

Alto Services, LLC  
4875 Pheasant Run  
Middleville, Michigan 49333  
(616) 891-5990  
[dsmithaltofence@hotmail.com](mailto:dsmithaltofence@hotmail.com)

License No. \_\_\_\_\_  
MCL 570.1114 B1318M

### **RESIDENTIAL CONTRUCTION AGREEMENT**

This residential construction contract made this, \_\_\_\_\_ (Date), between \_\_\_\_\_ (Owner/Real Property Possessor) (“**Owner**”), and Alto Services, LLC, a Michigan Limited Liability Company (“**Builder**”), is created for labor, material, supervision and/or improvement in connection with the construction of \_\_\_\_\_ (the “**Project**”) located at \_\_\_\_\_ (Address). Owner and Builder agree as set forth below:

#### **Article I**

##### Scope of Work

Builder will furnish labor, equipment, material, insurance, supervision, scheduling, building permits, if any, sales tax, and samples to construct the Project as more specifically described by the attached estimate: # \_\_\_\_\_.

Owner will be responsible for construction plans and specifications unless agreed otherwise. If Builder provides construction plans and specifications that cost will be included in the Contract Price. Builder will own the construction plans and specifications and any copyright to them. Owner may use the construction plans and specifications provided by Builder only to construct the Project, and then only on prior payment of the Contract Price provided in this Contract to the Builder. Owner may not sell or provide the construction plans and specifications provided by the Builder to anyone or use the construction plans and specifications for any other purpose except on written consent of the Builder.

#### **Article II**

##### Owner Requirements

Owner, in addition to other duties and obligations provided by the Contract Documents, will:

1. Furnish information to Builder, and when requested, post on the Project site A Notice of Commencement as provided by Builder;
2. Promptly respond to questions and issues raised by Builder regarding the construction or Contract Documents, including, but not limited to, selection of allowances items, materials, and colors as required. Owner’s numbers are \_\_\_\_\_ (home) and \_\_\_\_\_ (cell); and \_\_\_\_\_ (email).
3. Provide, if requested, before and during construction, verification of financing from Owner’s bank or financial institution in a form reasonably satisfactory to Builder;
4. Furnish to Builder, if requested, all surveys and records, plats, and legal descriptions of the Project site; and,
5. Execute all necessary applications required to obtain any permits and bonds and pay any administrative fees relating to any hearings conducted by any architectural review boards, planning commissions, zoning boards, or neighborhood associations. Builder’s attendance at these hearings may constitute a billable addition to Builder’s scope of Work and will be confirmed by a written change order setting forth the extra cost before attendance.

**Article III**  
Contract Documents

The following, construed together and in a complementary manner, form the Contract (“Contract Documents”):

1. The Contract and any attached exhibits
2. Engineered drawings, if any dated \_\_\_\_\_
3. Estimate dated \_\_\_\_\_
4. Any Soil Condition Charges or Add-Ons/Changes as agreed and signed by both parties
  - Electronic signatures allowed on all add-ons or changes

In the event of a conflict between the drawings and the estimate, the estimate will govern. In the event of conflict between the estimate and the addenda, the addenda will control. Work not included in the Contract Documents will not be required of Builder unless clearly necessary to produce the desired result of Owner on the Project. If materials specified are not available, Builder, on written notice to Owner, may substitute materials of similar quality and kind.

**Article IV**  
Builder’s License

Builder warrants that it and its subcontractors are properly licensed, if required, to perform the work called for by the Contract Documents and the Project and will remain so during the performance of the work. Builder is a residential builder, licensed by the State of Michigan under builder’s license number \_\_\_\_\_ and under MCL 339.2401 et seq.

**Article V**  
Time for Completion

Builder will commence work on \_\_\_\_\_ (date) agreed upon with the Owner. This date is subject to excusable delay, as defined in this agreement and set forth below:

1. Permit or work delays having to do with the Township; Architectural Board; Planning Commission; Zoning Board; Neighborhood Association; or any other administrative body;
2. Miss Digg delays;
3. Weather delays on previous Projects of Builder. Owner will be notified as soon as possible by Builder of any weather or previous Project setbacks’
4. In the event of a delay, suspension, or interference with any part of the work that is not due to the fault of Builder or its employees, agents, subcontractors, or suppliers, including but not limited to delays caused by weather, contaminated or hazardous materials or soils, labor problems, Owner, Engineer, or material shortages, there will be an equitable adjustment of the Contract time of completion. Within 14 days from the date the Builder has notice of any delay, Builder will notify Owner in writing. Owner and Builder will reasonably determine the time adjustment and execute a change order verifying the time extension. Owner acknowledges that any delay in the work caused by Owner or Architect or within Owner’s control will incur additional Project costs. Notice of additional cost will be provided in writing to Owner and the Contract Price will be adjusted accordingly by written change order.

**Article VI**  
Contract Price

Owner will pay to Builder for the construction of the Project, and subject to additions and adjustments by change orders, \$ \_\_\_\_\_ (Contract Price). Included within the Contract Price are allowances for the items listed in the addendum A (the allowance amount assumes installation by the Builder unless otherwise stated). Any part of the allowance set forth not used by Owner will be credited against the final Contract Price. Any costs incurred over the allowance amount will be added to the Contract Price, confirmed by change order, and paid by Owner.

**Article VII**  
Change Orders

Owner may request that Builder add to, change, or delete from the scope of work, and the Contract Price and if requested, the time for completion will be adjusted accordingly. Owner and Builder will then mutually agree to the change in price and time in writing. Builder will not proceed with any requested change in the work until a change order is agreed on in writing. Payment for a change in the work, including any increase in allowance items, will be paid in advance, within 5 days of the invoice date, or subject to Article VIII. If Owner requires Builder to perform work that Builder contends is outside the scope of work required by the Contract, Builder will notify Owner in writing within 7 days of any dispute. The dispute regarding the scope of the work will be decided by Binding Arbitration as provided in this Contract. Any change in applicable building codes during the course of work; conflict in the drawings, specifications, or addendum; or conflict between applicable building codes and the drawings, specifications, or addenda, will constitute extra work, the costs for which will be verified by a written change order. Any delays caused by the dispute concerning the refusal by Owner to execute a change order will extend the time of completion under this Contract. A signed change order will not be required for work performed under Article XXI with Owner agreeing to be fully responsible for the same.

**Article VIII**  
Applications for Payment

On the date this Contract is executed, Owner will pay Builder a deposit of \$ \_\_\_\_\_. This amount will be applied to the Contract Price. After that, progress payments will be paid pursuant to the following schedule and terms, except for change order work which is provided for in Article VII:

1. On the occurrence of the following installations and notification by Builder to Owner, Owner will pay the following amounts:  
\$ \_\_\_\_\_ due \_\_\_\_\_.  
\$ \_\_\_\_\_ due \_\_\_\_\_.  
\$ \_\_\_\_\_ due once project is finished.

\*These payments are subject to the bank's draw or payment schedule. .

2. Owner will pay Builder no later than 1 day from the receipt of an application for payment.
3. Full and final payment will be made within 10 days of production to Owner by Builder.
4. Builder may bond over the face amount of any construction lien of anyone supplied by Builder in the capacity of laborer, subcontractor, supplier, labor fund, or other construction lien holder. Owner may not withhold payment from Builder when such a lien has been bonded.
5. Builder will timely pay all subcontractors and suppliers and will use its best efforts to prevent any subcontractor, supplier, or other party from filing a construction lien against Owner's property.

**Article IX**  
Punch List

Before substantial completion of the Project, Owner and Builder will prepare a written punch list of all items Owner wants corrected by Builder. Creation of this punch list will not render the Project incomplete for the purpose of final payment as due under this agreement. Builder will review the punch list and if obligated to repair, will, within a reasonable time, address the items listed in it with Owner.

**Article X**  
Inspection and Testing

Builder will facilitate all inspections called for by the Contract Documents at its expense. Inspection and testing not required by the Contract Documents will be paid by the Owner.

**Article XI**  
Waiver of Subrogation

Owner waives subrogation against Builder, subcontractors, and sub-subcontractors on all property and consequential loss policies carried by Owner during and after completion of the work. If the insurance policies require an endorsement to provide for continued coverage when there is a waiver of subrogation, the policy owner will cause them to be so endorsed.

**Article XII**  
Indemnity

Builder will indemnify and hold harmless Owner from all claims, liability, loss, expenses, and construction liens asserted or incurred as a result of the default, negligence, or wrongdoing of Builder or its agents, employees, subcontractors, suppliers, or persons acting under them, except for claims arising from the default, non-payment, negligence, or wrongdoing of Owner, Owner's agent, or representatives. Unless Builder provides construction plans and specifications, Owner will indemnify and hold Builder harmless against any claims that such documents violate or infringe on any copyright or patent.

**Article XIII**  
Attorney Fees

In the event that Builder engages legal counsel for any reason under this agreement, including but not limited to its enforcement, arbitration, defense, placement of lien, or collections thereon, Owner, if found liable by a Court of Law or a lien is filed and then found valid, will be fully responsible for all the attorney's fees and costs incurred by Builder in such enforcement, arbitration, defense, lien placement, or collection action.

**Article XIV**  
Miscellaneous

Builder's failure to enforce any term of this agreement will not be deemed a waiver of the enforcement of that or any other term in the future. If any part of this agreement is held invalid, the remainder will remain in full force and effect. Any notice which either party may or is required to give may be delivered via verified email or by first class mail to the address set forth on Page 1. By agreement of the parties, all disputes and arbitrations concerning this agreement shall be determined for both venue and jurisdiction within Kent County, Michigan. Lien Rights granted pursuant to MCL 570.1101, et al.

**Article XV**  
Termination of Contract

If Owner fails to make the payments as required by this Contract; if the Project is stopped for 30 days or more (except at completion of the foundation) and the stoppage was caused by Owner; or, if Owner is otherwise in breach or default of this Contract, and the breach has not been cured within 30 days from notice of such default, Builder may, on written notice, terminate this Contract and recover from Owner its costs, lost profits, and any other damages and expenses caused by Owner's default or breach including but not limited to its attorney's fees and costs as set forth in Article XIII and/or, at its discretion, all the materials, costs, re-stocking fees, and services due by the Owner on the date of termination.

**Article XVI**  
Cleanup and Storage

Builder will keep the job site in a clean condition consistent with normal construction practices. Builder will be permitted to store materials, tools, and equipment on site during construction. Builder is not responsible for any damage to existing structures or landscaping on or near the construction area or any necessary access paths to that area. Unless otherwise noted in the estimate, Builder will not do any landscaping or clean up any access point. This Article includes yard, driveway, and sidewalk damage.

**Article XVII**  
Heirs, Successors, and Assigns

Neither party may assign this Contract without written consent of the other. The provisions of this Contract are binding on Builder as a company and on the heirs, successors, and assigns of Owner.

**Article XVIII**  
Subcontracts

Owner acknowledges that Builder will, at its discretion, enter into subcontracts with various subcontractors to perform portions of the work. Nothing in this Contract will create a contractual relationship between Owner and those subcontractors.

**Article XIX**  
Representation and Arbitration

Both parties to this agreement agree that they have had the opportunity to have counsel review this agreement before execution. The parties also agree that all claims or disputes arising out of this agreement or its breach or default will be decided by arbitration in accordance with the construction industry rules of the American Arbitration Association. Notice of a demand for arbitration will be filed in writing with the other party and the AAA and will be made within a reasonable time after the dispute has arisen. Any claim not submitted to arbitration within one year after the event giving rise to the claim will be barred. The arbitrator's decision will be final and binding on both Owner and Builder and a judgment for enforcement will be entered by the Courts of Kent County, Michigan by agreement of the parties.

**Article XX**  
Limited Warranty

Builder guarantees and warrants to Owner that all labor, materials, and equipment furnished under this Contract will be new and that all work will be of good quality, free of defects in materials or workmanship, and in conformance with the Contract Documents and for the intended purpose. On receipt of notice in writing of any claimed defect, Builder agrees to correct all work it performed under this Contract that proves to be defective and of which the Owner has knowledge for one year from the date of substantial completion as defined. Any claim for breach of this limited warranty must be made in writing within one year of project completion or they will be barred as a matter of law. Repair will not include payment for materials or for services rendered in repainting or redecorating of whatever nature caused by the repairs. Those costs will be Owner's sole responsibility. The warranties provided in this Contract specifically exclude damages concerning Owner's landscaper or defects caused by abuse, neglect, insufficient maintenance, improper operation, or any other action attributable to Owner, and exclude normal wear and tear, normal expansion and contraction of materials or other usual characteristics of material, and any modifications to the work by Owner. All other warranties, whether written, oral or implied, are specifically excluded. This limited warranty is not transferable. When Owner sells or moves out of the home, this warranty terminates. Owner is solely responsible for any damages that result from defects in materials provided by Owner or provided to Builder or its subcontractors by outside entities.

- Builder does not warranty any lumber as provided to the Builder by distributors as to cracking or warping.

**Article XXI**  
Soil Conditions

Owner represents to Builder that they are familiar with the soil and ground conditions and have no knowledge that the soil consists of bedrock, fill, or other elements that might affect the cost of construction as shown in the Contract Documents. Owner acknowledges and agrees that the Contract Price is based on standard excavation with no subsurface solid rock, streams or springs, or fill that would require de-watering, excavation, or special equipment other than a tracked front-end loader or backhoe. Excavation costs above standard conditions are to be paid by Owner. The Contract Price is based on subsurface soil conditions adequate for the footing size including the depth shown in the drawings.

**Article XXII**  
Hazardous Materials

The Contract Price does not include the removal and transfer of any contaminated or hazardous materials or soils as may be defined by applicable law. If Builder encounters any such material or soil, it will notify Owner in writing and stop work in the affected area. Builder will have no obligation to remove or transfer this material or soil unless agreed to in a written and signed change order and no obligation to continue work on the Project until this matter is addressed by Owner.

**Article XXIII**  
Entire Agreement

This Contract and the Contract Documents so stated are the entire agreement between the parties. No oral or written communication or negotiations that occurred before the execution of this Contract will be considered part of this agreement. Unless provided for under Article XXI, this Contract may be modified only by written document signed by both the parties or by a written change order as provided. This Contract will be governed by the laws of the State of Michigan and MCL 570.1101 et seq.:

**Article XXIV**  
Statutory Language

A residential builder or residential maintenance and alteration contractor is required to be licensed under Article 24 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2412. An electrician is required to be licensed under Article 7 of the Skilled Trades Regulation Act, MCL 339.5701 to 339.5739. A plumbing contractor is required to be licensed under Article 11 of the Skilled Trades Regulation Act, MCL 339.6101 to 339.6133. A mechanical contractor is required to be licensed under Article 8 of the Skilled Trades Regulation Act, MCL 339.5801 to 339.5819.

The Builder to this Agreement is required to be licensed under Michigan Law to provide the contracted work or improvement. Builder is so licensed under License No. \_\_\_\_\_. See addendum B, attached. The original fixed price for the work to be provided or improvement, before add-ons, changes, or soil work additions pursuant to Article XXI, is set forth in addendum C, attached.

**Article XXV**  
Special Provisions

The following provisions are hereto agreed by the parties to this contract:

1. All charges per this agreement are due in full upon completion of the project
2. A late fee of \$25.00 per month will be assessed by Builder for any invoices over 30 days past due
3. 1.5% per month interest may be charged by Builder on invoices over 60 days past due
4. Owner responsible for all materials and services to date, including re-stocking fees if terminated
5. Final add-ons, change-orders, materials and other costs to be reflected in final invoice
6. Owner to hold harmless and indemnify Builder for all pre-existing defects and any damages associated with unmarked utilities or unmarked property lines
7. Owner to hold harmless and indemnify Builder for all damages incurred by agents or invitees of Owner
8. All rights under MCL 570.1101 et seq. reserved

AGREED THIS DAY:

OWNER/REAL PROPERTY POSSESSOR:

BUILDER:

ALTO SERVICES, LLC

/s/\_\_\_\_\_

/s/\_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_