



# YANKEE BARN HOMES

1969

## Design Planning Agreement

**THIS AGREEMENT** is executed and made effective as of 11/17/2021, by and between YANKEE BARN HOMES, having its place of business at 131 Yankee Barn Road, Grantham, New Hampshire 03753 (hereinafter called "YBH") and Nancy J. duMont

### CUSTOMER:

**ADDRESS:** 1241 Taber Hill Road, Stowe, VT 05672 jointly and severally if more than one Customer, (hereinafter collectively referred to as "Customer"). **THE WORK** to be performed under this Agreement includes planning a shell building known as a "Yankee Barn" at the following location, 1241 Taber Hill Road, Stowe, VT 05672, (the "Premises") owned by the Customer. **IN CONSIDERATION** of the mutual agreements herein contained, and the other consideration herein expressed, the parties hereto mutually agree as follows:

### Article 1 – Preliminary Matters

**1.1 General.** In exchange for the payment of a Plan Fee, the Customer has requested that YBH prepare Initial Plans and a Price Estimate for construction of a building shell, i.e. a Yankee Barn, on the Premises. A Yankee Barn is a shell building (Shell") constructed on a foundation provided by the Customer's General Contractor and which is suitable for finishing by the Customer's General Contractor. The Price Estimate will include a fixed cost for construction of the Shell and Variable Costs associated with transportation, fees and disbursements for construction. The Price Estimate will assume participation by the General Contractor labor in the Shell Construction process.

### Article 2 – Plans and Specifications

**2.1 Plans.** YBH shall create and deliver to Customer the following Detailed Plans and Specifications:

**A. Schematic Plans.** Following execution of this Agreement and payment of the Plan Fee, (A-1 Fee) YBH will create Schematic Plans based on consultations with and suggestions from the Customer consisting of general floor plans and elevations for use in planning the Yankee Barn.

**B. Progress Plans.** Following review and approval of the Schematic Plans, YBH will create Progress Plan consisting of general floor plans, elevations and building sections. A Price Quotation based on these plans will be provided to the Customer with the Progress Plans. This Quotation will include limited shell engineering for challenging spans, wind loads, snow loads or other special engineering and construction methods.

**C. Plan Fee.** The Plan Fee (A-1 Fee) includes all plans referred to in 2.1.A and 2.1.B above as well as an allowance for two (2) hours of online or in person meeting time, and, eight (8) hours of revision time. Revision changes in excess of eight (8) hours are billable to the Customer at \$85.00 per hour. \*

**D. Site Information.** YBH does not provide site design services. In order to begin design, client needs to have a general understanding with regard to the slope of their land, siting their home and/or has consulted with a civil Engineer, Surveyor or Site Designer.

**2.2 Licensed Use of Yankee Barn Plans.** Except as otherwise provided by any agreement for the retention of a Design Professional by the Customer, for the purpose of this Agreement, all Plans and other additional or revised drawings, plans or specifications prepared for Customer by YBH, whether delivered in tangible or electronic form, shall be considered as "Yankee Barn Plans." All Yankee Barn Plans shall remain at all times the property of YBH. When delivered to Customer by YBH, Customer shall receive only a license to use the Yankee Barn Plans, for their personal use, for the purposes of evaluating whether to build a Yankee Barn. Customer may disclose Yankee Barn Plans to potential builders, architects or contractors (or appropriate public building authorities) in connection with such activities but Customer is not permitted, under the license from YBH, to allow any builder, architect, contractor or other persons to duplicate, modify or prepare substitute or alternate versions of any one or more of the Yankee Barn Plans except and only in connection with the construction of a Yankee Barn under this Agreement. In the event Customer does not contract with YBH to construct a Yankee Barn under this Agreement, Customer shall not make any further use of any Yankee Barn Plans that have been prepared for, and licensed to, Customer by YBH.

**2.3 Copyright of Yankee Barn Plans.** Except as otherwise provided by any agreement to engage a Design Professional by the Customer, Customer agrees that YBH is the author and the owner of the Yankee Barn Plans, and the YBH shall retain all rights, including all copyrights, in the Yankee Barn Plans. Customer shall not, directly or indirectly, (1) copy or use any Yankee Barn Plans for any use that is not permitted under this Agreement, or (2)

10 hours  
\$85/plh  
not  
\$100/plh



permit any other persons to copy or use any Yankee Barn Plans for any purpose or use that is not permitted under this Agreement. In the event that Customer violates any of the terms set forth in this Agreement limiting the use of the Yankee Barn Plans, Customer expressly agrees that YBH shall be entitled to exercise against Customer (and any person who has received the Yankee Barn Plans from Customer) all available legal and equitable rights and remedies.

### Article 3 – Price Quotation

**3.1 Price Quotation.** At the time Progress Plans are provided to Customer, YBH will provide in writing to Customer the Total Price (“Price Quotation”) for the performance of the Work.

**3.2 Composition of Price Quotation.** The components of the Price Quotation shall consist of:

- A. The Plan Fee, including any Additional Plan Fees.
- B. YBH portion of the Cost of construction of a Yankee Barn.
- C. YBH Variable Costs necessary for the transportation of materials, supplies and components, the payment of any fees or disbursements necessary for construction.
- D. Any Optional Labor Services.

**3.3 Price Quotation Confirmation.** The Price, as may be adjusted, will be confirmed and binding only by both the Customer and YBH entering into the standard YBH Construction Agreement and payment by the Customer of twenty (20%) of the Price Quotation, as adjusted. The Construction Agreement will wholly replace this Planning Agreement and will replace all representations made pursuant to this Planning Agreement

**3.4 Terms of Payment.** Customer will pay YBH according to the following schedule (the “Payment Schedule”).

**A. Plan Fee (A1 Fee).** A payment of \$5,000.00 for residential or utility use (\$7,000.00 for commercial or other public use), shall be made at the time of signing this Agreement. THE PLAN FEE IS NOT REFUNDABLE. Payment of the Plan Fee does not obligate the Customer to build a Yankee Barn or to make further payments or to enter into the Construction Agreement.

**B. Plan Fee Credit.** When a Customer decides to proceed further with the Construction Agreement and the building of a Yankee barn Home, all monies paid by the Customer to Yankee Barn Homes in the form of Plan Fees will be credited toward the Customer’s cost of their Yankee Barn Home. This Credit will be applied at the C-1 (Commencement) payment and will be clearly marked on all quotations and Change Orders.

**3.5 Form of Payment.** Customer may pay by check, wire transfer or credit card (up to a maximum of \$5,000).

### Article 4 – Claims and Dispute Resolution

**4.1 Notice of Claim.** With the exception of claims arising pursuant to Article 2, written notice stating the general nature of each claim, dispute or other matter shall be delivered by the claimant to the other party to the Agreement promptly.

**4.2 Negotiations.** Following Notice of a Claim, the parties shall negotiate promptly and in good faith in an attempt to resolve the issue. If the claim or dispute cannot promptly be resolved, the claimant may proceed with arbitration as more fully described in Article 4.3.

**4.3 Arbitration.** All disputes, claims, or questions arising by virtue of this Agreement shall be subject to arbitration and shall be submitted to arbitration in accordance with the provisions of the New Hampshire Revised Statutes Annotated, Chapter 542. The cost of such arbitration, including arbitrator’s compensation, shall be borne equally by the parties. This Agreement shall be specifically enforceable under the prevailing arbitration law, and judgment upon the award rendered may be entered in any court of the forum, whether state or federal, having jurisdiction.

YBH and Customer have executed this Agreement as of the day and year written above. This Agreement shall expire thirty-six (36) months from the execution date written above unless extended by mutual written agreement. Beyond the thirty six (36) month period, the provisions of Sections 2.2 and 2.3 of this agreement shall remain in force in perpetuity.

By: Customer:

*Nancy J. DuMont*

8197E2978CF8423...

Date: 11/17/2021

By: Customer:

Date:

By: Yankee Barn Homes:

DocuSigned by:

*Paul Marinelli*

90D2067B88AA444...

Date: 11/17/2021

*\* I never received notice of any additional plan fees.*

*11/17/22*

*11/17/24*





**Yankee Barn Homes**  
**Agreement for Construction of a Yankee Barn Building**

**THIS AGREEMENT** is executed and made effective as of 4/7/2022, by and between Topek LLC dba Yankee Barn Homes, a New Hampshire corporation having its place of business at 131 Yankee Barn Road, Grantham, New Hampshire 03753, (hereinafter called "YBH") and **CUSTOMER(s):** Nancy DuMont, jointly and severally if more than one Customer, (hereinafter collectively referred to as "Customer").

**THE WORK** under this Agreement includes the planning and construction of a shell building known as a "Yankee Barn" at the following location:

**ADDRESS FOR CONSTRUCTION:** 1241 Taber Hill Rd, Stowe, VT 05672  
 (The "Premises") owned by the Customer.

**IN CONSIDERATION** of the mutual agreements herein contained, and the other consideration herein expressed, the parties hereto mutually agree as follows:

**Article 1 – Preliminary Matters**

**1.1** Upon confirmation by YBH and acceptance by Customer of the plans and Price Quotation prepared for the Owner, YBH, in exchange for a Down Payment, will prepare detailed construction plans (referred to in this Agreement as "Build Plans"), schedule and attend review meeting, attend to Change Orders and designate an approximate Build Date for the initiation of construction in our shop and provide a schedule for the Commencement Date.

**Article 2 – Definitions**

**Agreement** – The entire and integrated written agreement between YBH and Customer concerning the Work, and supersedes any prior negotiations, representations or agreements, whether written or oral.

**Build Plans** – Final floor plans, elevations and foundation perimeter plan for the construction of a Yankee Barn Shell Building.

**Change Order** – A document prepared by YBH and signed by the Customer and YBH that authorizes an addition, deletion or revision to the Work.

**Component(s)** – Timber Frame, roof panels, wall panels and other related materials used to construct a Yankee Barn.

**Commencement** – The date upon which YBH will provide its best efforts to deliver the Components to the Premises and begin construction.

**Construction Documents** – Documents prepared by YBH including Build Plans for the construction of a YBH Shell Building, technical and engineering notes, and other items.

**Finished Building** – A completed building after all work has been completed by YBH and the Customers General Contractor, including wiring, plumbing and finishes, and approved for occupancy.

**Force Majeure Event** – an event that causes a delay in performance due to acts of God, fire, flood, wind storm, severe weather, riot, government action, acts of the public enemy, accident in shipping or transportation, strikes, other labor disputes or labor shortage, lack of manufacturing capacity, inability to obtain materials, equipment or transportation, or any other similar unforeseeable causes beyond the reasonable control and without the fault or negligence of the asserting party incurring such delay, provided that such party has sought to mitigate the impact of the delay.

**YBH Supervisor** – YBH Subcontractor possessing up-to-date working knowledge of the Components; correct construction of the same; and has the responsibility to see that construction procedures for the timber frame, wall components and roof components as planned by YBH are followed.

**Price Quotation** – The pricing schedule attached as Exhibit A and approved by the Customer.

**Schedule** – The date by which YBH will use its best efforts to complete certain aspects of the Work.

**Shell Building** – the resultant structure after construction of the YBH Timber Frame, Wall & Roof components.

**Variables** – Costs to Yankee Barn Homes and Customer, incorporated into the Price Quotation, from independent sources; specifically, transportation, delivery trucking and per diem cost calculated for the YBH Supervisor.

**Work** – The entire planning, delivery and construction guidance of a Yankee Barn as provided under this Agreement and depicted in the detailed Plans. Work includes all planning, supervision, transportation, materials, supplies and Components necessary to construct a Yankee Barn as required by this Agreement.

**Yankee Barn** – A shell building and accessory components constructed on a foundation and suitable for finishing by the customer in accordance with specification established pursuant to this Agreement.



### Article 3 – Scope of Work

**3.1 Scope of Work.** In cooperation with the Customer's General Contractor, YBH shall provide the professional services, supervision including YBH Supervisor, materials, supplies, Components and all other things reasonably required to plan, procure and construct, in accordance with the terms and provisions of this Agreement, a Yankee Barn upon the Premises that is suitable for final finishing by the Customer.

**3.2 Optional Labor Services.** Within the scope of work in 3.1 above, YBH may provide professional and supervisory services including YBH Supervisor, and labor (Crew) and basic carpentry tools necessary to construct the Shell Building. If this option is selected, the Optional Labor Services estimate will be adjusted as any and all plan changes are accepted by the Customer. Optional Labor Services will be secured by a Change Order.

### Article 4 – Yankee Barn Home's Responsibilities

**4.1** YBH shall, subject to the terms and provisions of this Agreement:

- A. Furnish the services of the engineers, planners, draftsmen and other personnel necessary for the preparation of the Detailed Plans.
- B. Prepare Build Plans to substantially meet the structural parameters that are set forth in the Code Jurisdiction Adopted Building Code at the time of Build Plan completion.
- C. Fabricate, produce, procure or otherwise furnish the materials, supplies, Components, supervision, and if selected by the Customer, Optional Labor Services necessary for the completion of the Work.

### Article 5 – Customer's Responsibilities

**5.1** Customer shall, at such times as may be reasonably required by YBH for the successful and expeditious completion of the Work:

- A. Provide additional information, including any specific code requirements and/or drawings to meet all applicable requirements of appropriate Codes. (For uses not covered by the Codes in 4.1B above)
- B. Obtain and pay for all necessary regulatory approvals, including but not limited to local building permits, inspection fees and/or licenses required for the performance of the Work. Customer shall obtain these approvals in a timely manner so as to permit YBH to perform the Work in accordance with the Schedule. CUSTOMER ACKNOWLEDGES THAT YBH IS NOT PROVIDING ARCHITECTURAL SERVICES AND, IF REQUIRED UNDER LOCAL LAW, IT IS THE RESPONSIBILITY OF THE CUSTOMER TO OBTAIN ANY PROFESSIONAL DESIGN SERVICES NECESSARY.
- C. Select and engage a General Contractor, or other local contractors, to provide licensing, labor, material, light and heavy equipment necessary for onsite construction of the Yankee Barn.
- D. Be responsible for Licensing, supervision and oversight over the Work to the extent required by Federal, State or local law, regulations or ordinances.
- E. If you have chosen a fully insulated package, your YBH shell will have air change levels well below standard construction. Therefore, we strongly recommend the inclusion of an air exchanger in the design of your mechanical systems.
- F. Provide access to the Premises or an adjacent or nearby secure staging area acceptable to YBH for the storage of materials, equipment, supplies and Components and for parking by YBH. Access to the Premises or the staging area must be suitable for sixty eight foot, highway-type tractor trailers.
- G. Provide, at Customer's sole expense, electric power to the Premises as necessary to complete the Work.
- H. Agree to permit YBH and independent news and magazine publishers to publish photographs, plans and details for the Yankee Barn constructed under this Agreement.

**5.2 Safety.** YBH assumes no responsibility under this Agreement for providing, installing, or maintaining safety or protective equipment to avoid or minimize the risk of hazards related to work by others, or for correcting on site hazards created by others.

### Article 6 – Plans

**6.1 Plans.** Under this agreement, YBH shall create and deliver to Customer the following Detailed Plans:

**A. Build Plans.** Upon signing this document and payment by the Customer to YBH a 50% Down Payment (B Payment), YBH will prepare and deliver to Customer for approval the Build Plans, which include detailed floor plans, four elevations, floor framing plans and cross sections.

**B. Engineered Stamped Plans.** If the Customer wishes to obtain Build Plans bearing the seal of a structural engineer, to the extent permissible under local law and in accordance with any applicable requirements of local law, YBH will retain an engineer to provide such plans. YBH may work with a Design Professional engaged by the Customer as necessary for the preparation of such plans at whatever costs are agreed to by the Customer and its Design Professional.

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M



**6.2 Licensed Use of Yankee Barn Plans.** Except as otherwise provided by any agreement for the retention of a Design Professional by the Customer, for the purpose of this Agreement, all Initial Plans, Build Plans and other additional or revised drawings, plans or specifications prepared for the Customer by YBH, whether delivered in tangible or electronic form, shall be considered as "Yankee Barn Plans." All Yankee Barn Plans shall remain at all times the property of YBH. When delivered to Customer by YBH, Customer shall receive only a license to use the Yankee Barn Plans, for their personal use, for the purposes of evaluating whether to build a Yankee Barn. Although Customer may disclose Yankee Barn Plans to potential builders, architects, contractors or appropriate public building authorities in connection with such activities, Customer is not permitted, under the license from YBH, to allow any builder, architect, contractor or other persons to duplicate, modify or prepare substitute or alternate versions of any one or more of the Yankee Barn Plans except and only in connection with the construction of a Yankee Barn under this Agreement. In the event Customer does not contract with YBH to construct a Yankee Barn under this Agreement, Customer shall not make any further use of any Yankee Barn Plans that have been prepared for, and licensed to, Customer by YBH.

**6.3 Copyright of Yankee Barn Plans.**

A. Except as otherwise provided by any agreement for the retention of a Design Professional by the Customer, Customer agrees that YBH is the author and the owner of the Yankee Barn Plans, and that YBH shall retain all rights, including all copyrights, in the Yankee Barn Plans. Customer shall not, directly or indirectly;

(1) Copy or use any Yankee Barn Plans for any use that is not permitted under this Agreement

(2) Permit any other persons to copy or use any Yankee Barn Plans for any purpose or use that is not permitted under this Agreement. Customer expressly acknowledges that Customer is not permitted to allow any builder, architect or Contractor to duplicate, modify or prepare substitute versions of any one or more of the Yankee Barn Plans except and only in connection with the construction of a Yankee Barn under this Agreement. In the event Customer or any other person wishes to make any different use of any Yankee Barn Plans, including the design or construction of a building that does not require construction by YBH, Customer must obtain the express prior written consent of YBH, which consent may include a requirement for suitable compensation to be paid to YBH.

B. In the event that Customer violates any of the terms set forth in this Agreement limiting the use of the Yankee Barn Plans, Customer expressly agrees that YBH shall incur damages and other losses the amount of which shall be difficult, if not impossible, to calculate. Accordingly, in such event, Customer expressly agrees that YBH shall be entitled to the following remedies as compensation for such damages and other losses:

(1) An appropriate order requiring Customer (together with any person who has received the Yankee Barn Plans from Customer) to immediately terminate all uses of the Yankee Barn Plans and to return all copies, whether in tangible or electronic media, to YBH

(2) The payment by Customer of an amount equal to twenty percent (20%) of the Price Quotation to which such Yankee Barn Plans relate, such payment being intended as a payment of liquidated damages, and not as penalty, notwithstanding Customer has not, in fact, received any building materials and supplies. To the extent not foreclosed by the preceding, Customer acknowledges that YBH shall be entitled to exercise against Customer (and any person who has received the Yankee Barn Plans from Customer) any and all other available legal and equitable rights and remedies, including, without limitation, any and all rights and remedies permitted by the United States Copyright Act, 17 U.S.C. Section 101 et seq.

(3) Customer acknowledges that YBH may conduct periodic audits of public records and other sources to confirm that Customer has complied with this Article.

**Article 7 – Price Quotation**

**7.1 Composition of Price Quotation.** The components of the Price Quotation shall consist of:

A. **Design Agreement Plan Payment**, including any Additional Plan Payments.

B. **Cost of production for Yankee Barn shell** components, per design.

C. **Estimated Variable Costs** necessary for the transportation of materials, supplies and Components on the date of the Quotation.

D. **Any Optional Labor Services.**

**7.2 Price Quotation Guarantee.**

A. YBH guarantees that, for a period of 60 days following the receipt by YBH of the **Down Payment** (B Payment), all Price Quotations, excluding Estimated Variable Costs, will be based on the **Price List** current at the time of the Payment. (B Payment).

**7.3 Price Quotation Adjustments.** Notwithstanding the Price Quotation Guarantee, under the following circumstances, the Price Quotation may be adjusted:

A. YBH will entertain requests by Customer for changes to plans as ordered by Customer ("Change Orders"). YBH will quote a price for a Change Order, which may result in an increase or a decrease in the Price Quotation to Customer and any Price for Optional Labor Services. In addition, charges beyond the processing fee may be applied for large scale or



complicated changes and changes requiring additional engineering review. Any appropriate additional charges will be at the current hourly rate at the time of the work. All Change Orders will be issued in writing by YBH and must be approved in writing by Customer. Requests for Change Orders affecting Components should be submitted to YBH at least sixty (60) days in advance of the Commencement Date to minimize re-supply and replacement costs. If Change Orders are issued and approved after receipt of the Down Payment, ninety percent (90%) of any additional costs caused by the Change Order shall be paid prior to the implementation of the work pursuant to the Change Order and the balance shall be included in the Final Construction Payment.

**B. Force Majeure.** Neither party shall be liable for delays that result from a Force Majeure Event. If a Force Majeure Event occurs that a party believes will result in a delay, the party shall:

1. Use reasonable efforts to mitigate the potential impact of such Force Majeure Event, and
2. Give Notice to the other party of the anticipated delay within three (3) days after the happening of the Force Majeure Event.

**C.** If the Customer requests or takes any action that prevents YBH from establishing a Commencement Date within 120 days of receipt of the Down Payment or requests or takes any action to cause any activity designated in the Schedule to be delayed by more than 120 days, the Price Quotation may be recalculated by YBH using its updated materials and labor costs.

**D.** If the customer requests or takes action that prevents YBH from exercising a Commencement within 120 days of the completion of the Customer's project in the YBH shop, YBH has the right to adjust the Variables as needed.

**E. Notwithstanding the 60 day or 120 day Price Protection, the variable cost estimate for shipping will be adjusted at the time of delivery to reflect current transportation and handling costs provided by parties other than Yankee Barn Homes. A minimum of two weeks prior to delivery, Yankee Barn will obtain current shipping quotes and any adjustment to the estimated variable costs will be invoiced. Payment is required prior to shipping. If the delivery is delayed, for any reason, a revised quote may be necessary.**

**F. Substitution of Materials.** YBH may substitute materials of substantially equal quality to the materials identified in the Plans in the event that procurement problems arise.

#### Article 8 – Terms of Payment

**8.1** Customer will pay YBH according to the following schedule (the "Payment Schedule") and, if requested by YBH, provide proof of financing or financial responsibility to satisfy its obligations pursuant to this Agreement:

**A. Down Payment (B Payment).** A payment of Fifty Percent (50%) of the Price Quotation, including the Plan Fee Credit (See Planning Agreement Article 3.4.C) and as adjusted for any Change Orders issued or other adjustments made pursuant to this Agreement, shall be made when the Customer accepts the Planning Agreement Price Quotation in writing and requests the preparation of Shell Construction Documents and Plans. **THE B PAYMENT IS NOT REFUNDABLE.**

**C. Commencement Payment (C-Payment).** The Commencement Payment is due at Yankee Barn Homes three (3) days following substantial completion of Components production. The Owner shall pay, by wire, bank cashiers or certified check payable to YBH, the balance of the Price Quotation as adjusted for any Change Orders issued pursuant to this Agreement. Title to the works shall pass from YBH to Customer upon this payment.

**D. Form of Payment.** Customer may make B. and C. payments by check or wire transfer. Credit card payments will not be accepted.

**E. Late Payments.** If, for any reason, Customer has not paid all amounts due hereunder within fourteen (14) days of applicable terms set forth in this Article or cancellation of this Agreement, Customer agrees to pay a late charge of one and one-half (1-1/2%) percent per month (eighteen percent (18%) per annum) applied to the outstanding balance, except where this charge is higher than permitted by applicable state law, in which event the late charge shall be at the highest rate permitted by applicable state law. In addition, Customer agrees to pay any costs of collection, including reasonable attorney's fees, incurred by YBH in collecting any sums due YBH under this Agreement.

**8.2** Customer understands and agrees that YBH retains all rights to materials produced under this Agreement until all payments specified within 8.1 are received.

#### Article 9 – Assumption of Risk

**9.1 Customer Assumption of Risk.** With respect to the Yankee Barn, from the date that the Yankee Barn is loaded for shipment and until completion of all the Work, Customer shall bear the risk of loss and full responsibility for the costs of replacement, repair or reconstruction of the Work resulting from any damage including deductibles and uninsured losses to or destruction of the Yankee Barn (or any portion thereof) or any materials, equipment, tools and supplies that are purchased for permanent installation in or for use during construction of the Yankee Barn, regardless of whether Customer has title thereto except in the event and only to the extent such loss or damage is a result of the negligence or intentional misconduct of YBH. (Notwithstanding the above, Customer assumes all risk of loss to the Components, that are staged on the Premises during the Yankee Barn erection process and which are caused by: (i) intentional or negligent acts of Customer or 3<sup>rd</sup> parties, (ii) acts of nature, including flood, fire or earthquake, and (iii) any other cause which is not within the reasonable control of Yankee Barn Homes.)



**9.2 Responsibility for Components and Materials.** Customer expressly assumes responsibility for assuring that Components and materials delivered to the site by YBH for storage pending their particular use in construction are kept secure, dry and undamaged.

## Article 10 – Insurance

**10.1 Insurance.** Upon submission of C-Payment, title to the Yankee Barn will pass to the Customer. Yankee Barn shall effect and maintain Property of Others insurance including a provision for extended coverage upon the Yankee Barn to be constructed hereunder up to 100% of the contract price thereof and upon all Components in or adjacent to and intended for use thereon; said policy of insurance shall name Customer as an additional named insured. YBH shall ensure adequate coverage is in place while the Yankee Barn is in transit to the Premises. YBH shall provide Customer with copies of the relevant certificates of insurance upon request.

## Article 11 – Termination

**11.1a** YBH may, at its option, terminate this Agreement if the Customer fails to comply with the Commencement payment terms set forth in Section 8.1.C above within a period of forty-five (45) days following the Commencement Date, unless YBH in its sole discretion has previously granted a waiver of such provision. YBH's right to terminate this Agreement following the occurrence of the foregoing event shall be subject to YBH first giving Customer thirty (30) days prior written notice of its intention to terminate this Agreement.

**11.1b** Customer may, at its option, terminate this Agreement if YBH does not respect its obligations hereunder. Unexcused delays of greater than thirty (30) days in the execution by YBH of the Works shall be considered an "Event of Default" for purposes of this Article 11.1b. Customer's right to terminate this Agreement following the occurrence of the foregoing event shall be subject to Customer first giving YBH thirty (30) days prior written notice of its intention to terminate this Agreement, including for an Event of Default.

**11.2** Payment Obligations. If either Party terminates this Agreement pursuant to Article 11.1, then the non-defaulting Party shall have the right to recover damages in accordance with Article 12 hereunder

**11.3** In the event of termination of this Agreement by YBH under Article 11.1a, all material, constructed property, and intellectual property relating to this Agreement shall remain the sole property of Yankee Barn Homes. In addition, YBH retains all rights to retain, reuse or resell material and components relating to this Contract.

## Article 12 – Claims and Dispute Resolution

**12.1** Notice of Claim. With the exception of claims arising pursuant to Article 6, all written notices stating the general nature of each claim, dispute or other matter shall be delivered by the claimant to the other party to the Agreement promptly.

**12.2** Negotiations. Following Notice of a Claim, the parties shall negotiate promptly and in good faith in an attempt to resolve the issue. If the claim or dispute cannot promptly be resolved, the claimant may proceed with arbitration as more fully described in Article 12.3.

**12.3** Arbitration. All disputes, claims, or questions arising by virtue of this Agreement, except as provided under Article 6, shall be subject to arbitration and shall be submitted to arbitration in accordance with the provisions of the New Hampshire Revised Statutes Annotated, Chapter 542.

By virtue of this agreement, the cost of such arbitration, including arbitrator's compensation, shall be borne equally by the parties. This Agreement shall be specifically enforceable under the prevailing arbitration law, and judgment upon the award rendered may be entered in any court of the forum, whether state or federal, having jurisdiction.

## Article 13 – Indemnification

**13.1 Indemnification by Customer.** Except for matters expressly made YBH responsibility hereunder and in addition to any other indemnification obligations of Customer under this Agreement, Customer shall defend, indemnify, and hold harmless YBH, and all its respective employees, affiliates, agents, officers, partners, shareholders, directors and permitted assigns from and against all losses that directly or indirectly:





- A. Arise out of or result from, but only to the extent of, the negligent, reckless, or tortuous act or omissions (including strict liability) of Customer or anyone directly or indirectly employed by Customer (other than YBH, any affiliate of YBH, or any subcontractor of YBH).
- B. Arise out of or result from the failure of Customer to comply with applicable laws or the conditions or provisions of applicable permits.
- C. Arise out of any insurance policy being vitiated as a result of Customer's failure to comply with any of the requirements set forth in such policy or any other act by Customer.
- D. Arise from any other breach by Customer of its representations, warranties and obligations (including any other indemnification provision) under this Agreement.

**13.2 Indemnification by YBH.** Except for matters expressly made Customer's responsibility hereunder and in addition to any other indemnification obligations of YBH under this Agreement, YBH shall defend, indemnify, and hold harmless Customer and any person acting for or on behalf of Customer and their respective employees, agents, partners, affiliates, shareholders, directors, officers, and permitted assigns, from and against all losses that directly or indirectly:

- A. Arise out of or result from the prosecution of the Work by YBH (including its subcontractors) that are caused wholly, or in part, by any acts or omissions of YBH, its agents, servants, employees or by any acts or omissions of agents, servants or employees of any subcontractors.
- B. Arise out of or result from the failure of YBH or subcontractors to comply with applicable laws or the conditions or provisions of applicable permits.
- C. Arise out of any insurance policy procured being vitiated as a result of YBH failure to comply with any of the requirements set forth in such policy or any other act by YBH or any subcontractor.
- D. Arise from any other breach by YBH of its representations, warranties and obligations (including any other indemnification provision) under this Agreement.

#### **Article 14 – Standards of Performance and Warranty Responsibilities**

**14.1 Standard of Performance and Warranty.** YBH shall perform the Work as required in this Agreement in accordance with the provisions of this Agreement. YBH warrants that the Yankee Barn shall be constructed in substantial conformity with the Build Plans and YBH Plans, including any Change Orders. The accompanying Limited Warranty is made a part of this agreement by reference.

#### **Article 15 – Miscellaneous**

**15.1 Notices.** Any notice, direction, instruction, request or other communication required or permitted under this Agreement shall be given in writing and delivered by registered U.S. mail, return receipt requested. Notice shall be deemed to have been duly given on the date of receipt. If YBH and Customer have executed the Electronic Contracting Addendum, notice may be given in the manner provided by the addendum.

**A. Notice to YBH.** Except as provided by the Electronic Contracting Addendum, any notice required to be given to YBH shall be sent to 131 Yankee Barn Road, Grantham, New Hampshire 03753; Attention – Construction Operations Officer.

**B. Notice to Customer.** Except as provided by the Electronic Contracting Addendum, any notice to be given to Customer shall be sent to the address indicated below the Customer's signature or to another address if notice of the address and instructions to send notices to the address are given to YBH.

**15.2 Survival of Obligations.** All representations, indemnifications and warranties made in, required by, or given in accordance with this Agreement, as well as all continuing obligations indicated in this Agreement, will survive final construction, and acceptance of the Work or termination or completion of this Agreement.

**15.3 Entire Agreement.** This Agreement contains the entire understanding of the parties with respect to the subject matter hereof. All representations, statements, and agreements herein made between the parties hereto are merged in this Agreement. Each party has entered into this Agreement after opportunity for investigation and neither party has relied upon any statements or representations not embodied in this Agreement, made by the other or on its behalf.

**15.4 Assignment.** This Agreement shall not be assigned by Customer without the written consent of YBH; provided that YBH hereby consents to the assignment of this Agreement to Customer's financial institution as necessary to facilitate and secure financing under a construction loan made to Customer to fund payments pursuant to this Agreement.

**15.5 Controlling Law.** To the fullest extent authorized in accordance with New Hampshire law, Customer acknowledges this Agreement was executed within New Hampshire and shall be construed in accordance with New Hampshire law. All questions concerning the entering into this Agreement, the meaning and intention of the terms of this Agreement, and its validity and all questions relating to the performance required of the parties hereunder shall be judged and resolved in



accordance with the laws of the State of New Hampshire and the United States. Any action initiated with regard to this Agreement shall be brought in New Hampshire no later than two years from the date of Commencement.

**15.6 Use Tax.** YBH will assume the responsibility for paying any use taxes due for materials and supplies used in construction of the Yankee Barn, including the payment of any use taxes due to the State in which the premises are located for materials purchased out-of-state. Use taxes will be reported based upon the purchase price of any supplies and materials out-of-state, subject to any credits for sales taxes paid upon such items as authorized by law. If required by law, Customer consents to the disclosure of information by YBH to state tax administrators as may be necessary for the enforcement of state sales and use taxes. If contacted for information from any state tax administrator regarding use tax payments or the calculation of use taxes, Customer will contact YBH to assist the Customer in responding to any such requests.

**15.7 Captions.** The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope of intent of this Agreement or the intent of any provision contained herein.

**15.8 Modification.** No modification of this Agreement or any waiver of any terms or conditions thereof shall be of any force or effect unless the same is in writing signed by the parties. All prior discussions and agreements between the parties or their agents are merged into and superseded by this Agreement.

**15.9 Damages.** The rights and remedies provided to YBH in the event of a breach of this Agreement by Customer are not exclusive, and subject to the provisions of Article 12.3 (Arbitration), YBH shall have all rights and remedies accorded to it by law and in equity.

**15.10 Disclaimer of Implied Warranties.**

A. UNLESS PROHIBITED BY LAW OR OTHERWISE PROVIDED BY THE YANKEE BARN HOMES WARRANTY, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE LIMITED TO THE DURATION OF THE EXPRESS WARRANTIES MADE HEREIN, AND THE SOLE REMEDY FOR BREACH OF SUCH IMPLIED WARRANTIES SHALL BE TO HAVE ANY DEFECTIVE MATERIAL RE-SUPPLIED FREE OF CHARGE.

B. EXCEPT AS PROVIDED BY THIS PARAGRAPH, NO OTHER WARRANTY, EITHER EXPRESS OR IMPLIED, SHALL APPLY TO THIS AGREEMENT, AND CUSTOMER DOES, HEREBY, EXPRESSLY WAIVE ANY OTHER WARRANTY.

IN WITNESS WHEREOF, YBH and Customer have executed this Agreement as of the day and year written above.

Customer: DocuSigned by:

By: Nancy DuMont  
8197E2978CF6423...

Date: 4/7/2022

By: \_\_\_\_\_

Date: \_\_\_\_\_

Yankee Barn Homes DocuSigned by:

By: Paul Marinelli  
90D2067B88AA444...

Date: 4/5/2022

Note: If Customer is one person, please provide one signature in the signature block above. If Customer is two or more persons please provide two or more signatures in the signature block above. This Agreement is not effective until signed by an authorized representative of Topek LLC dba Yankee Barn Homes at its place of business at: 131 Yankee Barn Road, Grantham, New Hampshire 03753. (603) 863-2400, Fax (603) 863-9945.



**Topek LLC, dba Yankee Barn Homes**  
**Limited Home Warranty**

This **Warranty** specifies limits for responsibility and conditions under which it is valid or applicable. WE STRONGLY URGE YOU TO READ THIS WARRANTY since it is the only warranty express or implied that YANKEE BARN HOMES makes to you. NO employee, salesman or other agent of YANKEE BARN HOMES is authorized to make any warranty except as stated in this Warranty. See the Yankee Barn Homes Construction Agreement (the Agreement) for Definitions used herein.

**1. WARRANTOR:** Yankee Barn Homes (YBH) is the company making the warranty and disclaimers. The mailing address of YBH for the purpose of this Warranty is:

**Yankee Barn Homes**  
**131 Yankee Barn Road**  
**Grantham, NH 03753**  
**(800) 258-9786**

**2. WARRANTY HOLDER:** Owner: Nancy DuMont. This Warranty is assignable for the warranty period.

**3. PREMISES:** 1241 Taber Hill Rd, Stowe, VT 05672.

**4. COMMENCEMENT OF WARRANTY COVERAGE:** This Warranty commences upon the delivery of the major Yankee Barn Components to the Customer's Premises and expires 24 months thereafter except as noted below.

**5. COVERAGE:** Yankee Barn Homes shall perform the Work as required in the Agreement in accordance with the provisions of the Agreement. YBH warrants that the Yankee Barn shall be constructed in substantial conformity with the **Build Plans** including any Change Orders. YBH warrants that the Shell shall, as applicable:

- A. Substantially meet the structural parameters that are set forth in the Code Jurisdiction Adopted Building Code at the time of Build Plan Completion.

**Yankee Barn Components and Material** shall, at the time of use in construction of the Yankee Barn and throughout the Warranty period, be free from such defects as would render the same unsatisfactory for normal use, service, and maintenance. YBH warrants that its labor services shall be performed in a professional and workmanlike manner.

**Manufactured components and material** shall be delivered to the Owner in new and serviceable condition as described by the individual manufacturers and suppliers. This includes, but is not limited to, flooring, windows, doors, fasteners and other material not manufactured by Yankee Barn. Warranty for any components or material supplied to Yankee Barn Homes by manufacturers will be warranted under the individual manufacturer's programs.

**6. WARRANTY PERIOD:**

**A. Defects in Construction or Materials:** Customer must give notice to YBH of any defects in construction or materials immediately upon becoming aware of the defect. Customer agrees to allow YBH to inspect and take possession of such defective material. After a review of the claim has confirmed a defect, YBH will, within a reasonable time thereafter, resupply such defective material, which shall be the Customers sole remedy therefore.

**B. Limitation on Claims.** CUSTOMER ACKNOWLEDGES THAT UNDER NO CIRCUMSTANCES MAY CLAIMS BE MADE PURSUANT TO THIS AGREEMENT



AFTER THE DEADLINES ESTABLISHED BY THIS ARTICLE AND THAT THE RIGHT TO ASSERT ANY AND ALL CLAIMS ARISING UNDER THIS AGREEMENT SHALL TERMINATE TWO YEARS AFTER THE COMMENCEMENT OF CONSTRUCTION.

**7. LIMITATIONS OF WARRANTY.** The obligations of YBH relating to the Warranty shall be limited as follows:

**A. Glass breakage** after delivery is not covered by this Warranty.

**B. Any materials claimed to be defective shall not be installed or otherwise applied to Customer's Yankee Barn without obtaining written authorization from YBH. Any and all warranty coverage will become null and void if knowingly defective material or components are installed without written authorization from Yankee Barn Homes.**

**C. In the event the Customer chooses not to install an air exchange system when recommended by YBH, as part of their finished home, YBH is not responsible for any humidity control issues that affect its shell package.**

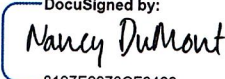

**D. YBH is not responsible for mildew, mold or other water damage that may occur as a result of Customer delaying the scheduled delivery date of building materials and supplies, and in no event will YBH be responsible for damages arising from improper storage or use of such material or damages arising after delivery to the Customer's jobsite.**

**8. Disputes.** Any and all disputes arising from the execution of this Warranty Documents are subject to the same resolution agreement spelled out in the Customer's Construction Agreement as pertains to Arbitration settlement described in the State of New Hampshire RSA Title XXXI, Chapter 359-G:1 through G:8.



By Yankee Barn Homes \_\_\_\_\_

Paul J. Marinelli, CEO

Customer Signature:	<div>DocuSigned by:  8197E2978CF6423...</div>	Initials:	<div></div>	Date:	4/7/2022
Customer Signature:	_____	Initials:	_____	Date:	_____



Released by Kerri Post on Jul 25, 2022

Released



131 Yankee Barn Road • Grantham, NH 03753 • Phone: 6038632400

Nancy duMont  
Phone: 802-793-1430

Job Address:  
1241 Taber Hill Rd  
Stowe, VT 05672

Print Date: 7-25-2022

**Nancy Dumont Price 7/25/22**

Please find below the price for your custom Yankee Barn Home Shell Package, per **drawings dated 6/7/22**. Please see Sheet G-0.1 outlining the YBH package components and additional notes for the GC. the price increased slightly from your initial reduced price Hill House due to structural needs for your snowload, window changes, and just part of the loft. As promised, I am only charging for the structural design on that - I am giving the rest to you free in place of a free cupola. Then, I further reduced by 2%!

On the bottom is a tentative payment schedule - the promo just requires that you finish completion in 2022..

Attached to this quote are the following reference documents:

1. Progress Plans Drawing Set dated 6/7/22
2. Delivery/Equipment Info for Supervisor and/or Crew

On behalf of everyone here at Yankee Barn Homes, it has been a pleasure designing with you, and we look forward to seeing your dream come to life on site!

**Yankee Barn Homes Price Quote**

Items	Description	Unit Price
YBH House Shell Package	<p>NOTE: PRICING SHOWN ASSUMES NO FURTHER CHANGES TO DESIGN</p> <p>In addition to your YBH Shell Package (see plans for specific components provided by Yankee Barn Homes), the following services are included:</p> <ul style="list-style-type: none"><li>Custom design process and development of schematic plan</li><li>Progress plans for pricing purposes and 3D images</li><li>Engineered Construction Plans for your Yankee Barn Home Shell Package, including Foundation and 1st Floor Deck drawings</li><li>Yankee Barn Homes Shell Construction Supervisor to work on-site with your General Contractor's crew to assemble your YBH Shell Components</li></ul>	\$317,886.00



Discount	Extra 2% off for floor plan promo, need to finish production in 2022	-\$6,358.00
Use Tax		\$7,197.00
Trucking	NOTE: Trucking rates subject to change at an time. Finalcost to be confirmed when delivery is scheduled.	\$6,100.00

**Total Price: \$324,825.00**

**YBH LABOR CREW PRICE:**

**\$32,715.00**

Labor only - 3 men to work with YBH Supervisor provided with home package to assemble. Estimated 12-14 days weather depending. YBH components. GC to supply all equipment - see attachment for more information.

**PAYMENT SCHEDULE**

<b>Payment:</b>	<b>Due Date</b>	<b>Amount</b>
A1 - Design Deposit	PAID	\$5,000.00
B1/B2 - Down Payment (50% of total)	PAID	\$152,810.00

*This deposit secures production slot & approval of your design begins material ordering & production.*

<b>C - Final Payment (Balance Due)</b>	<b>TBD - Oct or Nov</b>	<b>Balance Due</b>
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\*YBH will confirm final payment date min. of (10) days prior. Final production date & delivery will be determined based on current lead times when selections, options and design is approved and B1/B2 (50%) payment is received. YBH will wrap, protect and store your YBH package until ready on site up to 6 months. All pricing is based on current material & straight time labor costs. This price quote is made pursuant to Article 2.1A of Yankee Barn Homes Planning Agreement and is valid for 30 days. Price includes up to 4 hours of design changes, anything beyond that will be assessed and billed at \$100/hr. Upon acceptance, this quote becomes part of your contract. Please sign and return this copy with Production Contract, signifying approval and acceptance.

**WIRE INFO FOR PAYMENTS:**

Topek, LLC (DBA Yankee Barn Homes)  
Woodsville Guaranty Savings Bank, PO Box 266,  
Woodsville, NH 03785  
603-747-2735  
Routing #: 211770132 Acct#: 26907730

I confirm that my action here represents my electronic signature and is binding.

**Signature:**

**Date:**

**Print Name:**