



AGREEMENT

Made as of the 4th day of February 2025

BETWEEN the Owner:

Choctaw – Nicoma Park Public Schools
12880 NE 10th St.
Choctaw, OK 73020

AND the Contractor:

Palomar Modular Buildings LLC
505 North I-35E
Desoto, Texas 75115

The Project is: Manufacture and install a (4) 28'x 64' (nominal dimensions) Double Classroom Buildings. Three Dry Classrooms w/ Closets and One Wet Classroom.

The Owner and the Contractor agree as set forth below:

ARTICLE 1 THE WORK OF THIS CONTRACT

1.1 The Owner and Contractor shall execute the entire Work described in the Contract Documents under the project scope.

ARTICLE 2 DATE OF COMMENCEMENT

2.1 The date of commencement shall be the date of this Agreement.

ARTICLE 3 CONTRACT SUM

3.1 The Owner shall pay the Contractor in current funds, for the Contractor's performance of the Contract, the Contract Sum of **\$513,850**.

ARTICLE 4 PAYMENTS

4.1 The Owner shall pay the Contractor 50% of the Contract Sum on the date this Agreement is executed. The Owner shall pay the Contractor an additional payment of 40% of the Contract Sum immediately upon notice to Owner of completion of production of the modular building unit(s) at Contractor's plant.

4.2 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to Contractor upon Substantial Completion of the Work or upon issuance of a certificate of occupancy, whichever occurs first.

The Contract Sum does not include any taxes, fees or permits of any kind, all of which shall be the responsibility of the Owner unless explicitly noted otherwise in the Contract Documents.

4.4 For the purpose of securing payment of the Contract Sum, Owner hereby grants Contractor a security interest in and to the modular building.

ARTICLE 5
ENUMERATION OF CONTRACT DOCUMENTS

- 5.1 The Contract Documents, which together comprise the Contract, are listed in Article 6 and, except for modifications and Change Orders issued after execution of this Agreement, are enumerated as follows:
- 5.2 The Agreement is this executed agreement between Owner and Contractor.
- 5.3 The Specifications are those contained in the enclosed documents titled "General Specifications and Statement of Work."
- 5.4 The Drawings are those contained in the enclosed documents titled "Project Drawing."

ARTICLE 6
CONTRACT DOCUMENTS

- 6.1 The Contract Documents consist of this Agreement, Drawings and Specifications. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. Performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.
- 6.2 The Contract Documents shall not be construed to create a contractual, equitable, or beneficial relationship of any kind between any parties other than the Owner and the Contractor.
- 6.3 The term "Work" means the construction, installation, and services required by the Contract Documents.

ARTICLE 7
OWNER

- 7.1 The Owner shall furnish a plat plan showing the exact location of where the building is to be sited. The Owner shall be solely responsible for the accuracy of the plat plan and agrees to indemnify Contractor against any liability associated with the location of the building, including but not limited to encroachments and noncompliance with setbacks or other zoning requirements.
- 7.2 Except for permits and fees which are expressly stated to be the responsibility of the Contractor in the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for the construction, use, or occupancy of the modular building, permanent structures, or permanent changes in existing facilities. The owner shall be responsible for providing a level site with adequate drainage for building placement unless otherwise specified in project scope.
- 7.3 The Owner shall provide a tax-exempt certificate to the Contractor. The Owner shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.
- 7.4 The Owner shall provide, at Owner's expense, an adequately sized trash container to be used by Contractor to keep the building site clean.

ARTICLE 8
CONTRACTOR

- 8.1 The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents expressly state otherwise.
- 8.2 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials equipment, tools, construction equipment and machinery, transportation and other facilities and services necessary for the proper execution and completion of the Work.
- 8.3 The Contractor shall provide the Owner with Contractor's one-year written Limited Warranty.
- 8.4 CONTRACTOR'S ONE-YEAR WRITTEN LIMITED WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY PROVIDED BY CONTRACTOR, AND CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- 8.5 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Work and actually known to Contractor.
- 8.6 The Contractor shall keep the building site free from accumulation of waste materials or rubbish caused by operations under the Contract.
- 8.7 The Contractor shall provide the Owner access, during normal business hours and upon reasonable notice, to the work in preparation and progress wherever located.
- 8.8 *The Contractor is an Equal Opportunity Employer and does not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin.*

ARTICLE 9 MISCELLANEOUS PROVISIONS

- 9.1 ALL CLAIMS OR DISPUTES BETWEEN THE CONTRACTOR AND THE OWNER ARISING OUT OF OR RELATING TO THE CONTRACT, OR THE BREACH THEREOF, SHALL BE DECIDED BY BINDING ARBITRATION IN DALLAS COUNTY, TEXAS, IN ACCORDANCE WITH THE CONSTRUCTION INDUSTRY ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION IN EFFECT AT THE TIME THE ARBITRATION PROCEEDING IS INITIATED, UNLESS THE PARTIES MUTUALLY AGREE OTHERWISE. Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association within a reasonable time after the dispute has arisen. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. The party prevailing in such proceeding or action shall be entitled, in addition to such other relief the arbitrator may grant, to an award of its costs incurred in connection with the proceeding including, but not limited to, reasonable attorneys' fees.
- 9.2 The Owner, without invalidating the Contract, may request changes in the Work, consisting of additions, deletions or modifications. If Owner and Contractor agree on such changes and accompanying adjustments to the Contract Sum and Contract Time, such changes shall be memorialized by written Change Order signed by the Owner and Contractor. Unless otherwise agreed in the Change Order, Owner shall pay Contractor 50% of any price increase associated with the Change Order upon execution of the Change Order; 40% of any such increase upon completion of the modular building unit(s) at Contractor's plant; and the remainder of any such increase upon

Substantial Completion of the Work or upon issuance of a certificate of occupancy, whichever occurs first.

- 9.3 The Contract may be changed only by written Change Order or other written modification signed by both parties.
- 9.4 The cost or credit to the Owner from a change in the Work shall be determined by mutual agreement.
- 9.5 If the Contractor is delayed at any time in progress of the Work or Substantial Completion by changes ordered in the Work, by labor disputes, fire, unusual delay in deliveries, adverse weather conditions not reasonably anticipated, unavoidable casualties, delay in obtaining electricity, water, or other required service or utility needed to obtain Substantial Completion, or any causes beyond the Contractor's control, or by other causes which the Owner agrees may justify delay, then the Contract Time shall be extended for such reasonable time as the circumstances require. IN NO EVENT SHALL CONTRACTOR BE LIABLE TO OWNER FOR ANY INDIRECT, SPECIAL, EXEMPLARY, DELAY, OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE, BASED ON BREACH OF WARRANTY OR CONTRACT, NEGLIGENCE OR STRICT LIABILITY, ARISING UNDER THIS AGREEMENT. CONTRACTOR'S LIABILITY UNDER THIS AGREEMENT WILL NOT EXCEED THE TOTAL AMOUNT PAID TO CONTRACTOR UNDER THIS AGREEMENT.
- 9.6 Owner agrees to reimburse Contractor for damages and/or costs caused by Owner delays such as inability to accept delivery, incomplete site preparation, inaccessible site conditions, and/or Owner's inability to secure permits or meet regulatory requirements.
- 9.7 The Contract shall be governed by Texas law.
- 9.8 Except as otherwise specifically provided in this Agreement, neither party shall assign this Agreement nor transfer any of the rights without the prior written agreement of the other party.
- 9.9 CONTRACTOR SHALL NOT BE LIABLE FOR, AND OWNER SHALL INDEMNIFY AND HOLD CONTRACTOR HARMLESS FROM, ALL CLAIMS, DEMANDS, ACTIONS, LAWSUITS, DAMAGES, COSTS, EXPENSES, AND OTHER LIABILITIES, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, IN CONNECTION WITH LOSS OF LIFE, BODILY OR PERSONAL INJURY OR PROPERTY DAMAGE, WHETHER SUSTAINED BY CONTRACTOR OR A THIRD PARTY, ARISING FROM OR OUT OF ANY OCCURRENCE OCCASIONED WHOLLY OR IN PART BY ANY ACTION, INACTION, NEGLIGENCE, OR OMISSION OF OWNER, ITS EMPLOYEES AND SUBCONTRACTORS.

This Agreement entered into as of the day and year first written above.

OWNER

CONTRACTOR

(Signature)

(Signature)

(Printed Name and Title)

John Martin - President
