

Warning: This is an abbreviated standardized agreement. As an abbreviated and non-project specific agreement, issues critical to your project may not be addressed. Further, certain portions of this agreement may not conform with your applicable state law. You should review this agreement with qualified, local legal counsel before any use, which is at your sole risk.

AGREEMENT BETWEEN CLIENT AND LANDSCAPE ARCHITECT

This Agreement, effective as of **[date]**, is between Client **[insert name, type of business entity (if applicable), and address]** and Landscape Architect **[insert name, type of business entity (if applicable), and address]** for the following Project: **[insert project's location, description and approximate size]**.

Article 1 Landscape Architect's Basic and Additional Services

A. Landscape Architect's Basic Services are:

1. Schematic Design Phase

A. Meet with Client to discuss and memorialize the Project's requirements.

B. Prepare conceptual Schematic Design drawings that illustrate the scale and relationship of the Project components.

2. Design Development Phase

A. Refine the approved Schematic Design drawings to further describe the Project's size and character.

3. Construction Documents Phase

A. Formalize the approved Design Development Documents into Construction Documents that detail the Project's construction requirements.

B. Assist Client in filing the Construction Documents for approval by authorities with jurisdiction over the Project. This assistance is limited to **[insert any applicable limitations]**.

4. Construction Procurement Phase

A. Assist Client to obtain and evaluate construction proposals.

5. Construction Phase

A. Participate in [____] Project site visits with the Project's contractor to generally review the progress of construction and to see if the work completed is generally consistent with the intent of Landscape Architect's Construction Documents.

1. Although Landscape Architect may observe and discuss potential problems, these visits are not construction inspections or a guarantee that there will not be construction deficiencies.

a. Review required contractor submittals, such as shop drawings and samples, but only to determine if they conform to the Landscape Architect's visual and aesthetic design intent.

b. Review contractor's payment applications to determine if the amount of work represented as complete is generally consistent with the Landscape Architect's observations during its site visits. Landscape Architect's review shall be subject to any noted qualifications by the Landscape Architect. Client understands that the frequency of the Landscape Architect's site visits may limit Landscape Architect's ability to review certain payment applications. Landscape Architect's review shall not be a representation that Landscape Architect has supervised the work, or that Landscape Architect has reviewed how or for what purpose contractor has used or intends to use Owner's payments.

B. Additional Services beyond Landscape Architect's Basic Services may be provided if confirmed in writing. **[Insert detailed, plain language description of additional services. For example: Presentation models, drawings and renderings; sub-consultants.]**

C. Excluded Services are not a part of Landscape Architect's Basic or Additional Services and are the responsibility of others. Excluded Services include, but are not limited to, the following: **[Insert detailed, plain language description of excluded services. For example: Subsurface conditions; soil issues (including suitability for plant material, soil content, level of compaction); lot line location; drainage; utilities' location; signage; security; lighting; and project or construction cost estimates.]**

D. Landscape Architect agrees to provide its professional services in accordance with generally accepted standards of its profession.

Article 2 Client's Responsibilities

A. Client agrees to provide Landscape Architect with all information, surveys, reports, and professional recommendations and any other related items requested by Landscape Architect in order to provide its professional services. Landscape Architect may rely on the accuracy and completeness of these items.

B. Client shall furnish the services of the following consultants: **[list consultants]**.

C. Client agrees to advise Landscape Architect of any known or suspected contaminants at the Project site. Client shall be solely responsible for all subsurface soil conditions.

D. Client will obtain and pay for all necessary permits from authorities with jurisdiction over the Project.

E. Client agrees to provide the items described in Article 2.A and to render decisions in a timely manner so as not to delay the orderly and sequential progress of Landscape Architect's services.

Article 3 Estimated Schedule and Project Budget

A. Landscape Architect shall render its services as expeditiously as is consistent with professional skill and care. During the course of the Project, anticipated and unanticipated events may impact any Project schedule.

B. As of the date of this Agreement, Client's Project budget is \$[insert amount] and construction budget is \$[insert amount]. Client agrees to promptly notify Landscape Architect if Client's schedule or budget changes. Client acknowledges that significant changes to the Project or construction schedule or budget, or to the Project's scope may require Additional Services of Landscape Architect.

Article 4 Compensation and Payments

A. Client agrees to pay Landscape Architect as follows:

1. Basic Services: [insert compensation basis (e.g.: fixed fee, hourly rate, percentage of construction cost)]. Basis may vary from phase to phase].

2. Additional Services: [insert compensation basis].

B. Reimbursable Expenses are subject to a multiple of 1.[insert amount] and include, but are not limited to: reproduction, postage, and handling of documents; long distance and facsimile charges; authorized travel; and Client requested renderings and models.

C. Landscape Architect shall bill Client for Basic and Additional Services and Reimbursable Expenses once a month. All payments are due Landscape Architect upon receipt of invoice. An amount equal to [insert amount] per month will be charged on all amounts due more than 30 days after the date of invoice.

Article 5 Termination

A. Either Client or Landscape Architect may terminate this Agreement upon seven days written notice.

B. If terminated, Client agrees to pay Landscape Architect for all Basic and Additional Services rendered and Reimbursable Expenses incurred up to the date of termination.

C. Upon not less than seven days' written notice, Landscape Architect may suspend the performance of its services if Client fails to pay Landscape Architect in full for services rendered or expenses incurred. Landscape Architect shall have no liability because of such suspension of services or termination due to Client's nonpayment.

Article 6 Dispute Resolution

A. Client and Landscape Architect agree to mediate claims or disputes arising out of or relating to this Agreement before initiating litigation. The mediation shall be conducted by a mediation service acceptable to the parties. A party shall make a demand for mediation within a reasonable time after a claim or dispute arises, and the parties agree to mediate in good faith. In no event shall any demand for mediation be made after such claim or dispute would be barred by applicable law. Mediation fees shall be shared equally.

Article 7 Use and Ownership of Landscape Architect's Documents

A. Upon the parties signing this Agreement, Landscape Architect grants Client a nonexclusive license to use Landscape Architect's documents as described in this Agreement, provided Client performs in accordance with the terms of this Agreement. No other license is implied or granted under this Agreement. All instruments of professional service prepared by Landscape Architect, including but not limited to, drawings and specifications, are the property of Landscape Architect. These documents shall not be reused on other projects without Landscape Architect's written permission. Landscape Architect retains all rights, including copyrights, in its documents. Client or others cannot use Landscape Architect's documents to complete this Project with others unless Landscape Architect is found to have materially breached this Agreement.

Article 8 Miscellaneous Provisions.

A. This Agreement is governed by the law of Landscape Architect's principal place of business.

B This Agreement is the entire and integrated agreement between Client and Landscape Architect and supersedes all prior negotiations, statements or agreements, either written or oral. The parties may amend this Agreement only by a written instrument signed by both Client and Landscape Architect.

C. In the event that any term or provision of this Agreement is found to be unenforceable or invalid for any reason, the remainder of this Agreement shall continue in full force and effect, and the parties agree that any unenforceable or invalid term or provision shall be amended to the minimum extent required to make such term or provision enforceable and valid.

D. Neither Client nor Landscape Architect shall assign this Agreement without the written consent of the other.

E. Irrespective of any other term in this Agreement, Landscape Architect shall not control or be responsible for construction means, methods, techniques, schedules, sequences or procedures; or for construction safety or any other related programs; or for another parties' errors or omissions or for another parties' failure to complete their work or services in accordance with Landscape Architect's documents.

F. Client agrees to indemnify, defend and hold Landscape Architect harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses, including, but not limited to, reasonable attorneys' fees and all legal expenses and fees incurred through appeal, and all interest thereon, accruing or resulting to any and all persons, firms or any other legal entities on account of any damages or losses to property or persons, including injuries or death, or economic losses, arising out of the Project and/or this Agreement, except that the Landscape Architect shall not be entitled to be indemnified to the extent such damages or losses are found by a court or forum of competent jurisdiction to be caused by Landscape Architect's negligent errors or omissions.

G. Should any legal proceeding be commenced between the parties to this Agreement seeking to enforce any of its provisions, including, but not limited to, fee provisions, the prevailing party in such proceeding shall be entitled, in addition to such other relief as may

be granted, to a reasonable sum for attorneys' and expert witnesses' fees, which shall be determined by the court or forum in such a proceeding or in a separate action brought for that purpose. For purposes of this provision, "prevailing party" shall include a party that dismisses an action for recovery hereunder in exchange for payment of the sum allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action or proceeding.

H. Client and Landscape Architect waive consequential damages for any claims, disputes or other matters in question arising out of or relating to this Agreement. Landscape Architect's waiver of consequential damages, however, is contingent upon the Client requiring contractor and its subcontractors to waive all consequential damages against Landscape Architect for claims, disputes or other matters in question arising out of or relating to the Project.

I. To the extent damages are covered by property insurance during construction, Client and Landscape Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for such damages. Client or Landscape Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties described in this paragraph.

J. Client acknowledges and agrees that proper Project maintenance is required after the Project is complete. A lack of or improper maintenance in areas such as, but not limited to, **[insert appropriate example given Project's scope]** may result in damage to property or persons. Client further acknowledges and agrees that, as between the parties to this Agreement, Client is solely responsible for the results of any lack of or improper maintenance.

K. Nothing in this Agreement shall create a contractual relationship for the benefit of any third party.

L. If this Agreement is not signed and returned to Landscape Architect within **[insert number]** days, the offer to perform the described services may, in Landscape Architect's sole discretion, be withdrawn and be null and void.

LANDSCAPE ARCHITECT

CLIENT

Dated _____

Title _____

Insert license/Certificate No. _____

Dated _____

Renewal Date _____

[For California Only

M. Landscape architects are licensed by the State of California.]

Optional Miscellaneous Provision:

(Limitation of Liability language for projects with additional risk or unusual circumstances)

1) Risk Allocation:

Client understands and acknowledges that the design and construction process for this Project poses certain risks to both Landscape Architect and Client. Client further understands and acknowledges that the amount of risk that Landscape Architect can accept is tied, in part, to the amount of compensation received for services rendered. Landscape Architect's fee for the services offered is based on Client's agreement to limit Landscape Architect's liability as described below. Client further acknowledges that were it not for this promise to limit Landscape Architect's liability, Landscape Architect's compensation would need to increase to address the risks posed by this Project.

Client, therefore, acknowledging its right to discuss this provision with legal counsel experienced in the design and construction process, as well as other design professionals, voluntarily agrees that, to the fullest extent permitted by law, Landscape Architect's total liability to Client for any and all injuries, claims, liabilities, losses, costs, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any cause or causes including, but not limited to, Landscape Architect's negligence, errors, omissions or breach of contract, shall not exceed _____ **[CHOOSE A LIMIT IN ACCORDANCE WITH ESTABLISHED LAW IN YOUR JURISDICTION, TYPICALLY BASED UPON A MULTIPLE OF COMPENSATION]** of the total compensation received by Landscape Architect under this Agreement. This limitation of liability shall apply to Client's direct claims and Client's claims arising from third parties.