

TIM ANDREWS HORTICULTURIST LLC

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**Tim Andrews
Horticulturist LLC****TERMS OF SERVICE**

The following terms and conditions apply to and are incorporated into the estimates unless expressly modified or excluded in writing by Tim Andrews Horticulturist LLC hereby referred to as the "Contractor". The person(s) named on the estimate who agree to be bound by this Agreement will hereby be referred to as the "Client".

WHEREAS, the Contractor is engaged in the business of offering landscaping and tree care services; and

WHEREAS, the Client desires to retain the services of the Contractor to render landscaping and/or tree care services conforming to the Client's design and direction according to the terms and conditions herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises made by the parties hereto, the Contractor and the Client (individually, each a "Party" and collectively, the "Parties") covenant and agree as follows:

SCOPE OF WORK

- The contract documents shall contain the estimate, the specification plans and any other document referred to in the estimate. No qualification in any acceptance issued by the Client shall form part of the contract unless specifically agreed to in writing by the Contractor.
- Only the items on the estimate specification are included and all works are due for payment.
- The Client is responsible for obtaining any necessary planning permission for the works and the fulfilling of statutory requirements.

ESTIMATE

- The Contractor reserves the right to increase the value of the contract due to changes in design or materials by the Client after execution of the contract and may result in change order fees. See section on Change Orders.

- Acceptance of the estimate involves acceptance of these terms and conditions of the contract documents. This represents a binding contract between the parties. It should be noted by the Client that any attempt to cancel by the Client will involve the Client being liable to cancellation fees and any loss of expenses incurred as a result at the discretion of Contractor.

PAYMENT

- The Client accepts that he/she will pay the Contractor the full contract sum (all costs incurred) together with any tax properly chargeable upon the contract.
- A deposit is not required prior to the start date if the total cost of the project is under \$5,000. If the total cost of the project is over \$5,000 a deposit of 40% is required. Progressive invoices may be sent as work progresses. Final Invoice will be sent after work is complete.
- The Client will pay any extra works, or costs due to unknown difficulties or changes, which are not within the estimate.
- Payments are immediately due on receipt of invoice.
- The Contractor will only ask for the estimate price, unless there are any unforeseeable difficulties, or the work has been increased. In either case all work will be paid for.

SITE

- The Client warrants the site is free of underground problems including pipes, cables, stumps, sewage drains and waste materials. Where problems are found underground the Contractor shall be entitled to charge for additional work necessary and properly executed by the Contractor to complete the work.
- Any material, refuse or debris required to be removed from the site to execute the contract, not in the estimate, may be billed for hauling and dumping.
- In some situations the Contractor may need to be on a neighboring property to execute the contract. It is the responsibility of the Client to obtain permission for this trespass.

DELAY/DISRUPTION

- The Contractor undertakes to use all reasonable endeavors to complete the work within a reasonable time or by a specific date if agreed. Under no circumstances shall the Contractor incur any liability to the Client for any untimely performance.
- The Contractor shall not be held responsible for any delays caused by weather which make contract execution impossible.

MATERIALS ONSITE

- Materials delivered to site become the responsibility of the Client . The Contractor accepts no responsibility for loss, damage or expense after delivery of materials to site for any reason.
- Any material brought to, or removed from the site, excess to the Contractor's requirements remains the possession of and removable by the Contractor who shall have the right to enter the site for that purpose.

MAINTENANCE AFTER COMPLETION

- The Contractor undertakes to execute the scope of this contract. The proper maintenance of the site however passes to the Client upon practical completion, unless otherwise agreed in writing. Practical completion is deemed to take place as specified by the Contractor.

ACTING AGENTS

- The Contractor has no responsibility, or liability for structural considerations, appearance of finish features, or overall management of works where an outside party has provided advice, drawings, or supervision, unless agreed in writing prior to start of contract. It is the responsibility of the agent to bring these terms of business to the attention of the Client.

WARRANTIES

- The Contractor accepts no liability for any negligent act, omission, or any default under this contract, unless specifically agreed in writing.
- Any structural or appearance of finished features is at the discretion of the Contractor, unless agreed in writing by the Client or agent prior to the start of works. Where a written specification for the appearance of a feature is provided to the Contractor, it is the responsibility of the Client or agent to request a small sample of this finished works prior to the start of that specific feature. The Contractor is not liable for any works necessary as a consequence of such an omission. This applies to both Client and agent.

PROMOTION

- The Client hereby authorizes the Contractor to take photographs of the Client's property for the use of promoting the Contractor Landscaping Services at the Contractor discretion and grants the Contractor the sole right in the intellectual property of any such photographs.

INDEMNIFICATION

- The Client agrees to indemnify, defend, and protect the Contractor from and against all lawsuits and costs of every kind pertaining to the Landscaping Services, any false information delivered by the Client pertaining to the Property, or failure to deliver relevant information by the Client.

CHANGE ORDER

- No modification of this Agreement shall be valid unless in writing and agreed upon by both Parties.
- Changes in scope of work will be charged at a rate of one hundred ten dollars per hour (\$110) and materials.

WARRANTY

- Newly installed landscape plants will suffer transplant shock, particularly during the hot summer months. It is imperative that plants receive proper care, so as to minimize stress. Upon installation or purchase it is then the responsibility of the owner to supply the plant with sufficient water and fertilizer (as needed) during their growing season to keep them healthy. Trees and shrubs are warranted for one year from date of installation, and will be replaced once within the warranty period, should they die.
- Limited Warranty:
Your landscape installation is accompanied with a 1 year limited warranty on the trees and shrubs installed by the Contractor.
 - Plants will be replaced once only. Replacements are not warranted.
 - During the one-year warranty period, The Contractor will visit the site a maximum of two times to remove and replace dead plant material. If necessary, The Contractor will visit the site one additional time during the one-year warranty period to remove dead plants only. This corresponds to three visits to the site at no charge during the one-year warranty period. All trips to the site in excess of these three to either remove dead plants or install replacements will be billed at \$110.00 per hour.
 - The Contractor will make warranty replacements during the optimum planting seasons: spring and fall. Typically, replacements will take place between April 1st through May 31th.
 - Deciduous trees 2" caliper or larger and conifers 6' or larger are excluded from the full labor warranty. These trees will have a planting charge the same as the original labor charge.
 - This warranty cannot be transferred.
 - There will be no cash refunds.
 - The Contractor assumes no liability for replacement of plants killed or damaged by pests, insect infestation, abnormal weather conditions, or other conditions beyond our control, nor will we replace plants experiencing "seasonal die-back", when pruning and proper care will restore them to health.

- The Contractor cannot warranty against weed growth in mulch or topsoil beds, due to the germination of dormant seeds prevalent in the soil.
- This warranty specifically excludes replacements for the following varieties: Flowering Dogwoods, , White Pins, Groundcovers,

Perennials, and Rhododendrons

- Deciduous trees and shrubs must be given until May 15th to leaf out before calling for warranty replacements.
 - There are certain varieties of trees and shrubs, which generally should not be planted in the fall. A partial list of these includes:
 - Birch, Flowering Dogwood, Redbud, Red Oak, Scotch Pine, Azaleas, Boxwoods, Groundcovers, Hollies, and Rhododendrons.
- This warranty shall be void and will not apply to any plants which were originally installed by the Contractor, then subsequently repaired, adjusted, moved or modified by an individual or entity other than the Contractor.
- Annuals and transplanted plant material are NOT covered under this or any other Warranty.
- During the one-year warranty period, The Contractor will visit the site a maximum of two times to remove and replace dead plant material. If necessary, The Contractor will visit the site one additional time during the one-year warranty period to remove dead plants only. This corresponds to three visits to the site at no charge during the one-year warranty period. All trips to the site in excess of these three to either remove dead plants or install replacements will be billed at \$110.00 per hour.
- This warranty will be permanently voided on past due accounts. Upon full payment, the warranty may be reinstated, at the Contractor's option, for the remainder of the original warranty period. The charge for reinstatement will be \$250.00.
- The foregoing is the sole warranty for work provided by the Contractor . The Contractor will not be liable for any other warranties, expressed or implied. All other warranties are excluded, including the implied warranties of merchantability and fitness for a particular purpose. There are no other warranties, which extend beyond the description of the face hereof.
- The Contractor will have no liability under any circumstances for indirect, special, incidental, liquidated, or consequential damages.
- This warranty shall be construed and applied according to Wisconsin law.

- No agent, salesman, or installer may change the terms of this warranty either orally or in writing.
- Sod and seed are not covered under this warranty.

IF YOU FAIL TO WATER YOUR PLANTS, THEY WILL DIE. IF YOU OVERWATER YOUR PLANTS, THEY WILL DIE. A PLANT THAT HAS DIED DUE TO DROUGHT OR OVERWATERING IS NOT COVERED UNDER OUR WARRANTY.

Please take a moment to read through our Terms of Service, which cover all aspects of our work.