



Contract Documents - 309

NOTICE AND OPPORTUNITY TO CURE AGREEMENT

The Contractor _____ has been engaged by the Owner(s) _____ to construct certain improvements to real property at the following location: _____

in accordance with a Contract dated _____.

In consideration thereof, the parties agree to abide by the following terms and conditions in an effort to resolve any future construction defect claims that may be made by the Owner(s) against the Contractor arising out of the construction performed pursuant to this Contract.

1. The Owner(s) shall mail or deliver to the Contractor at the following address:

_____ a written notice of the asserted construction defect describing the defect and the circumstances of its discovery. Any additions or modifications to the description or circumstances of discovery shall require the Owner(s) to mail or deliver an additional written notice to the Contractor.

2. After furnishing the written notice, the Owner(s) shall provide the Contractor with reasonable and timely access to the premises for inspection of the asserted defect(s). Inspection shall be undertaken not more than _____ days from the date the notice is received. The Contractor shall mail or deliver a written response to the Owner(s) not more than _____ days from the inspection date at the following address:

_____ The Contractor's written response shall include either an offer to remedy or repair the asserted defect, an offer to settle the claim by monetary payment, or a denial of liability or responsibility for the asserted claim. The failure of the Contractor to inspect and/or respond as provided herein, or the denial by the Contractor of liability or responsibility, shall permit the Owner(s) to take immediate action to litigate the claim, or to arbitrate any asserted construction defect as may be provided of the parties' Contract.

3. The Owner(s) agrees to accept any reasonable offer made by the Contractor to repair or replace the defective condition, or to pay monetary damages in the amount of the cost to replace or repair, but such offer shall not include payment of consequential damages. The failure of the Owner(s) to accept a reasonable offer made by the Contractor, shall limit any recovery by the Owner(s) to the express terms of the Contractor's reasonable offer. Upon acceptance by the Owner(s), the Contractor shall have _____ days to comply with the terms of the accepted offer.

4. The Owner(s) agrees to take no action to file suit or to initiate arbitration against the Contractor pertaining to the construction defect claim, unless and until the above stated procedures have been followed and the prescribed time periods have expired without resolution. Failure to adhere to these procedures and to observe the prescribed time periods