owner: Phillip Knoll & Kim Knoll

Of 3972 Finch Road, Kelowna, British Columbia, V4V 1N4, (Hereinafter called the **"Client"**)

The Client would become the owner of the following Land/Civic Address: Lot 76 – 655 Feathertop Way, Big White, British Columbia (In this Agreement called the **"Lands"**).



Wiker Developments, Inc.

Builder Information

GST # - 843459587 RT0001

BC Housing Reg. # - 42411

Pacific Home Warranty (NHW)



The Builder and the Owner(s) agree as follows:

1. Scope and Sequence (Contractor Responsibilities)

The BUILDER agrees to manage the construction of a new single family residential home on the Lands, on the terms and conditions set forth in this agreement. The Builder's duties will involve the complete management and construction of this home including:

- | | |
|--|---------------------------------------|
| <i>-Permitting and associated Approvals from all governing authorities including Home Warranties and Inspections</i> | <i>-Framing (Wood and Steel)</i> |
| <i>-Geo. Tech. & Structural Eng. Approvals</i> | <i>-Windows and Doors</i> |
| <i>-Site Survey (Initial and Final)</i> | <i>-Roof & Exterior Coverings</i> |
| <i>-Budget Estimating (Draft)</i> | <i>-Electrical and HVAC Systems</i> |
| <i>-Site Excavation and Preparation</i> | <i>-Insulation</i> |
| <i>-Site Management and Safety</i> | <i>-Drywall</i> |
| <i>-Footings and Foundations</i> | <i>-Paint and Coverings</i> |
| <i>-Site Finishing / Leveling / Gradednd sides. to safe slope with provided material in front, rear and sides.</i> | <i>-Flooring and Tile Works</i> |
| | <i>-Final Finishing Work</i> |

*Completion will be finalized upon receiving final Occupancy Permit issued by the local building inspector assigned to the area; Regional District of Kootany Boundary, BC.

2. Scope and Sequence (Owner Responsibilities)

The OWNER agrees to provide Lands, on the terms and conditions set forth in this agreement for the construction of a single family dwelling. The Owner's duties will include:

- PAYMENT: Deposits and final payment of all works within 1-2 days of completion of the works or prior to commencement of works depending on type of work.*
- BUDGET: Review, approve, and monitor costs associated with the build.*
- DESIGN/PLANS: Approved by the Builder and All Inspectors; Strata if Required.*
- SITE ACCESS: Allow all trades engaged unobstructed access to the site.*
- LANDSCAPING: Any required yard works necessary for Occupancy Permit.*
- APPLIANCES: Purchase any and all appliances required for Occupancy Permit.*

3. Deposits / Payment Schedule to the Builder:

The final Price to be paid by the Owner to the Builder, for construction and management of the project, shall be based on a total price for the overall build as recorded in the final Budget of Works document. That price will be the calculation of the total price, including all applicable taxes, costs, or other, **plus** the Builder management margin of 15% (**Cost Plus Model** not including cost of land).

Example:

<i>Items</i>	<i>Cost Including Taxes in Price</i>	<i>Trade / Company</i>	<i>Builder Owed Cost Plus 15%</i>
<i>Roofing Works and Materials</i>	<i>\$10,000.000</i>	<i>Ted's Roofing Inc.</i>	<i>\$1,500.00</i>
		TOTAL PRICE OF WORKS	\$11,500.00

- a) Any and all GST and/or applicable fees or taxes will be the responsibility of the Owner.
- b) Any and all changes, and associated costs due to those changes, will be the responsibility of the Owner.
- c) Any unforeseen cost increases are the responsibility of the Owner.
- d) Any and all deposits are the responsibility of the Owner.
- e) Builder Deposit and Payment Schedule:

Month / Year 2021	Initial Deposit to Builder	Monthly Payment Schedule	Original Budget Draft Total (Approx. \$637, 370.00)
Jan.	\$25,000.00 Non- Refundable		
Feb. 15		\$ 5500.00	
Mar. 15		\$ 5500.00	
April 15		\$ 5500.00	
May 15		\$ 5500.00	
June 15		\$ 5500.00	
July 15		\$ 5500.00	
August 15		\$ 5500.00	
Sept. 15		\$ 5500.00	
Oct. 15		\$ 5500.00	
Nov. 15		\$ 5500.00	
Dec. 15		\$ 5500.00	

FINAL			TBD based on final costs.
TOTAL	\$ 25,000.00	\$ 60,500.00	\$95,605.50 (Approx.)

- f) The remaining amounts owed to the Builder from the Owner based on the agreed upon Cost Plus 15% of all totals shall be withheld until final completion of Occupancy Permit and associated inspections.

Ex: Based On Draft Budget: \$85,500.00 PAID - \$95,605.50 OWING

= - \$10,105.50 Remaining Owed to Builder

- g) The remaining funds owed will represent the approximate 10% holdback required for a 55 day period under the BC Builder's Lien Act. Upon receiving Occupancy Permitting, the 55 day hold back period will commence. After such, the Builder will be paid in full including, any and all changes, extras, cost overruns, and for other additional works.
- h) The owner will be given the quoted price and then the invoice following the works or undertaking associated with the build. The Builder will record the invoice(s) total in the Works Budget spreadsheet immediately following the work(s). It is expected the owner will immediately pay the invoice with 24-48 hours upon receiving the invoice and as such, be aware of all monies spent and costs and/or works to date.
- i) The Builder will maintain the Works Budget spreadsheet, keep copies of the original invoices, and make it readily available for the Owner at all times to ensure transparency and accuracy for the overall project. Upon completion of the project, the Owner will receive a complete hard copy set of all invoices and works completed for their records.
- j) It is the Owner responsibility to be mindful of funds spent and ensure all works, materials, trades, and/or are paid on time and in full, unless a hold back is required by the Builder.
- k) Site preparation in 2020, performed by Serwa construction excluded in all mark ups prior to Jan. 1, 2021.
- l) It will be expected that payment will be made as per schedule above providing Builder is doing best efforts to maintain scheduled completion dates as agreed (Item 4).

4. Timeline and Schedule:

Initial work will commence based on the following schedule:

Date	Scope of Works	Description	Completion
Jan. 2021	Planning	House Plans	Feb. 21, 2021

Feb. 2021	Permits / DP / Engagement of Geo Tech and Structural Engineering / Design / Apps.	Applications / Contracts / Agent Agreements	Feb. 28, 2021
Mar. 2021	Site Survey	Elevations and Boundaries	Mar. 30, 2021
Apr. 2021	Site Excavation /Ground Prep	All ground works including drain tile and backfill	May 15, 2021
May. 2021	Footings / Foundation / Slab and Backfill	Formed, stripped and inspected	June 15, 2021
June – Aug. 2021	Framing / Roof and Exterior siding and Trims	Sheeted and sealed, soffits and trims	Aug. 20, 2021
July – Aug. 2021	Electrical & HVAC Rough In / Fire Suppression	Installed and Tested / Certified	Sept. 1, 2021
Sept. 2021	Insulation	Batt and Spray / Vapor Barrier / Inspections	Sept. 21, 2021
Oct. – Nov. 2021	Drywall and Wall Paint / 50% Base and Case	Install / Mud and Tape / Prime	
Nov. 2021	Cabinets and Counters	Install	Nov. 5, 2021
Nov. 2021	Electrical and HVAC Finishing	Fixtures / Sinks / Taps and Trims / Testing	Nov. 12, 2021
Dec. 2021	Flooring / Tiles / Final Trims	Install and Finish	Dec. 15, 2021
Dec. 2021	Final Clean and OP	Clean & Inspections	Dec. 17, 2021

* The Builder is not responsible for delays caused by any unforeseen circumstances in obtaining the required permits, easements, and approvals, or for delays as the result of bad weather, acts of God or changes made by inspectors, engineers, and/or other required authorized individuals, or the Owner. Best efforts will be made by the Builder to ensure proper lead times from, suppliers and scheduled trades to meet the desired timeline; however, owner must be aware that delays can occur and will alter the Final Completion date due to unforeseen circumstances. The Owner will be informed in writing via text, email, and or directly for the delay and reason for such and the Builder will make all best efforts to resume works as soon as possible. The Owner is aware that the finished home timeline is not guaranteed.

5. Cancellation

Once the contract is signed, the Owner will forfeit the \$25,000.00 CDN deposit paid to the Builder and agrees to pay any outstanding debits or trades owed on the project should the Owner cancel the project. Moreover, once applications are sent and construction has commenced, neither party may cancel this agreement unless acted upon by circumstances that pertain to other areas of this agreement. The only manner

in which the deposit is refundable is whereby the Builder cannot full his duties to start the project within the first 45 days due to unforeseen circumstances beyond any control of any party. At that time, the Builder will return the deposit in full, minus any works that may have been completed to date.

6. Construction Standards / Guidelines

The builder agrees to provide a dwelling house on the Lands build to applicable Big White Resort, RDKB & BC Building Code, By Law Standards for the area in effect at the date of this Agreement, and to the standards of workmanship required by established industry practice. The Builder also agrees to manage all the work for the construction in accordance with the plans and construction specifications (TBD), dated and signed by the parties for this agreement. The home will be constructed according to plans as set out in the - **to be determined - final plans** and may not be changed or altered without written consent from the Builder. Such changes may be subject to additional charges for materials and/or labor. Construction guidelines will be followed according to:

- i) **BC Housing Standards** (Copy provided to Owner)
- ii) **BC Building Code** (Copy provided to Owner)
- iii) **Pacific Home Warranty Program** (Copy to be provided to Owner)

7. Extras and Deletions

Extras to be calculated on a cost plus 15% basis, or on a lump sum basis to be agreed upon, in advance, by both parties. This will be payable no later than the next scheduled payment date.

8. Additional Footage Added

Any additional square footage added to the total build must be approved by both parties prior to construction commencement.

9. Terms of Payment / Method of Payment

The Owner agrees to pay to the Builder and all associated trades or sub-trades, including taxes, by way of cash, credit card, E-transfer, cheque, bank draft or other method of payment based on the following terms:

- a) **Within 4-7 business days of completed works.**
- b) **Prior to materials being delivered (some exceptions apply).**

- c) **Payments to be made in full unless hold back is required as instructed by the Builder.**

* **Note:** All major works must be inspected by the Builder prior to Owner issuing payment.

10. Pre-Occupancy Inspection / Effective "Move In" Date

- a) The Builder shall provide a Notice to the Owner advising that on a date to be specified in the notice that the dwelling/residence will be ready for occupancy, and further advising the Owner that an inspection shall take place on the date specified. The Owner shall make an inspection of the dwelling on the date specified in the notice together with the Builder, at which time and omissions or defects will be noted in writing. Taking occupancy will be deemed to conclusively prove the dwelling house is then complete and in full compliance with this Agreement except as to matters noted at the time of inspection.
- b) The Builder will cause to be corrected as soon as is practical, and to the reasonable satisfaction of the Owner, all the omissions and deficiencies noted, pursuant and agreed on within the first 55 days of occupancy.
- c) The Builder will review the Pacific Home Warranty Program with the Owner and provide all associated documents, warranties, original invoices, and any other documentation required for Final Occupancy.

11. Defaults by Owner

If the payment of any of the amounts here in agreement to be paid to the Builder are not made at the times and in the manner provided, or if the Owner defaults in any other covenants or agreements herein, the Builder may at his option seize work and treat the contract as repudiated forthwith on the occurrence of such default. The Builder may recover payment of the work already complete proportionality to the total contract price plus damages, including loss of profit together with interest thereon at the rate of 10% per annum.

12. Occupation of Premises

Is strictly agreed between the Builder and Owner(s) that the dwelling house constructed by the Builder, **may not be occupied** by the purchaser until all monies payable to the builder have been received by the Builder with any and all outstanding debits paid on

the project and/or property. **No items may be stored or held on the project site for any reason until the Final Occupancy Permit has been issued.**

13. The Warranty

The Builder represents that the New Home Warranty listed on page one of this agreement has provided, or will be provided, in compliance with The Homeowner Protection Act of British Columbia. Any changes, alterations, materials, installations or trades of any items with the dwelling as made by the Owner will be the sole financial and personal responsibility of the Owner and not under this or any other warranty offered by the Builder. Moreover, all changes/work done by the Owner and/or his/her representatives that effects the construction of the dwelling will void the National Home Warranty as provided by the builder.

- a) **Pacific Home Warranty Package** (To be provided upon completion and OP)
- b) **Pacific Home Warranty Checklist** (To be provided upon completion and OP)

14. Insurance(s)

COC: Course of Construction Insurance will be arranged and purchased based on a 1 year policy by the Owner under the direction of the Builder. The policy will only serve for construction during a 1 year period or until completed starting on the date of this Agreement. If the Owner require insurance past this date, then COC insurance will need to be renewed by the Owner.

15. The Binding Act

This agreement is binding upon the Builder and the Owner(s), their respective administrators, executors, successors, and assigns as it relates to each party.

16. Website / Information Log

A secure digital record will be kept during the duration of the project. It will serve as a permit record containing images, video, communications, records and all relevant information before, during and after the construction of the home.

www.philkimbigwhite.com – LINK (To be published effective the signing of the contract)
PASSWORD: pkbwhite

17. Statutory Declarations Under Builders Lien Act

The Owner will provide a Statutory Declaration confirming all costs associated to the home build have been paid for both labor and materials as they pertain to the project. The Builder will also submit a Statutory Declaration Form 9A for all payments he is required to have paid and when requesting release of the Lien Hold Back as required by law.

NOTE: The lien holdback must be paid 55 days after the contractor declares substantial performance, provided no liens have been filed. This total hold back will be the remaining total cost plus 15% of ALL final costs calculated from the final Works Budget minus the deposit, minus the monthly payment already made as mentioned in Paragraph 3.a .

18. Budget and Pricing

Owner(s) will receive weekly updates on budget and are to monitor regularly. A Draft Budget is provided as Schedule A. This Budget will serve as the guideline for construction costs and will become the **Works Budget** record during the build. Unforeseen costs in industry increases for materials and labor are not accounted for but, should be considered by the Owner. It is only an estimate based on current pricing with respect to materials, labor rates, and other industry standards for cost indexing.

Bidding process and protocol for all works will be undertaken where required, or at the discretion of the Builder and in consultation with the Owner. The lowest price will not always constitute the acceptance of the "bid." Factors such as company protocols, references, accreditations, experience will also contribute to final decision for hiring of trades and sub-trades.

19. Governing Bodies and Organizations

The Builder is bound to construct this dwelling/project for the Owner by all applicable laws and guidelines as established by:

- a) **BC Building Code**
- b) **Pacific Home Warranty Providers**
- c) **BC Housing Corporation**
- d) **National and Provincial Building Practices**
- e) **Work Safe BC**
- f) **Any other regulatory body certified and recognized by a registered governmental regulatory body applicable to Residential Construction Standards.**

NOTE: Nothing within this contract and override or supersede the applicable laws and standards.

20. Owner Inspections and Access

Owner must provide 24 Hours notice for site visits and not obstruct works during the visits or at any other time. Owner(s) must abide by all safety restrictions and requirements. All direct communication, comments, questions, requests, or other by the Owner must be made **directly to the Builder only** and not to any of the employees, subtrades, trades, inspectors, engineers, or other personal involved with the project at any time. A breach of these terms may result in termination of this Agreement in its entirety.

21. Confidentiality

The phrases and circumstances, terms, pricing, and all matters of this Agreement are completely confidential between the parties and shall not be disclosed to anybody else. Any disclosure or violation shall be deemed a breach of this Agreement.

22. Mediation of Disputes:

If a dispute arises between the parties in relation to this Agreement, or out of this Agreement, the parties agree that the corresponding Mediation Agreement dispute resolution process must be used (Schedule B).

Name of Builder/Project Manager: Wiker Developments, Inc.

Signature of Project Manager: _____

Date: _____, 2021

Name of Owner(s): _____

Signature of Owner: _____

Date: _____, 2021

Witness: _____ Date: _____, 2021

Conrad Wiker

CEO-Wiker Developments Inc..

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Schedule B – Disputes

Agreement to Mediate Disputes

If a dispute arises between the parties in relation to this Agreement, or out of this Agreement, the parties agree that the following dispute resolution process must be used.

1. A meeting must be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.
2. If, within [14] days after such meeting, or such further period agreed to by the parties in writing, the parties have not succeeded in negotiating a resolution of the dispute, the parties agree to submit the dispute to mediation.
3. The parties must jointly appoint a mutually acceptable mediator. If the parties are unable to agree upon the appointment of a mediator within [7] days after the end of the negotiation period referred to in paragraph (b), the parties must apply to the [Alternative Dispute Resolution Institute of British Columbia \(ADRBC\)](#), or such other organization or person agreed to by the parties in writing, which will, within [7] days of the application, appoint a mediator taking into account.
 1. the need for the mediator to be neutral and independent,
 2. the qualifications of the mediator,
 3. the mediator's fees,
 4. the mediator's availability, and
 5. any other consideration likely to result in the selection of an impartial, competent and effective mediator.
4. The parties agree to participate in good faith in a mediation session which must occur within [30] days after the appointment of the mediator, or such further period agreed to by the parties in writing.
5. The parties agree that the mediation will be conducted in accordance with the [Mediation Rules](#) of the [Alternative Dispute Resolution Institute of British Columbia \(ADRBC\)](#).
6. If the parties are unable to resolve all issues in dispute in the mediation, the parties agree that the remaining issues in dispute must be determined by arbitration under the Commercial Arbitration Act, R.S.B.C. 1996. The parties agree that the decision of the

arbitrator will be final and binding and will not be subject to appeal on a question of fact, law or mixed fact and law.

7. The parties agree to share equally the costs of the mediation and arbitration, which costs will not include costs incurred by a party for representation by counsel.

Builder: _____ Date: _____

Owner(s): _____ Date: _____

CONFIDENTIAL