

ROOFING CONTRACT
Reroof Replacement & Associated Work
22 Buildings, Pump Room, Manager's Office, Pool Houses and Cabanas

THIS CONTRACT is made and entered into this ___ day of _____, 2021 ("Effective Date"), by MARINA AT THE BLUFFS CONDOMINIUM ASSOCIATION, INC., (hereinafter referred to as "Association") and PALM BEACH BUILDING & CONSTRUCTION, INC. (Florida License Nos. CCC1329902 and CGC1520094) (hereinafter referred to as "Contractor"). This Contract, as well as all exhibits, specifications, drawings and plans, shall be hereinafter collectively referred to as the "Contract" or "Contract Documents". To the extent of any conflict that may arise among provisions of the Contract Documents as to the standard of care governing the Contractor's performance on the Project and other requirements, the more stringent standard and/or requirement shall apply. All references to "days" as set forth throughout this Contract shall be construed to mean "consecutive calendar days" unless otherwise stated. In the event of a conflict between Exhibits "1", "2", "2a", "3", "3a", "4", "5" and pages 1 through 18 of this Contract (hereinafter the "Text of the Contract"), the text of this Contract shall govern.

The Exhibits to this Contract are as follows:

"1"	Specifications and Scope of Work dated December 18, 2020
"2"	Phasing Plan
"2a"	AIA Document G702, "Application and Certification for Payment" supported by AIA Document G703, "Continuation Sheet" and Schedule of Values
"3"	Insurance
"3a"	Certificate of Insurance
"4"	Ten (10) Year Labor and Material Warranty from Contractor
"5"	Twenty (20) Year No Dollar Limit System Warranty

1. Association's Representative:

The Association's will designate a representative to review the Work by Contractor and approve all applications for payment ("Representative").

2. Description of Work:

Contractor shall, install, perform, furnish all work, labor, equipment and material required by this Contract, for complete roof replacement and associated work at the residential community known as Marina At the Bluffs Condominium in Jupiter, Florida (hereinafter "Project") according to the "Specifications and Scope of Work" dated December 18, 2020 labeled and attached to this Contract as Exhibit "1" (Exhibit "1"). The labor, material and equipment described in Exhibit "1" will be referred to throughout this Contract as "Work".

The Work includes the replacement of 22 building roofs, two (2) Pump Room roofs, one (1) roof on the Manager's Office, four (4) Pool House roofs and two (2) Cabana roofs.

During the course of performing the Work, Contractor shall comply with any and all applicable state, county, municipal codes, ordinances and regulations, including but not limited to, the Florida Building Code along with Palm Beach County Amendments ("Florida Building Code"), the Contract Documents, standards promulgated by the NRCA, as well as in accordance with good construction practices for this type of Work performed in Palm Beach County, Florida. Contractor represents and warrants to the Association that all Work will be performed by licensed contractors in accordance with Chapter 489, Florida Statutes.

In performing its obligations under this Contract, Contractor shall be deemed an independent Contractor and not an agent or employee of Association. Contractor shall have exclusive authority to manage, direct and control the Work.

3. Timely Completion:

- a) "Substantial Completion" for each building roof as described below, shall be defined as the date upon which the last of all of the following events have occurred:
 - (i) All necessary approvals have been issued with respect to the Work by the Authority Having Jurisdiction over the Work ("AHJ");
 - (ii) Restore all utilities to operation that have been affected during performance of the Work;
 - (iii) All items of Work have been completed except for punch list items of Work; and
 - (iv) The Representative executed and delivered to the Association a Certificate of Substantial Completion.

The time for commencement of the Work will begin within five (5) days from issuance of a Notice to Proceed by the Representative but only after the first permit for a specified roof has been issued, time being of the essence ("Commencement Date"). Contractor shall expedite the application for and issuance of all permits for the Work. Contractor shall achieve Final Completion of the Work in 870 days from the Commencement Date, time being of the essence. To the extent that the Association requests that additional work (outside the scope of Exhibit "1") be performed by the Contractor, such Work shall first be authorized by a properly executed change order in accordance with this Contract. "Final Completion" means that all Work for a specified roof has been completed including punch list items of Work.

- b) Time is of the essence of this Contract, and any breach of same shall go to the essence hereof, and Contractor, in agreeing to complete the Work within the time

herein mentioned, has taken into consideration and made allowances for all hindrances and delays incident to its Work however excluding delays associated with work being performed by others not affiliated with Contractor.

- c) Contractor will diligently and continuously perform such Work to achieve Substantial and Final Completion.
- d) Contractor shall make payments promptly to its vendors, and for material and equipment used in the performance of its Work. In addition, Contractor will deliver to the Association a written list of a subcontractors and suppliers that participate in performance of Work at the Project prior to the commencement of the Work.
- e) Contractor shall furnish sufficient forces in addition to subcontractors for the Work as well as an English-speaking superintendent and shall work such hours, including overtime operations, as may be necessary to ensure prosecution of the Work in accordance with the schedules submitted by Contractor to the Association. If Contractor falls behind the progress schedule, it shall take such steps as may be necessary to improve its progress by increasing the number of shifts, overtime operations, and days of work within the project limits as may be required, at no additional cost to the Association. Failure of Contractor to comply with the requirements under this Paragraph shall be grounds for determination that Contractor is not pursuing the Work with such diligence as will ensure completion within the time specified and such failure constitutes a material breach of the conditions of this Contract.
- f) Upon such determination as described in sub-paragraph 3(e) above, the Association may terminate Contractor's right to proceed with the Work. Notice of Termination shall be in writing and transmitted by the Association to Contractor in accordance with Paragraph 12 below. In the event of termination, Contractor's sole and exclusive remedy shall be a claim for payment of the Work performed to date, provided that the Work has been approved by the Consultant.
- g) Subject to the exception for active interference by the Association, its Representative or either of their respective agents, employees or contractors as outlined below, Contractor shall not be entitled to a claim for damages on account of hindrance or delays whether occasioned by an act of God, or force majeure, or due to changes ordered in the Work, or any other delay incurred through no fault of the Contractor ("Excused Delays"). As used within this Agreement, the term "force majeure" shall mean, by way of example, and not in limitation, fire, Governmental act, national emergency, pandemic that affects performance of the Work as well as tropical storms, hurricanes, strike, labor dispute, unusual delay in transportation, inability to procure materials, unavoidable casualties or any other causes beyond the Contractor's reasonable control. Except for those contractual obligations required to be performed by

the Association and/or Contractor during or in the aftermath of a force majeure event, a force majeure event will relieve the Association and Contractor of their respective contractual requirement to perform their obligations in a timely manner. Such act, hindrance, or delay resulting from an Excused Delay that impacts the critical path of the Work shall entitle Contractor to receive an extension of time as to the date for Substantial and/or Final Completion as referenced in Paragraph 3 above as its sole and exclusive remedy. Representative shall take into consideration providing extensions of time for weather delays that impact the Contractor's ability to proceed with the Work. All extensions of time shall be authorized only by a written change order executed by the Association, Contractor and Representative in accordance with this Contract. Time extensions will not be approved unless formally submitted in writing for approval with appropriate supporting documentation, including but not limited to, Contractor's Daily Log applicable for the period relevant to the delay. Approval of extensions of time will not be unreasonably withheld. Contractor's failure to provide such written notice to the Association shall deprive Contractor of its right to claim an extension of time. The providing of notice shall not of itself establish the validity of the cause of delay or of the extension of time for completion. Representative will recommend to the Association whether an extension of time for weather delays is appropriate. This "no damage for delay" clause will encompass any damages for delay or disruption even if Contractor completes the Work in a timely fashion in accordance with Paragraph 3 of this Contract. Damages as referenced in this "no damage for delay clause" shall include any type of damages that are or could be awarded by any court or arbitration panel, such as, by way of general example but not limitation, tort, contract, strict liability, liquidated and/or punitive damages, damages for additional general conditions. Contractor recognizes and specifically acknowledges the terms and conditions of the "no damage for delay" clause upon execution of this Contract. This "no damage for delay clause" will not apply should the Association or the Representative or the building department order Contractor to suspend Work and the suspension is not caused, in whole or in part, by the Contractor. This "no damage for delay clause" also will not apply in the event of active interference by the Association, the Consultant, or any of their respective agents, employees or contractors. To the extent that Contractor becomes aware of any active interference by the Association, the Consultant, or any of their respective agents, employees or contractors, Contractor will provide prompt written notice of such active interference to enable the Association to mitigate any loss or damage due to active interference. In the event of a suspension, delays caused by separate contractors of the Association or active interference as outlined above, Contractor will only be entitled to recover its actual direct expenses for such delays, including the reasonable cost associated with the demobilization and mobilization. To the extent of additional out of scope work is authorized by the Association that requires a change order, the provisions of Paragraph 14 will apply. Contractor will furnish to the Association all detailed supporting

documentation of its actual direct expenses as the Association may reasonably require.

- h) Contractor shall correct any Work rejected by the Association as failing to conform to the Contract Documents along with the standards for performance of the Work as described in Paragraph 2 of this Contract whether observed before or after completion and whether or not fabricated, installed or completed. The provisions of this Paragraph apply to Work performed by Subcontractors and Sub-Subcontractors, as well as to Work performed by direct employees of Contractor.

4. Contract Sum and Payments:

- a) Contractor agrees to organize, coordinate, administer, supervise, direct and construct all portions of the Work for the total amount of Two Million Six Hundred Seventy Seven Thousand Five Hundred Dollars and Zero Cents (\$2,677,500.00) ("Contract Sum") as outlined in the "Exhibit "1". The Contract Sum includes the cost of all permits fees and insurance premiums as required by this Contract. Contractor assumes all risks and responsibilities for performing all Work for an amount not to exceed the Contract Sum, subject to change orders issued in accordance with this Contract such as for conditions that are outside the scope of this Contract. The Association shall not be liable for any cost increases associated with labor and material that arise during the course of the Project. In the event that the cost of the Work exceeds the Contract Sum, Contractor shall pay such excess from its own funds and Association shall not be required to pay any part of such excess. Furthermore, Contractor shall have no claim against Association on account of such excess above the Contract Sum. By payment of any sums beyond the Contract Sum, the Association does not waive, release or compromise its right to challenge any payment to Contractor for those amounts.
- b) The Association will pay Contractor based upon the progress of the Work as approved by the Representative in accordance with the "Phasing Plan" labeled and attached to this Contract as Exhibit "2". The Work will be performed in Three (3) Phases in the following priority: Phase 1, Phase 2 and Phase 3. The two (2) Pump Rooms, one (1) Manager's Office, four (4) Pool Houses and two (2) Cabanas will be performed in Phase 1. The Contractor will coordinate the Work with the Association to minimize unit owner access to those areas where Work is being performed.
- c) The Contractor will be paid a portion of the Contract Sum as Work proceeds on a specified building in accordance with the following payment schedule: i) upon the application of a permit for a specified building roof, Contractor will be paid a portion of the Contract Sum, equivalent to 33% of the Contract Sum for that specific roof; ii) once dry-in inspection has been approved by the AHJ and Representative, the Contractor will be paid a portion of the Contract Sum equivalent to 33% for that specific roof and iii) once the AHJ and Representative

have issued the Final Inspection Approval for a specific roof, the Contractor will be paid the remaining portion of the Contract Sum equivalent to 34% percent for that specific roof.

Contractor shall submit payment requests to the Representative based upon the progress of the Work as accomplished every thirty (30) days. All payment requests must be approved by the Representative. The form of each payment request will be a notarized AIA Document G702, "Application and Certification for Payment" supported by AIA Document G703, "Continuation Sheet" along with a Schedule of Values in the form labeled an attached to this Contract as Exhibit "2a" showing all items of Work to be completed by Contractor, based on the Work undertaken, and broken down by that portion of the Contract Sum completed with each Application for Payment. Any reasonable objections to Work performed shall be given, in writing, to Contractor within five (5) days from the Representative's receipt of the Application for Payment and, if no objections are made, then payment shall be tendered to Contractor within seven (7) days of receipt of written notice from the Representative to the Association that the payment request has been approved or within ten (10) days of receipt of the Application for Payment, whichever is later, and Contractor shall submit simultaneously a Progress Payment Affidavit, Partial Release of Lien or, if completion is final, a Contractor's Final Payment Affidavit and Final Release of Lien utilizing statutory forms pursuant to Florida Statutes Chapter 713, indicating that all subcontractors, laborers, materialmen and suppliers have been paid for the Work completed. Failure of Association to make objection as provided for in this Paragraph shall not waive any right that the Association has under this Contract nor relieve Contractor from any of its obligations under this Contract.

The Association will withhold an amount of each payment to Contractor in the amount of two (2%) per cent of the Contract Sum as retainage, to secure completion of all Punch List items of Work and other obligations pursuant to the Contract for the Work. Contractor shall notify the Association when the Work for on each building roof has achieved Substantial Completion. At that time, the Representative shall perform an inspection of the Work and if appropriate, will issue a Certificate of Substantial Completion for that building roof and prepare a written Punch List for that Work. Immediately thereafter, the Punch List shall be delivered to Contractor. All Punch List items of Work shall be promptly completed in a good and workmanlike manner in accordance with this Contract within ten (10) days from delivery of the Punch List to the Contractor for a specific building roof, time being of the essence. Once all Work has been completed on a specified building roof, the balance of the Contract Sum for that building roof will be paid to Contractor less the retainage withheld. The retainage will be paid to Contractor upon satisfying the conditions of Final Payment for all Work in accordance with Paragraph 4(g) below.

- d) As a prerequisite to receiving any payment hereunder, Contractor shall submit to the Association Partial Releases of Lien for Work completed or materials supplied or, if completion is final, Final Releases of Lien from all persons or entities who supplied labor or materials to the Project who are not in privity with the Association. Contractor may elect to only provide releases and waivers of lien from those that issued Notices to Owner however in that event, Contractor agrees to indemnify, defend and hold the Association harmless from any claims or causes of action arising from unpaid laborers, materialmen and suppliers for Work performed pertaining to this Project. The consideration and provisions of Paragraph 10 below are incorporated herein by reference. All Work performed under this Contract shall be subject to the approval of the Association.
- e) Payments due to Contractor may be withheld by Association on account of defective Work not remedied, claims filed by third parties, reasonable evidence indicating probability of filing claims, failure of Contractor to make payments properly to subcontractor or for material or labor. To the extent that the Association elects to withhold payment for the reasons referenced in this subparagraph, the Association will provide written notice to Contractor reciting the reasons for withholding payment. If any of the foregoing said causes is not removed or if Contractor at any time shall refuse or neglect to supply adequate and competent supervision or sufficient properly skilled workmen or materials of the proper quality or quantity necessary for the performance of the Work hereunder or fail in any respect to prosecute the Work with promptness and diligence or fail to perform or to adhere to any Contract on its part herein contained, Association shall have the option, after fifteen (15) days written notice to Contractor and without prejudice to any other remedy it may have, to pay such claims and provide for such labor or materials and to deduct the cost thereof from any money due or thereafter to become due by Association to Contractor. In addition to the foregoing rights and remedies, Association may terminate the employment of Contractor under this Contract, enter upon the premises and take possession of all materials of any kind whatsoever, and employ any other person or persons to finish the Work and provide materials. In the event of termination,, Contractor shall not be entitled to receive any payment under this Contract which might be due it, until said Work shall be finished and payment in full shall be made by Association at which time, if the unpaid balance of the amount to be paid under this Contract shall exceed the expenses incurred by Association in finishing Contractor's Work, such excess shall be paid by Association to Contractor, but if such expenses shall exceed such unpaid balance, Contractor shall pay the difference to Association. In the event the Association issues a written Notice of Termination to Contractor pursuant to this Paragraph, Contractor shall be provided with an opportunity to cure the cause for termination as described by the Association in accordance with Paragraph 12 below. Contractor's right to payment under this Contract shall also be subject to those conditions for payment set forth in other paragraphs of this Contract.

- f) Neither Association's review, approval nor payment for any Work rendered under this Contract shall be construed to operate as a waiver of any rights under this Contract of any cause of action arising out of the performance of this Contract, and Contractor shall be and remain liable to the Association in accordance with the applicable law for all damages to the Association caused by Contractor's failure to properly perform any portion of the Work furnished under this Contract. The rights and remedies of the Association provided for under this Contract are in addition to other rights and remedies provided by law.

- g) Upon completion of all Work under this Contract and before Final Payment will be issued, Representative must deliver a Certificate of Final Completion to the Association and Contractor shall perform the following which shall serve as conditions precedent to Final Payment:
 - (i) Deliver to the Association all warranties, final certifications from the roof material manufacturer and the AHJ along with similar documents and confirmation that all permits have been closed.
 - (ii) All Punch List items of Work have been completed and approved by the Consultant.
 - (iii) Remove temporary facilities from the site, along with construction tools and similar elements.
 - (iv) Complete final clean-up including repair, replace and restore any items damaged by Contractor as a consequence of performing Work.
 - (v) Deliver to the Association Final Releases and Waivers of Lien from all subcontractors, laborers, suppliers along with a Contractor's Final Payment Affidavit in accordance with Section 713.06(2), Florida Statutes.

Final Payment shall not be paid by Association to Contractor until all conditions precedent as outlined above have been satisfied and the Representative has delivered to the Association a final Certificate for Payment. The Association shall nonetheless be required to make all payments due prior to the Final Payment in accordance with the Contract.

Neither the Final Payment nor any provision of the Contract Documents, nor partial or entire use of occupancy of the premises by the Association, shall constitute an acceptance of the Work not performed in accordance with the Contract Documents, or relieve Contractor of liability in respect to any express warranties or responsibilities for any faulty materials or workmanship, which shall be replaced in accordance with the terms of the warranty issued by the Contractor. To the extent that the Association improperly withholds payment without justification as described in this Contract, the Contractor will be entitled to recover interest at the prevailing statutory rate in Florida at the time of the dispute.

5. Contract Costs:

- a) The Contract Sum includes all transportation, storage, equipment, scaffolding, cranes, swing stages, supplies, labor, supervision services, and materials, necessary for a complete and functional installation, for the Work described in the Contract Documents. In the event that labor and materials are to be furnished to perform work outside the scope of the Contract Documents, Contractor shall secure a written change order prior to performing any additional Work. All Work performed by Contractor or its subcontractors to make Contractor's Work comply with all applicable building codes, specifications and standards as referenced in Paragraph 2 above, or interpretations thereof, shall be performed by Contractor at no additional cost to the Association. The Work shall also include all labor, materials and everything required or claimed by Contractor's material men, suppliers or laborers to complete the Work in accordance with Exhibit "1".
- b) Contractor shall provide all notices so as to comply with all local ordinances, requirements of county building codes and of federal, state and municipal authorities which are applicable to the Work, local, municipal, sanitary laws and rules and regulations, specifically including and not limited to, all local, state and federal OSHA and EPA safety and environmental regulations, and all orders both present and future, and interpretations of such ordinances, including but not limited to noise ordinances, requirements, laws, rules, and regulations by governing public authorities, regardless of whether such ordinances, requirement laws, rules and regulations are set forth in this Contract, or the Contract Documents. Contractor shall secure, in its own name and right, and pay for all fees, permits, licenses and registrations necessary for the execution of the Work to be performed. In accordance with Paragraph 4a above, permit fees are included in the Contract Sum.
- c) Contractor shall pay all social security and other taxes imposed upon it as an employer in connection with the performance of this Contract, and will furnish evidence, when required by Association, showing that all such payments required to be made have been paid.
- d) Contractor shall pay all applicable local state and federal taxes, including sales and use taxes, in connection with its Work. Contractor represents that this is a non-union project.
- e) All costs incurred by Contractor to perform its Work shall be at the expense of Contractor.

6. Supervision:

- a) Contractor shall supervise and direct the Work, using its best skill and attention and it shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under this

Contract. Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ any unfit person or anyone not skilled in the task assigned to it. However, Contractor shall not be responsible for the Work performed by any other party not hired by or on behalf of Contractor.

- b) Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. It shall take all reasonable protection to prevent damage, injury or loss to: (i) all employees on the Work and other persons who may be affected thereby; (ii) all the Work and all materials and equipment to be incorporated therein; and (iii) other property at the site or adjacent thereto including but not limited to parking areas, pool deck, building exteriors, and landscaping. Contractor shall provide all notices and comply with all applicable laws, ordinances, rules, regulations and orders of any public authority, including but not limited to, O.S.H.A., bearing on the safety of persons and property and their protection from damage, injury or loss. The Contractor shall not be responsible for any damage solely caused by the Association or any third party.

Contractor shall promptly remedy all damage or loss to any property to the extent caused by Contractor, any subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them is liable. Contractor shall be responsible to Association for the acts and omissions of its employees, subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor, including with regard to damages to any persons or property. The foregoing obligations of Contractor are in addition to its obligations pursuant to Paragraph 10 below.

- c) Contractor shall timely review, approve and submit all Product Data and Samples required by the Contract Documents. All Work performed by Contractor shall be performed in accordance with approved submittals. All Work will be performed to satisfy all requirements including, but not limited to those necessary to receive a warranty as specified by the manufacturers of all material incorporated into the Work
- d) Contractor shall protect and prevent damage to all areas surrounding the areas where Work, pursuant to this Contract, is being performed, including but not limited to, the common areas controlled by the Association. Contractor shall protect the Work from damage by the climate, theft, or vandalism. The Contractor shall protect plantings, planter boxes and patio areas from damage during performance of Work. Contractor shall also replace all plantings, sod, sprinklers and landscaping damaged by Contractor during performance of Work. To the extent damages to Association property occurs as a result of the acts, conduct and/or omissions of Contractor, all damaged areas shall be repaired and/or replaced at Contractor's sole expense. The Contractor shall photograph or video tape the condition of all areas adjacent to the

building prior to commencement of Work and provide the Association with a copy of it. All Work and storage areas shall be maintained in a neat/clean condition.

7. Insurance

- a) Without limiting any of the other liabilities or obligations of Contractor, Contractor shall furnish or cause to be furnished to Association, prior to the initiation of the Work, copies of all pertinent insurance policies, stating that the types of insurance coverage and limits as outlined in the attached Exhibit "3" are in full force and effect, covering the activities of all of Contractor's employees, subcontractors and agents, naming Association, by special written endorsement, as an additional insured, and that said insurance will not be canceled without thirty (30) days prior written notice to Association by the Insurance Agent. Contractor will provide the Association with a duly executed Certificate of Insurance labeled and attached to this Contract as Exhibit "3a" before commencement of the Work to confirm that the Contractor has acquired all specified coverage. Contractor shall continuously maintain all insurance as provided herein, throughout the performance of this Contract and shall, upon the cancellation of one policy and its replacement with another naming Association as an additional insured on said policy and provide the Association a new, duly executed Certificate of Insurance. Notwithstanding the foregoing, if in connection with the Work, the Association receives any insurance proceeds from insurance policies not supplied by or through the Contractor for the damage caused by Contractor, the proceeds shall nonetheless be deemed to be a reduction of any damages suffered by the Association. The minimum coverage limits set forth in this paragraph shall in no way be construed as a limitation of liability on behalf of Contractor, its employees, agents and subcontractors. Association's approval of Contractor's insurance or coverage amounts as set forth herein or in Exhibit "4" hereto shall not in any way relieve or decrease the liability of Contractor. The insurance as required by this Paragraph shall be written by a company properly licensed in Florida at the time the policy is issued. The company issuing the insurance must be reasonably acceptable to Association. This insurance shall be primary and other insurance of Association shall not be contributory. Contractor shall also be responsible for verifying that all participating subcontractors maintain Worker's compensation insurance.

8. Clean-up:

- a) Contractor shall cause no waste to the Condominium or adjoining property in the performance of this Contract, and at all times shall keep the premises in a neat, clean and organized manner as required by the Contract Documents. At the completion of the Work, it shall remove all its waste materials and rubbish from and about the premises, as well as its tools, construction equipment, machinery and surplus materials, and return all affected areas of the property where Work was performed by Contractor to the condition it was in prior to commencement of the Work.

- b) If, after seven (7) days written notice by the Association to Contractor that Contractor has not diligently proceeded with the clean-up as outlined in this Paragraph, then Association, with the written concurrence of the Consultant, has the right to proceed with the clean-up Work at Contractor's cost and expense. Any reasonable costs incurred by the Association in connection with the clean-up may be deducted from payments to Contractor.
- c) Free, clear and unobstructed egress and ingress with respect to the Condominium property shall be maintained by Contractor except as agreed to by Association. The Association shall not unreasonably withhold its Contract and shall not impede the progress of the Work.
- d) Hours of Work shall be from 8:00 a.m. to 6:00 p.m. Monday through Saturday unless otherwise restricted by applicable law, ordinances, rules and regulations by the Town of Jupiter, Palm Beach County, Florida and/or rules and regulations of the Association. Contractor shall store and park materials, equipment, tools and vehicles only in those areas designated by Association. Contractor may not perform Work on any Sunday and/or on National Holidays recognized by the Federal Government without the express written permission of the Association.
- e) Should adverse conditions such as severe storms or hurricanes be forecasted, Contractor shall take all necessary precautions to remove any pipe scaffolding or swing stage scaffolding which could be moved by the winds and become projectiles. All precautionary measures and removal of such apparatus associated with providing all necessary precautionary measures shall be provided at no cost to Association. Contractor shall initiate reasonable measures in the event of such conditions to avoid damage to the Association's property. In the event of a hurricane, hurricane watch, hurricane warning and/or tropical storms, the Representative may order, in writing, the Contractor to protect exposed exterior portions of the Work in progress where areas susceptible to damage exist to interiors, with plywood sheathing or other protection as specified by the Representative with a goal of withstanding hurricane winds and resultant driven rains. Should Contractor be directed by the Representative and/or Association to do so, these precautionary measures will be performed at no cost or expense to the Association. Contractor shall be responsible for restoring the premises and repairing other damage created during performance of the Work resulting from Contractor's negligent failure to comply with obligations hereunder.
- f) It shall be the sole responsibility of Contractor to reasonably secure, safeguard and protect its material and equipment from damage or theft until formally accepted, in writing, by Association.

- g) All electrical outlets for the scaffolding and power for the Work, as well as all necessary water, shall be supplied by the Association. The Association is not obligated to provide supplemental electrical service or install additional components at the Condominium to accommodate the Contractor beyond what is presently available.
- h) All lawn areas damaged during the Work by Contractor shall be replaced by Contractor except those areas that are needed for access to perform the Work as described by the Association in writing prior to commencement of the Work.

9. Warranties:

- a) Contractor warrants to the Association that all materials incorporated into the Work shall be new. Contractor further warrants to the Association that all Work performed by Contractor shall be of good quality, free from faults and defects and shall conform with the Contract Documents, all applicable state, municipal, codes, ordinances and regulations, including but not limited to, the Florida Building Code. For the period of Contractor's warranty, all Work not conforming to these requirements shall be considered defective. The cost of removal and correction shall be at the sole expense of Contractor.

Contractor shall provide all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the Work, and shall promptly notify the Association if the Contract Documents are at variance with any of the foregoing standards. Contractor expressly warrants to Association that it shall acquire all applicable building permits, licenses and otherwise comply with all regulatory requirements of the municipal building department.

- b) Contractor further warrants that it will comply with all applications and other requirements of each producer or supplier of materials, and shall ensure that any inspections or other requirements of a producer or supplier for a warranty of the materials take place. The Association shall not impede the ability of Contractor to arrange such inspections.
- c) Contractor will provide to the Association all specified warranties described in Exhibit "1" including but not limited to a Ten (10) Year Warranty by Contractor for all work performed pursuant to this Contract. The form of the Warranty is labeled and attached to this Contract as Exhibit "4". In addition, Contractor will deliver to the Association a Twenty (20) Year No Dollar Limit System Warranty for the roof systems in the form labeled and attached to this Contract as Exhibit "5".
- d) In addition to but not in derogation of the rights of the Association as set forth above, Contractor shall ensure that Association receives all available warranties from any

and all manufacturers, subcontractors, laborers, suppliers of materials or materialmen used in connection with the Work.

10. Mutual Hold Harmless and Indemnification:

To the fullest extent permitted by law, the Association and Contractor shall indemnify, defend and hold harmless each other and their respective directors, officers, members, and their respective employees (hereafter collectively referred to as "Indemnified Parties"), from liability, claims, damages, losses and expenses, including, reasonable attorneys' fees, to the extent caused by the negligent acts, errors or omissions of either the Association and Contractor and/or its employees, consultants and representatives relative to performance of their respective obligations under this Contract. This Contract does not require either the Association or Contractor to provide indemnification for the negligence of the other party. The indemnification as provided in this paragraph shall be subject to a monetary limitation of **Three Million Dollars** (\$3,000,000.00) for which the Association and Contractor both acknowledge that this amount bears a reasonable commercial relationship to this Contract and also, is incorporated by reference into this Agreement. This Indemnification obligation of the Association and Contractor shall survive termination or expiration of this Contract.

11. Liens:

Contractor will save and keep the building or buildings, referred to in this Contract or the lands upon which they are situated free from all construction liens and all other liens by reason of its Work or any materials or other things purchased by it therein. If Contractor fails to remove such lien(s) by bonding it or otherwise, Association may retain sufficient funds, out of any money due or thereafter to become due by Association to Contractor to pay the same and to pay all costs incurred by reason thereof, including reasonable attorney's fees and the cost of any lien bonds that Association may elect to obtain, and Association may pay said lien or liens and costs out of any funds which are or which become due to Contractor and which are at any time in the possession of Association. Invoices shall be accompanied with a detailed breakdown of the allocation of the amount required together with copies of lien Releases.

12. Termination:

This Contract may be terminated by either party upon not less than seven (7) days written notice should the other party fail, in a material way, and after opportunity to cure within seven (7) day period as provided herein, to perform in accordance with the terms of this Contract, provided there is no fault of the party initiating the termination.

13. Waiver:

This Contract constitutes the entire Contract between the parties hereto. No change or modification of this Contract shall be valid unless in writing and signed by all parties hereto. No waiver of any provisions of this Contract shall be valid unless in writing and signed by the party against whom it is sought to be enforced. Further, the provisions, conditions, terms and covenants herein contained shall bind and the benefits and advantages shall inure to the respective successors, assigns, trustees, receivers and personal Consultants of the parties hereto.

No failure of Association to exercise any power or right given hereunder or to insist upon strict compliance by Contractor with any of its obligations hereunder, and no custom or practice of the parties at variance with the terms of this Contract, shall constitute a waiver or variation of Association's rights to demand exact compliance with the terms hereof.

Likewise, Contractor's failure to demand strict compliance with any terms of this Contract shall not act as a waiver of any of its rights or obligations hereunder, nor shall it act as a waiver to demand strict compliance from the Association.

14. Change Orders:

No alterations and/or additional Work shall be made in the Work as shown or described in the drawings or specifications as modified by applicable ordinances, requirements, laws, rules and regulations as set forth herein which alteration would include Work which is not subject to or covered by the unit prices already established by this Contract, except for a written change order properly executed by the Association and Contractor which shall include any change in the Contract Sum and/or Contract Time. Contractor shall have no claim for the cost of additional Work or for an extension of time (including, without limitation, claims for impact damages or to costs due to delay) unless such Work and the cost and expenses thereof or time is stated on the face of a written change order and approved and accepted by Association by written change order. Any attempted reservation by Contractor of the right to subsequently claim any amount or extension of time not stated on the face of a written change order approved and accepted by Association shall be null and void. All change orders issued under this Contract shall be subject to all of the terms of this Contract. All out of scope work that is subject of a change order will be charged at actual cost plus twenty (20%) per cent inclusive for overhead, profit and all other fees as well as costs.

15. Mediation:

If any dispute arises in connection with the performance of any obligation under this Contract, the parties agree to consult with each other and consider the use of mediation prior to resorting to litigation. Pending resolution of any dispute, the Contractor shall continue to perform its obligations under this Contract to minimize interruptions in construction of the Project. Likewise, the Association shall not withhold payment to Contractor during the pendency of any such dispute for Work performed which is not related

to the dispute. In the event of mediation, the mediation shall be conducted in Palm Beach County, Florida with a Mediator certified by the Florida Supreme Court and each party will share equally in the cost and expense of mediation.

16. Assignment:

Contractor shall not let, assign or transfer this Contract or any part thereof, or any interest therein, without the written consent of Association.

17. Construction:

This Contract is the joint product of the respective parties and may not be more strictly construed against any party.

18. Notices:

Notices to the parties as provided herein shall be by certified mail, return receipt requested, to the following addresses:

If to Association and Representative:	Marina At the Bluffs Condominium Association, Inc. Attn: Board of Directors 1550 Marina Isle Way Jupiter, Florida 33477
With copies to:	Becker & Poliakoff, P.A. Steven B. Lesser, Esq. One East Broward Boulevard, Suite 1800 Fort Lauderdale, Florida 33301
If to Contractor:	Palm Beach Building & Construction, Inc. 113 17 th Avenue Lake Worth, Florida 33460

19. Attorneys' Fees/Jurisdiction and Venue:

In connection with any litigation arising out of this Contract, the prevailing party shall be entitled to recover from the other party said prevailing party's attorney's fees and costs, including attorney's fees and costs for any trial, bankruptcy and appellate proceedings. Jurisdiction and venue for all disputes shall be brought in a court of competent jurisdiction in Palm Beach County, Florida.

20. Waiver of Chapter 558, Florida Statutes:

The Association and Contractor waive all requirements of Chapter 558, Florida Statutes with respect to this Contract.

21. COVID Acknowledgement:

It is specifically acknowledged, understood and agreed that the Contract Sum includes considerations necessitated by the current COVID pandemic; including, without limitation, governmental and quasi-governmental agencies delays; suspensions and interruptions of work and/or services that are in place or scheduled; as well as the restrictions on the working environment, construction means and methods; and size and proximity of work forces and worker productivity that are expected to follow as a result thereof. Accordingly, in no event shall the COVID pandemic or the impacts thereof result in any increase in the Contract Sum or entitle Contractor and/or its subcontractors to any claim for adjusted or additional compensation, general conditions or damages of any nature.

22. Severability:

If any provision of this Contract is held to be or becomes invalid, illegal or unenforceable or has been breached by any party to this Contract, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the Effective Date.

Signed, Sealed and Delivered in the Presence of:	MARINA AT THE BLUFFS CONDOMINIUM ASSOCIATION, INC. ("Association")
_____	By: _____ _____, President
Signature of Witness	

Printed Name of Witness	

Signed, Sealed and Delivered in the Presence of:	PALM BEACH BUILDING & CONSTRUCTION, INC. ("Contractor")
_____	By: _____ _____ President
Signature of Witness	

Printed Name of Witness	Printed Name of President

EXHIBIT "1"

SPECIFICATIONS AND SCOPE OF WORK DATED DECEMBER 18, 2020

EXHIBIT "2"
PHASING PLAN

The priority of the Work will proceed in accordance with the following Phasing Plan:

PHASE 1: Buildings 17,6,11,7,8,9,10,5 and two (2) Pump Rooms, one (1) Manager's Office, four (4) Pool Houses and two (2) Cabanas.

PHASE 2: Buildings 15,18,16,13,22,14,20

PHASE 3: Buildings 21, 12, 19,23,26, 24,25,

EXHIBIT "2a"

**AIA DOCUMENT G702, "APPLICATION AND CERTIFICATION FOR PAYMENT" SUPPORTED BY
AIA DOCUMENT G703, "CONTINUATION SHEET" AND SCHEDULE OF VALUES**

EXHIBIT "3"
INSURANCE

Insurance shall be provided by a company from A.M. Best, rating "A" or better, and shall be licensed to do business in the State of Florida. Insurance shall be Primary and Non-Contributory and written for not less than the following:

1. **Workers' Compensation** benefits as required by statute:
Employers' Liability with limits of not less than:
\$500,000 each employee - by accident
\$500,000 policy limit - by disease
\$500,000 each employee - by disease
 - Waiver of subrogation for the Owner
(in each case to the full extent permitted by law)
 - If leased employees are used, issuance of an Alternate Employer's Endorsement is required.
 - 30 days' notice of cancellation to the Owner
(10 days if cancellation for non-payment of premium).
2. **Commercial General Liability** (Bodily Injury, Property Damage and Contractual Liability including Products & Completed Operations, on an occurrence form only ("claims made" forms are not acceptable)
\$2,000,000 General Aggregate Limit
\$2,000,000 Products/Completed Operations Aggregate Limit
\$1,000,000 Each Occurrence
\$1,000,000 Personal & Advertising Limit
 - General Aggregate Limit to apply per Project
 - **No Exclusionary language or limitations relating to residential condominiums, multi-family or multi-unit dwellings,**
 - 30 days' notice of cancellation to the Owner (10 days if cancellation for non-payment of premium)
 - Waiver of subrogation for the Owner
3. **Commercial Automobile Liability:**
 - Combined single limit for bodily injury or property damage liability
\$1,000,000,00 Combined Single Limit - each accident (owned autos)
\$1,000,000.00 Hired & Non-owned Auto Liability limit
 - 30 days' notice of cancellation to the Owner
(10 days if cancellation for non-payment of premium)
4. **Umbrella/Excess Liability:**
(Must be excess over General Liability, Commercial Automobile Liability and Employers Liability)
\$3,000,000.00 Each Occurrence / \$3,000,000.00 Aggregate
 - No exclusionary language or limitations relating to residential, condominiums, multi-family or multi-unit dwellings.
 - 30 days' notice of cancellation to the Owner
(10 days if cancellation for non-payment of premium).
5. **The Owner (and where applicable its Lender) shall be named as "Additional Insured" on all Primary and Excess Liability Policies:**
No Contractor or Subcontractor shall be allowed to start on site until full insurance coverage is submitted to the Owner by endorsement delivered to the Owner. Endorsements must be on one of the following forms and a copy of the endorsement from the insurance company shall be filed with the Contractor.

Additional Insured Endorsements must be one of the following:

CG 2010 (11/85) Additional Insured - Owners, Lessees or Contractors **OR**

CG 2026 (1 1/85) Additional Insured - Designated Person or Organization

CG2010 (07/04) Additional Insured - Owners, Lessees or Contractors (only applies to ongoing operations)

or

Contractor's Blanket Additional Insured Endorsement, to include "your work" basis including ongoing operations and completed operations. CG 7048(03/04)

EXHIBIT "3a"
CERTIFICATE OF INSURANCE

EXHIBIT "4"
TEN (10) YEAR LABOR AND MATERIAL WARRANTY FROM CONTRACTOR

PALM BEACH BUILDING & CONSTRUCTION, INC. ("Contractor") and its successors and assigns, hereby warrants to **MARINA AT THE BLUFFS CONDOMINIUM ASSOCIATION, INC.** and its unit owners, successors and assigns (hereinafter collectively referred to as "Association"), that the Work performed and materials supplied by the Contractor relating to the "Work" as referenced in the Contract entered into by and between the Contractor and Association dated _____ 2021 ("Contract") relating to roof replacement and associated work relative to the condominium known as Marina At The Bluffs Condominium in the Town of Jupiter, Florida ("Project"), shall be free of defects or failures for the period of time hereinafter specified. Contractor further agrees as follows:

1. Contractor warrants that all Work performed, and materials supplied pursuant to the Contract are new, merchantable, fit for the Association's intended use, conforms to the standards set forth in the Contract, are free from defects in workmanship and material for a period of Ten (10) Years for all Work commencing from the date of Final Completion as referenced in the Contract. The defects are those that fail to comply with the standards set forth in Paragraph 2 of the Contract. This Warranty includes coverage for all consequential damages for every part of the Project including personal property.

2. This Warranty is unconditional and has no exclusions to its application which shall be all encompassing to cover any and all defects and/or deficiencies associated with Work performed and materials supplied by Contractor relating to the Project. However, Contractor's warranty obligation excludes the following; (a) misuse, neglect, or unauthorized alterations of the roofing system or as a result of or connected with materials supplied or installed by others not affiliated with Contractor; (b) damage caused by other trades or persons to the work installed by Contractor.

3. In the event of a defect, malfunction or other failure of the Work performed and materials furnished or any part or portion thereof, to be in conformity with its use by the Association, the Contractor shall remedy the failures, malfunctions and defects, without charge to Association, at Contractor's own cost and expense, within a reasonable time not to exceed fifteen (15) days from the date of Contractor's receipt of notification of any such failure or defect. The Association's remedy shall consist of the repair or replacement of the defective workmanship or materials. In the event Contractor certifies it is unable to provide a replacement or that the repair is not commercially practicable or cannot be made within the time of period stated herein, then at the option of the Association it may, at its sole discretion, elect to accept an amount of money equal to the reasonable repair or replacement costs of the failed or defective item(s), or Association may repair or replace such items and Contractor shall immediately upon receipt of Association's statement of the costs of such replacements or repairs pay to Association the full amount listed in said statement(s).

4. In order to obtain performance of any obligation under this Warranty, the Association shall notify Contractor and by certified mail, return receipt requested or ordinary mail, at the election of Association, at the following address:

If to Association and Representative:	Marina At the Bluffs Condominium Association, Inc. Attn: Board of Directors 1550 Marina Isle Way Jupiter, Florida 33477
With copies to:	Becker & Poliakoff, P.A. Steven B. Lesser, Esq. One East Broward Boulevard, Suite 1800 Fort Lauderdale, Florida 33301
If to Contractor:	Palm Beach Building & Construction, Inc. 113 17 th Avenue Lake Worth, Florida 33460

5. This Warranty provides the Association specific legal rights which are in addition to other rights the Association may have under Florida law.

6. Contractor binds itself and its respective successors and assigns to this Warranty.

7. **This Warranty** shall inure to the benefit of the Association and its unit owners. This Warranty shall commence upon its execution by the Contractor and shall benefit each individual unit Association. In addition, the Contractor hereby assigns and transfers to the Association, all warranties of manufacturers, subcontractors, sub-subcontractors, materialmen and others herein provided with respect to the Work performed and materials supplied pursuant to the Contract, but such assignment shall not relieve the Contractor of its warranty obligations hereunder or pursuant to the Contract.

8. This Warranty shall in no way be compromised by the issuance of any warranties, from manufacturers, subcontractors, sub-subcontractors, materialmen and others with respect to the Project.

IN WITNESS WHEREOF, the Contractor has executed this Warranty this ____ day of _____, 2021.

Signed, Sealed and Delivered in the Presence of:	PALM BEACH BUILDING & CONSTRUCTION, INC. ("Contractor")
_____ Signature of Witness	By: _____ President

	Printed Name of President
Printed Name of Witness	

STATE OF FLORIDA :

COUNTY OF _____ :

The foregoing instrument was acknowledged before me this ____ day of _____, 2021
 by _____ as PRESIDENT, of PALM BEACH BUILDING & CONSTRUCTION, INC.
 of said corporation who is personally known to me or who has presented _____
 as evidence of identification, and who did not take an oath.



NOTARY PUBLIC, State of Florida

 My Commission Expires:

Printed Name of Notary Public



EXHIBIT "5"

TWENTY (20) YEAR NO DOLLAR LIMIT ROOF SYSTEM WARRANTY