

If this contract is used with a homeowner, the maximum that can be charged in a single term is \$1,000. If more than \$1,000 will be charged, then a full home improvement contract must be used. However, if this contract is being used with a business, this \$1,000 cap is not applicable. No.

LANDSCAPE MAINTENANCE AGREEMENT

(Routine maintenance of lawns, shrubs, trees, and gardens. Not to be used for construction.)

This Landscape Maintenance Agreement (“Agreement”) is between _____ (“Landscape Maintenance Provider”) and _____ (“Contracting Party”). Contracting Party’s mailing address: _____

_____. Landscape Maintenance Provider shall perform the landscaping and gardening work specified herein at the property listed below (“Property”) on behalf of the Contracting Party.

Contracting Party is the owner of the Property; an agent for the owner of the Property (check one.)

Description and address of the Property: _____

(Legal description and street address if known)

DESCRIPTION OF WORK TO BE PERFORMED: Landscape Maintenance Provider shall furnish all labor, equipment, supervision and tools necessary to maintain landscaped areas in accordance with Exhibit A, which is incorporated into and made a part of this Agreement (“the Work.”). This is a maintenance agreement only. Should any construction work be necessary, and should Contracting Party desire Landscape Management Provider to perform such work, Contractors’ License Law in California requires a separate agreement for that work and also requires that the business performing such construction work be properly licensed with the California Contractors State License Board.

TERM: The term of this Agreement is _____ months from the date of execution of this Agreement. This Agreement shall automatically renew for another equal term unless notice of the Contracting Party’s intent not to renew is given to the Landscape Maintenance Provider at least thirty (30) days prior to the end of the term or subsequent extended term.

PRICE; PAYMENT: Owner agrees to pay Landscape Maintenance Provider for the Work the sum of \$ _____ per month for the term of this Agreement, payable on the _____ day of the month following the month that the Work was performed.

ALLOWANCES: The following items along with their specific prices as indicated are included in the contract price as allowances. The monthly contract price will be adjusted upward or downward based on actual authorized services provided per month, rather than estimated amounts herein: _____

MODIFICATION AND ADDITIONS: Should the Contracting Party direct any modification or addition to the work or materials covered by this Agreement, the contract price shall be adjusted accordingly. Modification or addition to the work or materials provided shall be executed only when an Additional Work Authorization has been signed by both the Contracting Party and the Landscape Maintenance Provider. The change in the contract price caused by such Additional Work Authorization shall be as agreed to in writing, or if the parties are not in agreement as to the change in contract price, Landscape Maintenance Provider’s actual cost of all labor, equipment, subcontracts, and materials, plus ___% for its overhead and ___% for profit shall be the change in contract price. The Additional Work Authorization may also increase the time within which the contract is to be completed. This paragraph shall be governed by the “Changes in Work” paragraph contained in the Terms and Conditions section.

TERMS AND CONDITIONS: The attached **TERMS AND CONDITIONS** are expressly incorporated into this Agreement.

Date: _____
Landscape Maintenance Contractor’s Authorized Representative Sign Here

Date: _____
Contracting Party Sign Here

Date: _____
If More Than One Contracting Party, Second Contracting Party Sign Here



TERMS AND CONDITIONS

No.

1. **CHANGES IN THE WORK:** Landscape Maintenance Provider shall promptly notify the Contracting Party of: (a) latent physical conditions at the site differing materially from those indicated in this Agreement, or (b) unknown physical conditions differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement. Any expenses incurred due to such conditions shall be paid for by the Contracting Party as added work.

Notwithstanding the foregoing, should site conditions be such that the Agreement cannot be performed for the contract price, then the price shall be adjusted by mutual agreement of the parties, and if the parties cannot reach an agreement on the adjusted contract price, then this Agreement may be rescinded by either party with no further liability to the other for said rescission. However, any obligation of money due to Landscape Maintenance Provider at the time of rescission shall survive the rescission.

No extra or change order work shall be required to be performed without prior written authorization of the person contracting for the landscape maintenance. Any Additional Work Authorization forms for changes or extra work shall be incorporated in and become a part of this Agreement. However, in the event that the building department or other governmental body requires a change or modification, then the Landscape Maintenance Provider may make that change prior to receiving written authorization and thereafter negotiate the effect of that change with the Contracting Party.

Payment for extra work will be made at the time the next monthly payment is due.

2. **CONTRACTING PARTY'S RESPONSIBILITIES:**

Contracting Party is responsible to supply water, gas, sewer and electrical utilities unless otherwise agreed to in writing. Electricity and water to the site are necessary. Contracting Party agrees to allow and provide Landscape Maintenance Provider and its equipment access to the Property. Contracting Party is responsible for having sufficient funds to comply with this Agreement. This is a cash transaction unless otherwise specified.

Contracting Party shall be responsible to remove or protect any personal property located on the Property, and Landscape Maintenance Provider shall not be liable for damage to same, unless caused by its active negligence or willful misconduct. Such property may include furniture, toys, play equipment, low voltage equipment and lighting, and other exterior improvements.

Contracting Party will point out and warrant the property lines to Landscape Maintenance Provider.

3. **DELAYS:** Landscape Maintenance Provider agrees to diligently work pursuant to the agreed schedule for the Work. However, Landscape Maintenance Provider shall be entitled to its full monthly payment pursuant to this Agreement, even if maintenance work is not fully performed, for reasons beyond the control of the Landscape Maintenance Provider, including but not limited to: acts of neglect or omission of Contracting Party or Contracting Party's employees or agents, acts of God, stormy or inclement weather, strikes, lockouts, boycotts or other labor union activities, extra work ordered by the Contracting Party, acts of public enemy, riots or civil commotion, inability to secure material through regular channels, imposition of Government priority or allocation of materials, failure of Contracting Party to make payments when due, or delays caused by inspection or changes ordered by the inspectors of authorized governmental bodies, for acts of independent contractors, or holidays, or other causes beyond Landscape Maintenance Provider's reasonable control.

4. **LABOR AND MATERIAL:** Landscape Maintenance Provider shall pay all valid charges for labor and material it incurs and uses pursuant to this Agreement. However, when the price for any materials to be used pursuant to this Agreement increases fifteen percent (15%) or more between execution of the Agreement and materials purchase, Contracting Party shall pay to Landscape Maintenance Provider, on request, all sums by which the cost to Contractor for any materials has increased beyond 15%, as demonstrated by Contractor.

5. **PAYMENT:** Payment will be past due if not paid within five (5) days of the date specified in this Agreement. Past due payments shall bear interest at the rate of 1 1/2 percent per month (18% per annum), until paid in full.

6. **RIGHT TO STOP WORK:** Landscape Maintenance Provider shall have the right to stop work under this Agreement if any payment by

Contracting Party is not be made, when due. Landscape Maintenance Provider may suspend the Work until all payments due are received. This remedy is in addition to any other right or remedy that Landscape Maintenance Provider may have.

7. **FORCE MAJEURE:** Except with respect to payment obligations under this Agreement, no Party shall be liable for, nor shall such Party be considered in breach of this Agreement, due to any failure to perform its obligations under this Agreement as a result of a cause beyond its control, including but not limited to any act of God or a public enemy or terrorist, act of any military, civil or regulatory authority, change in any law or regulation, fire, flood, earthquake, storm or other like event, disruption or outage of communications, power or other utility, labor problem, unavailability of supplies, epidemic, pandemic or other public health situation or resulting government action which restrains the ability of Contractor to commence, continue or complete performance of the Agreement. On reasonable notice, the time for performance shall be extended by the reasonable period of such delay. If the Project is delayed for more than sixty (60) continuous or intermittent days from the same Force Majeure cause, either Contractor or Contracting Party has the discretion to terminate the Contract without liability. Contractor shall be entitled to payment for work performed and materials supplied to the work site to the date of termination and for materials ordered if the order cannot reasonably be rescinded.

8. **CLEAN-UP:** Landscape Maintenance Provider shall remove from the Property all debris and clippings created by its operations and leave the Property in a neat and "broom-clean" condition. Notwithstanding the foregoing, should Landscape Maintenance Provider be unable to clean debris by usual and customary means, such as by blower or water, for any reason, including but not limited to any local or emergency ordinance, then Landscape Maintenance Provider shall only be required to use its best efforts to leave the Property in a neat and clean condition.

9. **COMPLIANCE WITH LAWS:** In connection with the performance by Landscape Maintenance Provider of its duties pursuant to this Agreement, Contracting Party shall obtain and pay for all permits and comply with all federal, state, county and local laws, ordinances and regulations.

10. **ATTORNEY FEES:** In the event that there is any legal proceeding arising out of this Agreement, the prevailing party shall be entitled to have its reasonable attorney fees and costs paid by the other party.

11. **CLAIMS—LIMITATIONS:** No legal proceeding of any kind arising from or related to this Agreement or the performance thereof, shall be commenced by either party against the other more than two years after completion or cessation of work under this Agreement. Any damages for which Landscape Maintenance Provider may be liable to Contracting Party shall not, in any event, exceed the total price of this Agreement.

12. **VALIDITY:** 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 shall not in any way be impaired thereby.

13. **LIMITED WARRANTY:** Landscape Maintenance Provider warrants that all work will be performed in a good and workmanlike manner. There are no warranties either expressed or implied except those specifically set forth in this Agreement, and there are absolutely no guarantees relating to continued life or growth of plant material beyond the period necessary for initial planting shock, but not to exceed ninety (90) days, unless otherwise stated herein.

Any warranty or guarantee is only effective if Contracting Party has complied with all the terms and conditions, payments, and other provisions of this Agreement.

Contracting Party is responsible for any damages to plants or otherwise, caused by either over- or underwatering, when that over- or underwatering is done through Contracting Party-handled manual irrigation or hand watering, or when there is an interruption in the service of an automatic sprinkler system, or over- or under-fertilization, when Contracting Party handles or directs the fertilization, or where plants and other landscaping are damaged by pests or diseases.

Landscape Maintenance Provider shall also not be responsible for any damage caused by inclement weather, run-off, drainage problems, or any other cause of overwatering.

EXHIBIT A

No.

- 1. **IRRIGATION.** Landscape Maintenance Provider will adjust any existing automatic controller, based on changes in rainfall and temperature, with such frequency as to promote healthy growth. Landscape Maintenance Provider shall have sole responsibility for this function. Contracting Party shall not permit any changes without prior consultation with Landscape Maintenance Professional. Manual irrigation or hand watering is a responsibility of the Contracting Party unless otherwise stated in the contract. Landscape Maintenance Provider shall provide consultation and recommendations for improving and upgrading existing irrigation system as requested by Contracting Party.
- 2. **TREES, SHRUBS, AND VINES.** Pruning, thinning and trimming of shrubs and trees, and training and trimming of vines shall be accomplished on a regular basis to maintain a neat appearance and promote healthy growth. Work will include removal of suckers, cross branches, and dead wood. Existing staking and guying of trees shall be inspected and changed as required to permit growth expansion and to prevent damage from chafing. Additional staking and guying of trees shall be performed on a time and material basis, and Contracting Party shall pay for this in addition to the monthly price stated in the contract.
- 3. **GROUND COVER AND FLOWER BEDS.** Maintenance shall consist of trimming ground cover where needed around trees, etc. Beds are to be weeded and reasonably cleaned of leaves and debris on a regular basis to maintain a neat and clean appearance.
- 4. **LAWNS.** Shall be mowed on a scheduled basis so as to maintain a neat appearance and to promote healthy growth. Lawn shall be edged to its local confines, e.g., around all trees, sprinklers, fences, lights, etc. Grass clippings shall be removed from sidewalks, driveways, and curbs.
- 5. **HARDSCAPE AREAS** shall be cleaned of debris. This shall be accomplished with a gas-powered leaf blower unless otherwise stated. If for any reason a gas-powered leaf blower may not be used, Landscape Maintenance Provider may, at its sole discretion, cancel this agreement within thirty (30) days' notice to Contracting Party. Cleaning garages, parking areas, and driveways is not included unless otherwise stated. Cleanup of unusual debris shall be treated as additional work.
- 6. **The following work will only be done if initialed by both the Landscape Maintenance Provider and the Contracting Party.**
 - a. **FERTILIZATION.** Fertilizer shall be applied to all planted areas to promote lush and healthy growth of all trees, shrubs, groundcovers, and lawns. Quantities of fertilizer, varieties of fertilizer, and schedules of applications shall be determined by the Landscape Maintenance Provider. Cost of fertilizer and its application ___ is / ___ is not included in the regular monthly contract price.
 - b. **PEST AND WEED CONTROL.** Landscape Maintenance Provider shall take reasonable steps to maintain landscape areas essentially free of harmful insect and disease infestations as commonly occur in the vicinity of the project and as preventable by application of available chemical controls. All landscape areas shall be maintained essentially free of noxious weeds, weather and soil conditions permitting. Contracting Party acknowledges that certain noxious weeds, including but not limited to Bermuda, Oxalis, and Kikuyu grass, may not be susceptible to chemical or manual control, and to that extent the Landscape Maintenance Provider shall only be responsible for taking such action as is the custom and practice in the landscape industry for similar projects. Cost of chemicals and their application ___ is / ___ is not included in the regular monthly contract price.
 - c. **LAWN RENOVATION.** Landscape Maintenance Provider shall aerate, dethatch, reseed, and top-dress lawns as needed. Cost of lawn renovation ___ is / ___ is not included in the regular monthly contract price.

The following work shall be done:

	Landscape Maintenance Provider's Initials	Contracting Party's Initials
Fertilization	_____	_____
Pest and Weed Control	_____	_____
Lawn Renovation	_____	_____

The following items are excluded from the contract: _____

The following items are added to the contract: _____

Special Instructions: _____

(The price of authorized work mentioned above that is not included in the regular monthly contract amount should be itemized in the ALLOWANCES section of this contract.)

7. **WORKING DAYS AND SCHEDULE.** Work will commence approximately on _____ (date). The site will normally be visited on the following day of the week: _____. Landscape Maintenance Provider recognizes the following holidays: _____

and if a regularly scheduled maintenance day coincides with one of the above holidays, Landscape Maintenance Provider shall work on alternate day. Landscape Maintenance Provider shall visit site with the following frequency:

____ Weekly ____ Every Two Weeks ____ Other _____