

Builder Agreement

Builder Agreement for Verification and Registration of Homes Constructed to the Green Built Gulf Coast Construction Protocol

This Builder Agreement for Verification and Registration of Homes Constructed to the Green Built Gulf Coast Construction Protocol (Builder Agreement) is made between Verifier Company Name (Verifier) and (Builder). The Greater Houston Builders Association (GHBA) is the controlling entity of the Green Built Gulf Coast Program (GBGC) and is a third party beneficiary to this Agreement as an adopting entity of the ICC 700.

Verifier attests to Builder that Verifier has signed a Verifier Agreement that is currently valid and enforceable with the GHBA, which is a condition precedent for Verifier to enter into this Builder Agreement.

Parties, other than Verifier, responsible for verification of specific provisions of the Protocol must be identified in the Addendum to this Agreement. Verifier shall provide to the GHBA, a signed copy of this Agreement and the Addendum.

Statement of Purpose:

- To provide quality assurance on every home built by Builder to the GBGC Construction Protocol (Protocol), as it stands or may be amended;
- To timely and accurately report data about those homes; and
- To complete the enrollment form and pay the applicable Home Registration Fee, Section 2.2, to the GHBA in order for the Builder to represent, in any way, that Builder's homes are eligible to use the Green Built Gulf Coast brand

Section 1 - Builder's Participation

1.1 Builder attests that they are a member of the Greater Houston Builders Association and in good standing with the GHBA and that they are enrolled as a Builder Member of the Green Built Gulf Coast Program per the required GBGC "Builder/Remodelor/Developer Enrollment Registration Form" and have paid the annual Registration Fee.

1.2 Builder may also offer certification through the National Green Building Standard.

1.3 Builder attests that they will clearly distinguish, in all advertising and promotional efforts, between homes that comply with the Protocol as verified by Verifier under this Agreement from those homes that do not.

1.4 Builder will substantially participate in promoting Green Built Gulf Coast and allow use of Builder's name in GHBA promotional efforts, to include print and electronic media. Substantially participate means, at a minimum, to: (i) use the Green Built Gulf Coast logo in Builder's promotional materials AND (ii) ensure that Builder's sales representatives have a working knowledge of Green Built Gulf Coast so that these benefits can be accurately communicated to consumers.

1.5 Builder acknowledges and understands that the GBGC Protocol is a design standard, meaning that the actual performance of buildings constructed to it cannot be guaranteed as it will depend on a variety of factors such as the builder's individual construction practices, site characteristics and occupant behavior.

1.6 Builder acknowledges that completion of the verification process under the terms of this

Agreement and Verifier's payment of the Registration Fee as set forth in Section 2.2 of this Agreement as well as the Verifier Agreement are conditions precedent for any home to be deemed compliant with the Protocol, or to be represented as eligible to carry the Green Built Gulf Coast brand.



Section 2 - Information Collection and Home Registration Reporting Process

2.1 Verifier acknowledges that they will provide the GHBA with information about Builder's homes as required under the Verifier Agreement.

2.2 Builder and Verifier acknowledge and Verifier agrees to tender to the GHBA the required registration fee listed below under the terms set forth in the Verifier Agreement. This fee, paid by the builder, is non-refundable for homes that fail to qualify for GBGC.

- \$25 per home for every home in which the Builder constructs 50 homes or more annually.
- \$50 per home for every home in which the Builder constructs 49 homes or less annually.
- \$20 per home constructed by a Builder and paid by Verifier during the calendar year if Builder is or is constructing homes under this Agreement for a non-profit entity organized under Section 501 (c)(3) of the United States Internal Revenue Code.
- \$15 per unit in Multi-Family plus \$250 per building.

2.3 Builder acknowledges that all of the applicable Registration Fee under Section 2.2 of this Agreement shall be included in the fee Verifier normally charges for their services.

2.4 Builder and Verifier acknowledge that they will identify the entity tasked with verifying compliance with individual provisions of the Protocol by completing the Addendum to this Agreement. If the entity identified is not Builder or Verifier, Builder and/or Verifier must obtain informed consent from that entity as to their role in the verification process.

Section 3 - Representation

3.1 Builder acknowledges that they are an independent entity and are not an agent, partner, joint venture, nor employee of the GHBA.

3.2 Verifier and Builder acknowledge that the GHBA is not a party to this Agreement and that Verifier and Builder are solely responsible for performance hereunder.

3.3 Verifier and Builder agree that the GHBA is a third-party beneficiary of this Agreement and, as such, may rely on the representations made herein by Verifier and Builder and enforce obligations hereunder to the extent the same are applicable to the GHBA and its Green Built Gulf Coast Program.

3.4 Neither Verifier nor Builder may assign this Agreement except to a company affiliated with such assignor. However, such assignment shall not release assignor from the terms herein.

3.5 Verifier acknowledges that nothing in this Agreement shall, in any way, affect Verifier's responsibilities or liabilities to the GHBA under the Verifier Agreement.

3.6 Builder will not knowingly misrepresent any information concerning the GHBA or its GBGC Program, including its purpose, policies, procedures, and any determinations regarding the Protocol.

3.7 Builder acknowledges that participation in GBGC does not constitute an endorsement of the Builder on the part of the GHBA. As such, Builder shall not state or imply such endorsement, either directly or indirectly.

3.8 Builder acknowledges and understands that Builder is solely responsible for the accuracy of any and all information submitted by the Builder into the GHBA's electronic software.

3.9 The GHBA GBGC Program is a partnership between businesses, organizations, and the GHBA. As part of this partnership, businesses and organizations can use the GBGC logo as part of their energy efficiency and environmental activities. The GHBA will actively monitor proper use of the logo and Program materials. Failure to comply with the GHBA GBGC Program Guidelines may result in the termination of the partner's participation in the Program and/or legal action. Businesses and organizations using the logos must abide by the following guidelines:

- The name and logo of GBGC must never be used in any manner that would imply the GHBA endorsement of its products or its services. Neither the Program name nor the Program logo may be



used in any other company name, product name, service name, domain name, or website title.

- The GBGC logo may not be altered, cut apart, separated, or otherwise distorted in perspective or appearance.
- The GBGC logo may never be associated with products or homes that do not meet all of the criteria for the Program.
- The GBGC Program name and/or logo may never be used in a manner that would disparage the GHBA or its members.
- Partners and other authorized organizations are responsible for their own use of the GBGC logo, as well as use by their representatives, such as advertising agencies and implementation contractors.
- Participants must be in good standing with the GHBA and the GHBA's GBGC Program to use the logo, Program name, or other promotional materials in their own marketing program(s).
- The GBGC logo and name may only be used by authorized participants of the Program. This means an Agreement document must be signed and fees are current.
- Builders with project submitted in compliance to the program will be listed as 'Active.' Builders.
- Failure to submit a certified home within 12-months of participation, may result in the termination as a participant builder until a certified home is submitted adhering to the program. Termination would result in removal from all GBGC publications mentioning builder participant and qualifying as a GBGC participant builder.

Section 4 - Agreement Term & Modification

4.1 This Agreement shall remain in effect until terminated by either party under Section 5 of this Agreement.

4.2 Builder is encouraged to assist Verifier by identifying items within the Protocol that may require additional definition or clarification.

4.3 The GHBA reserves the right to amend, modify, or alter the GBGC as needed to meet local market conditions. Builder will receive prior notice.

Section 5 -Termination

5.1 Verifier and Builder both reserve the right to terminate this Agreement at any time.

5.2 Builder acknowledges that if either party terminates this Agreement or if Verifier, for any reason, is no longer in a valid and enforceable Verifier Agreement, Builder must enter into a new Builder Agreement with another Verifier and continue the verification process in order for any additional homes to be recognized by the GHBA as eligible to carry the Green Built Gulf Coast label.

Section 6 - Limitation of Liability

6.1 INDEMNITY: Verifier and Builder agree to indemnify and hold harmless the GHBA

and all of its officers, directors, shareholders, employees, agents, successors, and assigns, from and against any and all claims, suits, losses, causes of action, damages, liabilities, and expenses of any kind whatsoever, including without limitation, all expenses of litigation, arbitration, court costs, and attorney's fees arising on account of or in connection with injuries to or the death of any person whomsoever, or any and all damages to property arising from or related to this Agreement, arising from compliance or non-compliance with the Green Built Gulf Coast Construction Protocol or inspections conducted under or pursuant to the Program, VERIFIER AND BUILDER AGREE TO INDEMNIFY THE GHBA FOR THE GHBA'S OWN NEGLIGENCE. Verifier and Builder also agree to indemnify and hold harmless the GHBA, for any determinations made by the GHBA with regard to any provisions of the Protocol. Verifier and Builder are solely responsible for the home's as-built compliance or non-compliance with the Protocol. Therefore, the GHBA makes no representations or certifications, express or implied, regarding homes reported by Verifier other than that Verifier and Builder attest that the home, to the best of their knowledge, has been built or is being built pursuant to the terms and conditions of the Protocol.



6.2 In no event shall the GHBA be liable for indirect, incidental, special or consequential damages whatsoever arising out of or related to this Agreement, even if the GHBA is advised of the possibility of such damages.

Section 7 - Alternative Dispute Resolution

The parties agree that it is in their best interest to resolve any dispute without litigation. Therefore, any dispute under this Agreement will be resolved by submitting such dispute to mediation. If the mediation does not resolve the dispute, then the matter will be submitted to binding arbitration. A mutually acceptable mediator or arbitrator(s) will conduct the mediation and arbitration. If the parties are unable to agree on a mediator, then either Party may initiate arbitration, although the parties shall still mediate their dispute prior to arbitrating the dispute on the merits. The arbitrator shall select a mediator if the Parties are unable to agree to a mediator. Unless the parties agree to use other rules, the arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association ("AAA") in effect at the time the demand for arbitration is filed, and either the Federal Arbitration Act (Title 9, U.S. Code) or the applicable state arbitration statute. Such claims, disputes or causes of action, include, but are not limited to, those arising out of or relating to this Agreement, including the negotiation, formation, subject matter, breach, cancellation or termination hereof. The arbitration award or decision may be confirmed, entered and enforced as a judgment in a court having jurisdiction, subject to appeal only in the event of the arbitrator's misapplication of the law, no evidence to support the award or such other grounds for appeal of arbitration awards that exist by statute, common law or the applicable rules. The parties agree that these methods will be the sole remedy for any controversy or claim arising under this Agreement. They expressly waive their right to file a lawsuit in any civil court against another party to this Agreement except to enforce an arbitration decision. The venue for any claim or dispute initiated hereunder shall be Harris County, Texas.

Section 8 - Severability

8.1 If any provision of this Agreement or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this Agreement, which can be given effect without the invalid provision or application, and to this end, the provisions of these policies and regulations are severable.

8.2 In lieu thereof there shall be added a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

Section 9 - Green Built Texas

9.1 Builder and Verifier are advised that the GHBA is considering the expansion of Green Built Gulf Coast into a statewide entity known as Green Built Texas and agree such an action will not invalidate this agreement or alter any of the obligations contained herein.

Section 10 - Acknowledgment

10.1 Both parties acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and further agree to be bound by all of the provisions listed herein.

10.2 This Agreement constitutes the entire agreement between the parties pertaining to its subject matter and supersedes all prior understandings, written or oral, between the parties.

HBA:

Greater Houston Builders Association (GHBA)

Authorized Representative: Jennifer Boggs

Title: Director of Builder Programs

Verifier:

Verifier Company:

Authorized Representative:

Title:

Builder:

X_____X *Jennifer Boggs*_____

Signed By Jennifer Boggs, Greater Houston Builders Association
Signed On: December 6, 2022



Signature Certificate

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Audit

Builder Agreement Uploaded by Jennifer Boggs, Greater Houston Builders Association - bfeldmann@ghba.org IP 71.239.159.201

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This audit trail report provides a detailed record of the online activity and events recorded for this contract.