



## CONSTRUCTION CONTRACT

### **1. AGREEMENT:**

This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between **Stonewall Hardscapes LLC**, a Vermont Limited Liability Company with its principal place of business in Wolcott, County of Lamoille and State of Vermont, (hereinafter designated Builder) and \_\_\_\_\_, of \_\_\_\_, County of \_\_\_\_\_ and State of \_\_\_\_\_ (hereinafter designated Owner). Builder and Owner wish to enter into a Construction Contract as follows:

### **2. DESCRIPTION OF WORK:**

Builder shall construct the following:

Said work shall be performed at the following location:

\_\_\_\_\_

### **3. CONTRACT PRICE:**

Owner agrees to pay to Builder a total sum of \_\_(\$ ) for all work to be performed under the contract, change orders excepted. Said Amounts to be paid by Owner to Builder on the following schedule:

- A. Builder acknowledges receiving the sum of \$ from Owner upon execution of this contract, said sum to be utilized by Builder;
- B. The balance is due on the completion of \_

### **4. OWNER RESPONSIBILITIES:**

- A. Owner waives all warranty claims regarding materials supplied by Builder, provided Builder provides, or transfers to Owner from its suppliers, a warranty of merchantability.
- B. Owner, by making payments, waives all claims except those arising out of:
  - 1. Faulty work appearing after substantial completion has been granted;
  - 2. Work that does not comply with Contract Documents;
  - 3. Outstanding claims of liens for items or services supplied by Builder;
  - 4. Failure of Builder to comply with any special guarantees, if any, required by the Contract Documents;
- C. Owner duties in connection with the project are as follows:
  - 1. Secure and pay for any necessary utility easements;
  - 2. Execute and agree to all Contract Documents as above mentioned.
  - 3. Be responsible for payment of all sums when required.
  - 4. Payment for dumpster, staging, site clean-up, final unit clean-up, not to exceed \$1000..



**5. CONTRACT DOCUMENTS:**

The Contract Documents, which contain the plans in accordance with which the work is to be done, and provide for the method of payment of the Contract Price, are as follows:

- (a). This Building Contract;
- (b). The plans and specifications entitled, \_ \_ \_;
- (c). Work change orders, if issued.

The Contract Documents together form the Contract for the work herein described, subject to any change orders executed between the parties hereto.

**6. RESPONSIBILITIES OF BUILDER:**

Builder's duties in connection with project are as follows:

- (a). Have sole responsibility for all work necessary to complete the project, including the techniques, sequences, procedures and means;
- (b). Supervise and direct the work of the subcontractors, if any and coordinate their respective jobs;
- (c). Pay bills and requisitions for subcontractors and materialmen;
- (d). Provide construction equipment, labor, materials, utilities, transportation and all other facilities and services necessary for a proper completion of the work on the project in accordance with the Contract Documents.
- (e). Comply with all applicable laws, ordinances and regulations relating to performance of the work and completion of the project.
- (f). All contracts between Builder and subcontractor shall conform to the provisions of the Contract Documents and shall incorporate in them the relative provisions of this Contract.

**7. INSURANCE:**

Builder and Owner agree to obtain policies of insurance as follows:

- (a). Builder agrees to keep in force at its own expense during the entire period of construction on the project such liability insurance as will protect it from claims, under workmen's compensation and other employee benefit laws, for bodily injury and death, and for property damage, that may arise out of work under this Contract, whether caused directly or indirectly by Builder;
- (b). Owner agrees to maintain in force its liability insurance during the construction of this project, and reserves the right to purchase such additional insurance as in this opinion is necessary to protect them against claims arising out of the Builder's operations;
- (c). Owners agree to maintain at their expense, during construction of the project, property damage insurance on the work at the site to its full insurable value, against fire, vandalism, and other perils ordinarily included in extended coverage;



(d). Owner and Builder hereby waive all claims against the other for fire damage or damages from other perils covered by insurance provided in this Paragraph.

**8. WORK CHANGES:**

The Owner upon agreement by Builder shall have the right to order work changes in the nature of additions, deletions, or other modifications without invalidating the Contract. All changes will be authorized by a written change order on forms supplied by Builder and signed by Builder and Owner, using the form attached hereto. The change order will include conforming changes in the contract price and completion time. Owner shall pay to Builder the sum of 75% of the cost of each change order upon execution of said change order, said sum to be utilized by Builder for construction and carrying out of said change order. Work shall be changed, and the contract price and completion time shall be modified, only as set out in the written work change order. At the time each change order is executed it will be determined if that change order alters the scope of the project. If it is determined that it does, then the Change Order will incorporate any changes in the contract sum.

**9. WARRANTY:**

The Builder guarantees that the work completed under this Contract shall be in accordance with the Contract Documents and shall be free from imperfect workmanship as may be expected for the Town of \_\_ \_\_\_\_, State of \_\_ \_\_\_\_. The Builder shall repair at its own cost and expense, for a period of one (1) year from the date of final payment, all the work covered under this Contract which proves defective after notice by certified mail of same by Owner to Builder. The Builder shall further repair at its own cost, any work or materials that may be disturbed in making such defects good. The parties hereto expressly warrant that this subsection shall survive the completion of Builder's work under this Contract, including all contract documents. Notwithstanding what is stated herein, Builder shall not be responsible for any defects in materials or any defects in workmanship caused by defects in materials for those materials purchased from and or supplied by \_\_\_\_\_ provided that the Builder transfers to Owner the benefit of the supplier's warranty of merchantability. Furthermore, Builder shall not be responsible for any defects in construction caused by construction practices utilized by Builder as required by the construction documents.

**10. TERMINATION:**

Builder may, on written notice to Owner, terminate this contract before the completion date, when for a period of ten (10) days after a progress payment is due, through no fault of Builder, the Owner fails to make the payment. On such termination, Builder may recover from Owner for all unpaid labor and labor overhead, plus twenty (20%) percent of the costs of such labor and labor overhead as profit.



Owner may, give written notice to Builder, terminate this Contract before the completion date, and without prejudice to any other remedy he may have, when Builder defaults in performance of any provision herein, or fails to carry out the construction in accordance with the provisions of the Contract Documents. Owner shall give to Builder written notice by mail at Builder's last known address that Builder shall have ten (10) days from receipt of said notice to cure any default in Builder's performance. In the event Builder cures said default, then Builder shall continue work under the Contract. In the event, Builder fails to cure within said ten (10) day period, then Builder shall have defaulted in the Contract and Owner may terminate said Contract. On such termination, Owner may take possession of the work site and finish the work in whatever way they deem expedient. If the unpaid balance of the contract price at the time of such termination exceeds the expense of finishing the work, Owner will pay such excess to the Builder.

On such default by Builder, Owner may elect not to terminate the Contract, and in such event, he may make good the deficiency of which the default consists, and deduct the costs from the progress payment then or to become due to Builder.

#### **11. ARBITRATION:**

All claims and disputes relating to this Contract shall be subject to arbitration at the option of either Purchasers or Builder in accordance with the Arbitration Rules as set out in the Vermont Arbitration Act contained in Chapter 192 of Title 12 of Vermont Statutes Annotated. The Vermont Arbitration Act shall govern the arbitration procedures. Written notice of demand for arbitration shall be filed with the other party to the Contract within a reasonable time after the dispute has arisen.

#### **ACKNOWLEDGEMENT OF ARBITRATION.**

**The parties hereto understand that this Contract contains an agreement to arbitrate. After execution of this document, the parties understand that they will not be able to bring a lawsuit concerning any dispute that is covered by the arbitration agreement unless it involves a question of constitutional or civil rights. Instead, the parties agree to submit any such dispute to an impartial arbitrator.**

In the event either party hereto must utilize arbitration as above mentioned or litigation to enforce any provisions of this Contract then, and in that event, the prevailing party shall recover of the other party reasonable fees and costs.

#### **12. ADDITIONAL PROVISIONS:**

- a) All surplus materials upon completion of the contract work shall remain the property of Builder. Upon completion, Builder shall remove excess materials from the property in a timely fashion.



b) At the time of estimation, the current market value of fuel is used to determine corresponding costs for travel and equipment. If the volatile fuel market should rise, Stonewall Hardscapes LLC reserves the right to recover associated fuel costs above and beyond initial estimation for travel to the jobsite, to run necessary machinery, or other such fuel related costs. The change in fuel cost shall be notated to owner at first recognized instance and the recovery shall not exceed five hundred dollars (\$500.00). All fuel costs above and beyond the estimated amount will be executed via written change order.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

STONEWALL HARDSCAPES LLC

\_\_\_\_\_  
By: Its duly authorized Agent

OWNER

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

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