

2006 TERMS & CONDITIONS

DEEHAN LANDSCAPING INC.

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CONTRACTOR & CLIENT DEFINED: Deehan Landscaping Inc. shall be hereafter referred to as Contractor for the purpose of this and any future Agreement / Agreements. The Client shall be defined as any individual, or agent representing another individual or company that accepts, in writing, a contract to engage lawn and landscaping services with the Contractor (Deehan Landscaping Inc.).

PAYMENTS AND DISBURSEMENTS: Client is responsible for obtaining any financing they deem necessary to comply with this Agreement. If Client is obtaining financing from a third party, Client agrees to apply for such financing without delay and this Agreement is subject to Client being approved for such financing. All payments are due, and payable as specified in the Proposal / Contract. Overdue payments will bear a late payment / re-billing service charge of \$25, followed by 2% interest charges per month. Failure by Client to pay any invoice or statement within five (5) days after payment is due per Contract shall constitute a material breach of this Agreement. All legal, court, or other collection costs incurred by Deehan Landscaping Inc. shall be paid by Client.

LABOR AND MATERIALS: Deehan Landscaping Inc. agrees to furnish the equipment and materials necessary for project completion. The work shall be done in a professional workmanlike manner. All materials furnished under this Agreement shall be construction grade and meet industry standards. Where brand names have been specified, Deehan Landscaping Inc. may at their option, select substitutes when such substitutions are necessary due to unavailability or other circumstances beyond control of Deehan Landscaping Inc. All substitutions shall be consistent in quality and character to the selections previously specified. Deehan Landscaping Inc. shall pay all subcontractors, laborers and material suppliers involved with project completion unless otherwise specified.

FUEL SURCHARGE: During periods of excessive and unexpected fuel cost increases, Deehan Landscaping Inc. reserves the right to add a temporary fuel surcharge in addition to the specified monthly installment amount as specified per our written proposal / contract. The exact amount shall be determined by the percentage of actual cost increase in the market. In the event the market stabilizes, Deehan Landscaping Inc. will remove the temporary surcharge.

SPECIAL CONSIDERATIONS: For those selections of materials requiring special considerations including, but not limited to, cash deposits to insure their production, Deehan Landscaping Inc. may at their option require Client to pay such required deposits directly to distributor or manufacturer rendering such services. It is understood that when matching existing conditions such as color, size, planes and texture, Deehan Landscaping Inc. will provide materials so as to match, as closely as possible, the existing materials. However, Deehan Landscaping Inc. does not guarantee materials will match existing conditions.

DISCLAIMED WORK: No painting, staining, soil testing, surveying or engineering is included in this Agreement unless expressly specified. Deehan Landscaping Inc. shall not be held responsible for any existing violations of applicable building regulations or ordinances, whether cited by the appropriate authority or not. Deehan Landscaping Inc. is not responsible for any abnormal or unusual pre-existing conditions including, but not limited to, damage caused by termites or dry rot, backfilled ground or ground of inadequate bearing capacity, rock and other material not removable by ordinary hand tools, inadequate electrical wiring systems for the load imposed by the work under this Agreement, and plumbing, gas, waste or waterlines not shown on documents or plans furnished by Client. Correction of any such violations or abnormal conditions by Deehan Landscaping shall be considered additional work.

ADDITIONAL WORK: Deehan Landscaping Inc. shall promptly notify Client of any additional requirements necessary to facilitate the project's completion. Any additional work required, or ordered by Client (or any regulatory agency having jurisdiction over the project) shall be set forth in a signed change order, and the agreed price shall become due and payable as agreed upon between Contractor and Client. Deehan Landscaping Inc., their employees, subcontractors and agents are unauthorized to perform any additional work or to enter into any Agreement to perform additional work unless agreed to in writing by Client and Deehan Landscaping Inc. through a properly executed additional work authorization form (change order), which shall become an integral part of this Agreement.

PROPERTY RIGHTS AND RESTRICTIONS: Client represents that he owns the property described as "property address", or has authority to order and sign for work at specified location. Client shall locate and point out the boundary lines of the property to Deehan Landscaping Inc. prior to commencement of any work to be performed. Client shall be solely responsible for accuracy of markers and boundary lines indicated to Deehan Landscaping Inc., and as detailed on plans and specifications approved by Client. If a land survey is required for any reason to confirm markers or boundary lines, Client agrees to pay for such survey. Prior to the start of construction, Client shall give Deehan Landscaping Inc. a copy of any restrictions, easements or right of ways relating to the property.

ACCESS AND FACILITIES: Client agrees to provide free access to work areas for workers and vehicles, and to provide areas to store materials and debris if required. Unless otherwise specified, all water, sewer, gas and electric utilities from the servicing agency to the point of entry at Client's property line (or to the metering device if such devices are required) are the responsibility of the Client. Client agrees, at Client's expense, to provide electricity at the project site as may be required by Deehan Landscaping Inc. to complete the work described herein in compliance with federal, state and /or provincial law. Deehan Landscaping Inc. shall not be held liable for minor damage to curbs, driveways, walkways, patios, unless caused by the gross negligent movement of workers, vehicles, equipment, materials or debris.

Landscape Design & Planting • Ponds, Waterfalls & Streambeds • Distinctive Outdoor Illumination
Meticulous Grounds Maintenance • Tree & Shrub Care

START, DELAY AND COMPLETION OF WORK: Contractor agrees to commence work, and to continue to work in a timely fashion so as to insure the project's consistent development and ultimate completion. Contractor is bound by the terms and conditions regarding start of work imposed by any licensing or regulatory agency having jurisdiction over the project. Contractor shall not be held responsible for project delays caused by "Acts of God", civil unrest, acts of Client, or Client's agent, inclement weather, strikes, labor disputes, material shortages, licensing or regulatory agency inspections, or any other actions or causes beyond the Contractor's control.

CANCELLATION CLAUSE: Option of Client to terminate Contract in the event of Contractor's failure to complete work. If Deehan Landscaping Inc. refuses to, or fails to perform the work with such diligence and force as specified in this Contract, or shall fail to complete said work in a timely manner, or if Deehan Landscaping Inc. does not perform the work in a professional workmanlike manner according to green industry standards, Client reserves the right to give written notice to Deehan Landscaping Inc. of their intention to terminate this Contract unless said violations of the specifications are corrected within ten (10) working days after serving of said notice. If after ten (10) working days the violations have not been corrected, or satisfactory arrangements for the completion thereof made, this Contract may, at the option of the Client, be terminated. In the event of termination, payment in full for all services performed to date by Deehan Landscaping Inc. shall be made immediately at the time of termination. Deehan Landscaping Inc. reserves the right to terminate Contract in the event of Client's failure to make timely payments as specified, or in the event that Client fails to abide by all Terms and Conditions as outlined by this Agreement hereto. This includes, but is not limited to any actions by the Client to circumvent, interrupt or otherwise affect any relationship with a subcontractor and Deehan Landscaping Inc. Contractor's option to terminate will be immediate and communicated in writing.

VIRGINIA BUYER'S RIGHT TO CANCEL: In compliance with the Virginia Consumer Protection Act, and the Virginia Home Solicitation Act (Code of Virginia 59.1-21.3), Contractor hereby advises client of their right to withdraw acceptance of this Proposal / Contract (if signed in their home, and/or accepted by facsimile from their home) by midnight of the third business day after signing the agreement in compliance with Code of Virginia 59.1-21.4. In the event this Right to Cancel is selected, the cancellation must be formally submitted in writing in order to be in compliance with the Code of Virginia.

DAMAGE AND INSURANCE: Deehan Landscaping Inc. agrees to carry worker's compensation and business liability insurance to insure the Client against damages or defects caused by Deehan Landscaping Inc., their employees, or any agents acting in their behalf. A valid insurance certificate will be furnished upon request.

QUALITY ASSURANCE REPORT: It is further understood that all work completed by Deehan Landscaping Inc., under Contract and / or billed on a time and material basis will include a Quality Assurance Report (QAR). The QAR will be presented following completion of all landscaping work provided by Deehan Landscaping Inc. Weekly landscape maintenance Clients will receive one (1) QAR per month. For these landscape maintenance Clients, the QAR will be provided directly following the last visit of each month. Furthermore, the Client agrees by virtue of their acceptance of this Contract to make themselves, or a representative available upon completion of the specified work to do a final inspection of the performed Contractual services and to sign and return the QAR acknowledging all work has been completed, and that all Contractual specifications thereof have been met by Deehan Landscaping Inc.

MISCELLANEOUS: Deehan Landscaping Inc. may subcontract all or any portion of the work and may assign this Agreement to another Contractor, provided such assignment shall not affect the rights and privileges of Client under this Agreement. In case one, or more of the provisions of this Agreement or any application thereof shall be invalid, unenforceable or illegal, the validity, enforceability and legality of the remaining provisions and any other application thereof shall not in any way be impaired thereby. If any legal action shall be instituted to interpret or enforce this Agreement, the prevailing party shall be entitled to recover all litigation costs, including reasonable attorneys' fees. It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Virginia.

LIMITED WARRANTY: Deehan Landscaping Inc. guarantees all plant material, (*with the exception of sod, turf seed, bulbs or seasonal annuals*) and workmanship subject to the following conditions:

- Contractor warrants all labor and material for a period of thirty (30) days from the date of completion of work, unless otherwise stated in a written Agreement. An Extended Warranty may be purchased, at additional cost, to extend the standard warranty period. This Limited warranty extends only to Client, and is nontransferable.
- Contractor will provide plant replacements as stated above, on a one-time basis only at the request of the Client, without charge to the Client except for supportive materials deemed necessary (soil amendments and drainage materials, for example) and labor. Please note that Contractor is not liable under this Limited Warranty for actual or consequential damages resulting from "Acts of God", excessive weather conditions (extreme cold, drought, damaging storms, etc.), soil conditions, abuse, vandalism, insufficient / improper watering, poor drainage, salt damage, herbivorous animal damage, insect damage, disease, or other factors beyond the control of the Contractor. This Limited Warranty will not include plants under the following circumstances; plants supplied by Deehan Landscaping Inc. and installed by Client, plants supplied by Client and installed by Deehan Landscaping Inc., pre-existing plants relocated by Contractor or Client, or plants installed by Contractor and relocated by Client.
- Sod, turf seed, seasonal annuals, and bulb planting warranties are not included.
- Any warranties given by manufacturers pertaining to materials used by Deehan Landscaping Inc., as components of specified project, will be passed through and inure to the benefit of Client.
- There is no implied warranty of merchantability, or any implied warranty of fitness for any particular purpose.
- There are no warranties either express, or implied beyond the description within this section.
- Warranties will not be honored, or in effect unless Deehan Landscaping Inc. has been paid in full by client for said amount of Contract.
- Under no circumstances will Deehan Landscaping Inc. refund money in lieu of any warranties expressed or specified herein.