

## AGREEMENT TERMS & CONDITIONS

1. This contract is made on the following terms and conditions which are mutually understood and agreed between Town & Country Enterprises Inc (Contractor) and the customer and or owner. This agreement is subject to acceptance of the home office of the Contractor and shall not be regarded as an agreement until signed by the home office.
2. Any changes in "Terms and Conditions" must be noted and clearly explained on the face of the agreement and to be binding, on the Contractor must be accepted in writing by its home office.
3. No changes can be allowed by the Contractor without an extra charge to the customer/owner unless the change requested be of a character that a.) would not involve additional labor and b.) would not change quantity of type of material covered in the original agreement and that such request is made before the material has been procured or ordered. Said changes shall be made in writing, signed by the parties hereto and shall become part of hereof.
4. Customer/owner assumes full responsibility for obtaining permits and variances unless otherwise stated on the face of this agreement.
5. Prior to the arrival of the Contractor's crew, the customer/owner will indicate by survey stakes any property lines which are of significance to the performance of this agreement.
6. Work is to commence within a reasonable time and may start prior to the estimated starting date. Refusal to allow work to commence or proceed shall constitute a breach of this agreement by the customer/owner. Access to the premises will be given at all normal working hours for work and/or repairs and failure to do so shall constitute breach. This Agreement is based on the condition that the entire Agreement can be completed without interruption. If the work is interrupted for any reason due to changes or delays on the part of the customer/owner, an added charge will be made covering time loss and the additional expenses incurred.
7. Contingencies which could materially affect the approximate or estimated dates of substantial completion are, but not limited to the following: weather conditions, material availability or shipment, strikes, acts of God, unforeseen or concealed site conditions. The stated approximate or estimated completion date is not the essence unless otherwise stated on the face of this Agreement.
8. Contractor shall not be held responsible for delays or inability to perform because of strikes, fires, delays in transportation of materials to the Contractor or any other causes beyond the Contractors control, including the contingencies outlined in Paragraph 7.
9. **SERVICE CHARGES:** If customer/owner fails to make payments when due, the customer/owner agrees to reimburse Town & Country Enterprises, Inc for all costs of collection, including interest at a monthly rate of 2% on the amount outstanding.
10. The Contractor is legally required to deposit all payments received prior to completion in accordance with Subdivision 4 of Section 71E of the lien law and that, in lieu of such deposit the Contractor may post a bond or contract of indemnity with the owner guaranteeing the return of proper application of such payments to the purposes of the Agreement. Any such deposits will be made at M & T Bank.
11. The Contractor or subcontractor, who performs on this Agreement and is not paid, may have a claim against the property owner which may be enforced against the property in accordance with the applicable lien laws.
12. **WORKMANSHIP:** All work will be performed in a workmanlike manner according to standard practices and of quality commonly accepted by the landscape & nursery industry.
13. **LIMITED WARRANTIES:** The service and materials will meet or exceed those commonly accepted by the industry and will be provided in a timely fashion. No warranty is made for plant and/or lawn damaged by acts of God, weather conditions, acts of humans, acts of animals, adverse soil conditions or customer/owner's failure to properly water and maintain the plants and/or lawn. It is the customer/owner's responsibility to adequately water and maintain the plants and/or lawn unless other arrangements have been agreed to. These warranties are made to the above named customer and do not apply to subsequent owners. **THESE LIMITED WARRANTIES ARE VALID ONLY IF FULL PAYMENT IS MADE WHEN DUE!**  
THE WARRANTIES IN THIS AGREEMENT ARE IN LIEU OF ANY AND ALL WARRANTIES EXPRESS OR IMPLIED OF MERCHANTABILITY OF THE GOODS OR OF THE FITNESS OF THE GOODS FOR ANY PURPOSE, AND THERE ARE NO OTHER WARRANTIES MADE BY TOWN & COUNTRY ENTERPRISES, INC. TOWN & COUNTRY ENTERPRISES, INC SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES.
14. **SUBSTITUTIONS:** Town & Country Enterprises, Inc at its sole discretion may make any changes in design, specifications and materials that may be required to complete the job in a manner similar to the original intent of this agreement.
15. Customer agrees to allow Town & Country Enterprises, Inc to use their name, address & phone number as a customer reference.
16. Customer agrees to allow Town & Country Enterprises, Inc to use photographs of their property in promotional materials.
17. Customer agrees to allow Town & Country Enterprises, Inc to place lawn signs in the front lawn advertising the company's name & work.
18. Town & Country Enterprises, Inc will not be responsible for damage to underground cable TV & telephone services.
19. **MISCELLANEOUS:** Should any unforeseen circumstances arise or should concealed or unknown conditions be encountered in the performance of this agreement, such as severe weather, rocks, pipes, or soil conditions differing materially from those ordinarily encountered and generally recognized as inherent in landscape and nursery work, be encountered, then the payment provided for shall be equitably adjusted by Town & Country by written notice to the customer/owner within 20 days after the first observance of the conditions. In addition to any right otherwise to revoke an offer (THE CUSTOMER/OWNER MAY CANCEL THE AGREEMENT UNTIL MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DAY ON WHICH THE CUSTOMER/OWNER HAS SIGNED THIS AGREEMENT OF OFFER TO PURCHASE RELATING TO SUCH CONTRACT). Cancellation occurs when written Notice of Cancellation is given to the Contractor. Notice of Cancellation if given by mail, shall be deemed given when deposited in a mailbox properly addressed and postage prepaid. Notice of Cancellation shall be sufficient if it indicates the intention of the customer/owner not to be bound.
20. **TIME & MATERIAL JOBS:** The labor charge includes all hours required to complete the job, including but not limited to; the time on the property, pickup and delivery of materials and/or equipment and proportional amounts of load, travel and unload time at our current hourly rate.