

## **INSTALL – under \$40k**

**Payment Terms and Conditions:** a 50% deposit is required with the signed contract. Work and materials will be scheduled after receipt. The balance is due upon completion of the work. An invoice will be supplied, and payment is due in full upon receipt.

## **INSTALL – over \$40k**

**Payment Terms and Conditions:** a 30% deposit is required with the signed contract. Work and materials will be scheduled after receipt. An additional 40% is due when work begins and the final 30% is due upon completion of the work. An invoice will be supplied, and payment is due in full upon receipt.

## **CLEAN UP/PRE-EMERGENT/DUMPSTER**

**Payment Terms and Conditions:** Work and materials will be scheduled after receipt of the signed contract. An invoice will be supplied upon completion of the work, and payment is due in full within **15** days.

## **MAINTENANCE**

**Payment Terms and Conditions:** Maintenance Services will be scheduled after receipt of the signed contract. An invoice for services will be supplied on the 1st of the month with payment due by the 30th of the month.

**Taxes:** Applicable taxes are the responsibility of the Client and will be added to the final invoice accordingly.

**Hard Dig** and other site unknowns: Including, but not limited to, sub-surface conditions or obstacles that create unforeseen labor, equipment, material or disposal charges will be quoted in advance of work being performed. A signed Change Order to authorize work is required.

**Extra Work and Changes** to the original quote or contract: Whether at the request of the **Client** or if it becomes necessary for **ZebraScapes** to make changes in any designs, drawings, plans, materials or specifications for any part of the project for reasons over which we have no control, the additional work will be quoted in advance of work being performed. A signed Change Order to authorize work is required.

**Tree Warranty:** Trees and shrubs that are supplied and installed by ZebraScapes LLC with an approved automatic irrigation system are guaranteed to be healthy and disease-free at the time of installation. The trees are also guaranteed for a period of one year, shrubs one hundred and twenty days (120) from the date of initial installation, against death due to transplant shock.

We do not warranty plants that die due to:

- 1) Wildlife Damage
- 2) Physical Impact
- 3) Improper Care or Maintenance
- 4) Chemical Damage
- 5) Improper Irrigation
- 6) Insect or Disease acquired after installation
- 7) Severe weather conditions that the healthy plant could not be expected to sustain against.
- 8) Fire

Each plant covered under this warranty is guaranteed to be replaced one time only during the year covered. This guarantee is only valid if complete payment is made for the contract that encompassed the warranted item and is not transferable from the original purchase party to any future property owners.

## **Planting + Plant Warranty:**

**Trees and Shrubs:** All trees and shrubs approved by **ZebraScapes** are warranted from the date of installation, provided that the plants are sufficiently hardy and appropriate for the soil, climate, and weather conditions associated with the site, and that they are properly maintained in keeping with standards for assuring the longevity of such plants.

**Perennials:** Perennials are guaranteed for the same-planted season only. "Delicate" Plants, such as rhododendrons and plants that are not typically suitable for the **Client's** plant zone, may come with no warranty, due to the risk involved. These plants will be noted as such on the estimate.

**Winter Protection:** All evergreens, broadleaf evergreens and delicate plants must be burlapped in their first season to validate warranty. The **Client** can schedule **ZebraScapes** to perform this service at an additional cost.

## **Material Tolerances**

**Stone:** Natural stone has color variations that vary from stone to stone. In addition, mineral deposits such as lime, iron, etc. can change the stone and even bleed. This is the nature of the product and the Client accepts this as a natural and acceptable quality of the stone.

**Metal:** Metal which is not galvanized, is not guaranteed from rusting commencing immediately after installation.

**Concrete:** Spider cracks (hairline stress-fractures) are considered a normal characteristic of all types of concrete. Concrete may crack substantially over time due to proximity of tree roots. Colored concrete consistencies vary from truck to truck; therefore, it is not possible to produce an exact match with pours over nine meters. The **Client** absolves **ZebraScapes** of liability if "smooth" concrete is the desired finish (due to slippage).

**Wood:** Pressure treated wood cannot be guaranteed against warpage, checking, or cupping. Cedar is expected to crack especially 6X6 up to 3/8-inch gaps and the entire length of the wood. It is expected to crack especially 4X4 up to 3/8-inch gaps and the entire length of the wood.

**Warranty Time Period:** **ZebraScapes** warrants all construction and installation for a period of one (1) year, providing that they have been maintained properly. All construction materials are subject to manufacturer's specific warranties/guarantees. Planting is warranted for one (1) year if there is an approved irrigation system.

**Client Responsibilities:** The **Client** recognizes and agrees that they have a responsibility to maintain constructions, plants, bushes, trees, and other installations in keeping with standard quality maintenance requirements in order for the Warranty to remain in effect. Failure to properly maintain materials or horticulture installations will void the warranty.

**Client** further recognizes and agrees that damage to construction, materials, horticulture elements and other warrantable items of the project will not be warranted if the damage or loss is due to elements beyond the control of **ZebraScapes**. For example, flooding eaves troughs that damage plants, fallen branches, animal caused damage, frozen/burst irrigation or drainage pipes that were not seasonally drained at the proper time, use of improper chemicals, improper maintenance, extreme or unusual weather conditions, and similar and/or related situations – void all warranties provided by **ZebraScapes**.

**Material Grades:** The **Client** recognizes that all materials come in a range of grades of quality and finishes, and that natural materials are not perfect. Natural wood has knots, and other natural materials have variability in color due to a wide range of factors. A material sample, while useful in selection decision-making, cannot be expected to accurately represent the total completed surface of a given construction or installation. **ZebraScapes** shall endeavor to enable the **Client** to see or understand the representative range of color, surface texture, and other material attributes. Once the selection has been approved by the **Client**, the **Client** will be responsible for all costs associated with changing any given material should the **Client** change their mind during or after material is purchased or constructed.

**Late Payments:** Should the **Client** fail to make payments as they become due under the terms of the Contract or in the event of any claim, interest at twelve percent (12%) per annum above the prime rate on unpaid amounts shall also become due and payable.

The act of non-payment creates a lien in favor of ZebraScapes.

### **Warranty and Tolerances**

**Payments Received:** The Warranty for the contract is only valid if payment is received in full on acceptance of the work.

**Diligence:** **ZebraScapes** agrees to carry out its Work diligently and to provide sufficient supervision and inspection of its staff and subcontractors and that its work will be of proper and professional quality, and in full conformity with the requirements of the contract. **ZebraScapes** reserves the right to hire subcontractors as it sees fit and is responsible for financial compensation directly to its subcontractors. **ZebraScapes** agrees that only those workers legally authorized to work in the United States will be hired for this project and will maintain an insurance policy which will cover equipment, materials, and all employees and/or subcontractors.

**Competence:** **ZebraScapes** warrants that it is competent to perform the Work and that it has the necessary qualifications including knowledge and skill with the ability to use them effectively.

**Site Unknowns:** It is the responsibility of the **Client** or the **Client's Representative** to fully inform **ZebraScapes** of all the information regarding site unknowns that may include difficult buried materials, cables, and pipes, tree stumps, drainage or water table issues, rock and shale sub-surfaces and/or other impediments, issues or factors that could otherwise impact the quality, cost and timeliness of project completion. Failure to notify **ZebraScapes** may lead to additional costs to the **Client** (at **ZebraScapes** discretion) and schedule time not included in the Quotation and may require changes in design and construction to overcome such problems – all for which the **Client** will be responsible.

**Damaged Utilities:** Should damage occur to utilities during construction, **ZebraScapes** is only liable for the cost of the repair. **ZebraScapes** is not liable in any way for inconvenience to the **Client** caused by damage to the utilities, including but not limited to water or power costs incurred.

Damage to neighbors buried utilities, on the **Client's** property, are the responsibility of the **Client**.

**Building/Window/Vehicle Washing:** Buildings, windows, or vehicles of the **Client**, including neighbors, are not intended to be kept clean due to dust during Construction or Work performed by **ZebraScapes**. Any necessary cleaning due to Construction or Work by **ZebraScapes** will be the responsibility of the **Client**.

**Schedules:** **ZebraScapes** estimates start and completion dates for work to be performed with no guarantee to begin or finish on specific dates unless otherwise noted on the contract.

**Permits:** the homeowner is required to obtain and pay for all necessary permits for the work outlined in the contract, unless stated otherwise.

**Exclusions:** unless the contract states otherwise, the following work is not included in the scope of work to be performed: Electrical Work is to be done by a certified electrician only and is always additional to the Contract. Iron railings removed during construction are always re-attached at an additional cost.

Damage to existing irrigation lines during construction is considered to be an additional cost.

Drainage: Should the Client's property be the lowest elevation in relation to surrounding property or buildings, the Contractor, Inc. reserves the right to retain a Soil Engineer to evaluate and propose drainage solutions. All costs for engineering services, as well as the actual drainage work will be at the Client's expense. Unless the Client has a detailed Topographical survey completed, the above clause may come into effect.

**Acceptance of Work:** The **Client** is to inspect all work performed at the completion of the job. Any discrepant work shall be communicated to **ZebraScapes** in writing. Except as noted on this list, the **Client** accepts the work as is.

**Plant Availability:** In some instances, some plants, shrubs, bushes, and trees may not be readily available to procure in time for the required planting period associated with the Contract. In that event, **ZebraScapes** will work closely with the **Client** to provide an approved substitution(s) – subject to availability. The **Client** will always reserve the right to request plants and related materials that are not locally available.

**Plant Seasonality:** Various plants, bushes, shrubs, and trees have ideal times for planting. Planting out of season at the request of the **Client** will void any warranty for those plants. **ZebraScapes** will advise the **Client** any requested planting that will void the warranty by out of season planting. The **Client** reserves the right to request that plants that cannot be planted without voiding the warranty be exchanged or planted in the next plantable season without any additional costs being borne by the Client.

**Plant Diseases:** Should the Client recognize ill health in the plants, shrubs, bushes, or trees that have been supplied under the Contract, it is the Client's responsibility to immediately inform **ZebraScapes**. A technician with **ZebraScapes** will determine the nature and source if the illness. If it is deemed that the plant was infected prior to installation, the Contractor reserves the right to first use herbicides, fertilizers, and insecticides to return the plants to good health. Should efforts to restore the plant's health fail, the Client is entitled to a refund only. Due to plant availability, the Client assumes the risk and liability of rare specimens. However, **ZebraScapes** reserves the right to remove all or a portion of the warranty depending upon the nature of the source of the plant infections. In all cases, **ZebraScapes** shall work with the Client to minimize damage to the existing Contract related plants.

**Plant Replacement:** **ZebraScapes** is allow up to one (1) year to source, match and replace dead or ill plants (due to scarcity). The Client reserves the right to either a full refund within one (1) year or wait for a suitable replacement. Should the plant be a matching pair or series, and it is not possible to replace, **ZebraScapes** agrees to replace all plants in the series or pair at **ZebraScapes'** cost.

**Lawns:** New lawns that are under shade are not guaranteed. New lawns are guaranteed to be healthy at time of installation only. Should new sod be damaged due to animals (pets or wild animals, i.e. raccoons, skunks) the Client will incur all costs for replacement. Sod pegs can be installed for an additional fee to deter animals from causing damage. Pegs are not guaranteed to prevent damage from animals.

**Water Plants:** Water plants are guaranteed for same-planted season only.

**Weeds:** **ZebraScapes** shall use its efforts to minimize any weeds, however, it shall not be required to inspect or otherwise ensure that there is no weed or other unwanted plant matter upon the **Client's** property in any soil or root balls/planting container of plant materials, nor shall it provide warranty for the removal of existing weeds

**Replacement plant material:** **ZebraScapes** does not guarantee plant material that has been transplanted on site. Replacement pant material is not guaranteed.

**Required Maintenance:** **ZebraScapes** will provide technical specification sheets on all materials and horticulture constructed, erected, implemented or planted on the site as part of the Contract. Failure to follow the recommendations with equal, equivalent or superior maintenance efforts, tools and resources will void any warranty on items so affected. Where **ZebraScapes** recognizes that the **Client** lacks sufficient resources (water pressure, power outlets, and related) to enable the full maintenance and enjoyment of the materials, construction(s) and/or horticultural elements associated with this Contract, **ZebraScapes** will also inform the Client and recommend possible solutions.

However, **ZebraScapes** is not obliged to be wary of such needs or to account for them in this Contract in terms of design, construction or costs, and the **Client** fully accepts responsibility for obtaining such knowledge and acting accordingly.

**Water Supply:** Where water supply becomes an issue and negatively detracts from ponds, waterfalls, and other water features, the Client recognizes and agrees that such problems are the sole responsibility of the Client.

### **Snow and Ice Maintenance Terms of Service**

The **Client** shall indemnify and hold harmless **ZebraScapes** from any claim for damages arising to concrete, asphalt and planting material due to the application of ice melting products and surface damage to curbs and asphalt due to the clearing of snow and ice.

The Snow Clearing Areas will be described in the contract with cleared snow stockpiling areas to be determined at the discretion of **ZebraScapes**.

Ice Management Areas may have Ice Melting Products applied, through truck, machine and/or hand applications in accordance with the contract. Snow Clearing Areas may be cleared by plowing, pushing or shoveling using machines, equipment or manual labor.

Ice Melting Products includes but is not limited to: sodium chloride (rock salt), magnesium chloride, calcium chloride, potassium chloride, brine, urea, sand, calcium magnesium acetate. Sodium chloride is the default ice melter, unless specified otherwise.

A Snowfall commences when snow begins to accumulate upon the Premises and ends when the continuous accumulation upon the Premises ceases.

The **Client** acknowledges that Ice Melting Products, which are not intended to provide traction, are freeze point depressants only, the effectiveness of which will depend on ground temperatures and weather conditions at, and following, the time of their application. The **Client** further acknowledges that the application of Ice Melting Products will not and cannot result in the immediate or complete removal of ice or snow from the Premises and **ZebraScapes** provides no guarantee or warranty that the application of Ice Melting Products will be effective in eliminating ice or snow. The application of Ice Melting Products is towards managing, but not eliminating, the risks associated with snow and ice.

**ZebraScapes** will service the property within \_\_\_ hours of the first accumulation of \_\_\_" of snow during a Snowfall, commencing when snowfall accumulation ceases. If a further accumulation of 2" or greater occurs during a Snowfall, the Contractor will return to commence a second pass to again Clear the snow within \_\_\_ hours of the end of that Snowfall.

**Work Product Ownership:** Any designs, renderings, quotations, ideas and concepts developed by **ZebraScapes** will be their exclusive property, and the **Client** agrees not to share this confidential information with competitors.

**Force Majeure:** If performance of this contract or any obligation under contract is prevented, restricted, or interfered with by causes beyond either party's reasonable control ("Force Majeure") and if the party unable to carry out its obligations gives the other party prompt written notice of such event, then the obligations of the party evoking this provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, fire, explosion, vandalism, storm or other similar occurrence, orders or acts of military authority, or by natural emergencies, insurrections, riots, or wars, or strikes, lock-outs, work stoppage. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. An act or omission shall be deemed within the reasonable control of a party if committed, omitted, or caused by such party, or its employees, officers, agents or affiliates.

**Indemnification:** The **client** agrees to indemnify and hold **ZebraScapes** harmless from all claims, losses, expenses, fees including attorney fees, costs, and judgements that may be asserted against **ZebraScapes** that result from the acts or omissions of **ZebraScapes** and/or employees, agents or representatives.

**Dispute Resolution:** The parties will attempt to resolve any dispute arising out of or relating to this contract through friendly negotiations amongst parties. If the matter is not resolved through negotiation, the parties will resolve the dispute using mediation in accordance with any statutory rules of mediation. If mediation does not successfully resolve the dispute, the parties may proceed to seek another form of resolution in accordance with any other rights and remedies afforded to them by law.

**Remedies:** In addition to any and all other rights a party may have available according to law, if a party defaults by failing to substantially perform any provision, term or condition of this contract (including without limitation the failure to make monetary payment when due), the other party may terminate the contract by providing written notice to the defaulting party. This notice shall describe with sufficient detail the nature of the default. The party receiving such notice shall have 14 days from the effective date of such notice to cure the default(s). Unless waived by a party providing notice, the failure to cure the default(s) within such time period shall result in the automatic termination of this contract.

**Severability:** If any provision of this contract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed and enforced as so limited.