



Larkin Landscaping

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1

TERMS AND CONDITIONS

These **Terms and Conditions** (“Terms”) apply to all landscape design, installation, and construction work performed by Larkin Hardscape and Design, DBA **Larkin Landscaping** (“Contractor”) for the property owner or authorized client (“Client”). By engaging Larkin Landscaping for any work, the Client acknowledges, understands, and agrees to the following:

1. SCOPE OF WORK

All work will be performed as described in the accompanying proposal, bid, or contract (collectively, the “Scope of Work”). The Scope of Work defines the complete set of services, materials, and deliverables included in the agreed price.

Any **changes, additions, deletions, or deviations** from the original Scope of Work must be approved in writing by both Parties through a formal **Change Order** before such work is performed. Change Orders shall specify the revised work, pricing, and any applicable schedule modifications.

It is expressly understood and agreed that **any client-directed changes, on-site requests, or verbal instructions made after the project has commenced will affect both cost and timeline**. Larkin Landscaping shall not be responsible for project delays, rescheduling, or loss of efficiency resulting from such changes.

All Change Orders and field adjustments requested by the Client shall be billed at **cost plus twenty-five percent (25%)**, reflecting the additional administrative, labor, and scheduling impacts such changes create.

No verbal agreements or on-site discussions shall be considered binding unless memorialized in a written Change Order signed by both Parties. Larkin Landscaping reserves the right to pause or suspend work until such written authorization is received.

1A. VERBAL CHANGE REQUESTS AND FIELD ADJUSTMENTS

Larkin Landscaping operates under a strict **no-verbal-change policy**. To maintain clarity, accuracy, and accountability, all project modifications, additions, or substitutions must be



TERMS AND CONDITIONS

formally approved through a **written Change Order** issued by Larkin Landscaping management.

Homeowners, tenants, or their representatives **may not direct the on-site crew** to make any alterations, relocations, or substitutions outside of the approved Scope of Work. Any such requests given directly to field staff—whether verbal, text, or informal—will be **disregarded** until written approval is obtained from Larkin Landscaping management.

If a crew performs additional work at the specific verbal direction of the Client or any person acting on their behalf, and Larkin Landscaping later elects to honor the request, the following shall apply:

1. The work shall be deemed a **Change Order**, billed at **cost plus twenty-five percent (25%)**.
2. The Client acknowledges that such modifications will **impact the project timeline** and may require rescheduling of subsequent phases.
3. Larkin Landscaping assumes no responsibility for errors, omissions, or rework resulting from field changes made without prior written authorization.

This policy protects both Parties by ensuring that all instructions, pricing, and scheduling adjustments are clearly documented and approved before execution.

2. SITE CONDITIONS

The Client is solely responsible for providing complete and accurate information regarding all existing site conditions prior to commencement of work. This includes—but is not limited to—identifying and clearly marking **property boundaries, easements, underground utilities, irrigation lines, septic systems, electrical wiring, drainage systems, and any other concealed or subsurface structures** that may be present within or adjacent to the work area.

Larkin Landscaping will initiate a **Blue Stake utility locate** request prior to excavation, in accordance with state law. However, work **cannot begin until Blue Stake has completed their service** and all public utility markings are in place. The Client acknowledges that this



TERMS AND CONDITIONS

process may delay the project schedule, and Larkin Landscaping shall not be held liable for any such delays.

The Client further understands that **Blue Stake only locates public utility lines**. Any **private, secondary, or unregistered lines** (including but not limited to irrigation systems, sprinkler wiring, outdoor lighting, pool plumbing, septic systems, or gas lines beyond the meter) remain the **sole responsibility of the Client to identify and disclose**.

Larkin Landscaping shall not be responsible for **damage to any underground utilities, irrigation components, or concealed structures** that were unmarked, inaccurately marked, or missed by Blue Stake or the Client.

If concealed conditions, obstructions, or unforeseen materials are encountered during construction—including, but not limited to, **boulders, debris, concrete, poor or unsuitable soil, groundwater, clay, or utility conflicts**—Larkin Landscaping will notify the Client. Any additional labor, materials, or equipment required to properly address such conditions will be billed as **extra work** on a time-and-materials basis or through a **formal Change Order**.

Larkin Landscaping shall not be responsible for **delays, costs, or damages caused by weather conditions or acts of nature**, including but not limited to **wind, flooding, frost, snow, drought, heat, or other environmental events** that may impact the work, schedule, or installed materials. Weather-related damage occurring during or after installation—including **erosion, plant loss, or material displacement**—is beyond the Contractor's control and is **not covered by any warranty or guarantee**.

Additionally, Larkin Landscaping assumes no responsibility for **damage or interference caused by other contractors, trades, or service providers** operating on the property before, during, or after Larkin Landscaping's work. Any rework, repairs, or delays resulting from such third-party actions shall be billed to the Client as additional work.

The Client agrees to coordinate with other service providers and to maintain safe, stable site conditions to ensure Larkin Landscaping has an unobstructed and hazard-free workspace.



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4

3. ACCESS AND PROPERTY PROTECTION

The Client shall provide **safe, direct, and reasonable access** to the job site at all times necessary for performance of the work. This includes, but is not limited to, **open and unlocked gates, accessible driveways, staging areas for materials and equipment, and clear paths for trucks, trailers, and machinery.**

The Client shall ensure that all **vehicles, trailers, recreational equipment, and personal property** are removed from work areas and access routes prior to the start of construction. Larkin Landscaping shall not be responsible for any delays or costs incurred due to the Client's failure to provide such access. If the site is inaccessible at any scheduled work time, the resulting downtime, remobilization, or lost labor will be billed to the Client as an additional charge.

Larkin Landscaping will take reasonable precautions to minimize damage and disturbance during operations. However, the Client acknowledges and agrees that **normal construction traffic and equipment operation inherently carry risk of incidental damage** to surrounding areas, including but not limited to **driveways, walkways, sidewalks, curbs, pavers, turf, edging, and existing vegetation.**

Larkin Landscaping shall not be liable for **minor cracking, rutting, tire marks, or surface wear** caused by standard construction activity, nor for any pre-existing weaknesses, improper compaction, or structural deficiencies in the Client's property that contribute to such damage.

If heavy equipment access across turf or soft ground is required, the Client acknowledges that **temporary disturbance is expected** and that **repairs or restoration are not included** unless specifically stated in the Scope of Work. Any post-project restoration requested by the Client (e.g., sod replacement, reseeding, or cleaning) shall be billed separately.

The Client further understands that equipment must be staged as efficiently as possible for production and safety. **Larkin Landscaping reserves the right to determine the placement of materials, trailers, or machinery** necessary for the completion of work.

Larkin Landscaping shall not be responsible for damage caused by **third parties, delivery companies, or other contractors** accessing or crossing the property before, during, or after Larkin Landscaping's scope of work.



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5

The Client agrees to maintain a safe and clear work environment at all times, free of interference, and to cooperate with any reasonable site preparation or access requests made by Larkin Landscaping.

4. WEATHER AND DELAYS

Work schedules are subject to change due to **weather conditions, supplier availability, or other factors beyond Larkin Landscaping's control**. These include, but are not limited to, material shortages, delivery delays, equipment failure, illness, unforeseen site conditions, or coordination conflicts with other contractors.

Larkin Landscaping shall not be liable for **any delay, interruption, or extension of the project schedule** caused by such conditions, nor for **any resulting damages, inconvenience, or financial loss** suffered by the Client. Estimated start and completion dates are **approximations only** and do not constitute a guarantee of completion within a fixed timeframe.

4.1 Weather Impacts

The Client acknowledges that **landscaping and construction work is heavily weather-dependent**, and progress may be halted or rescheduled for safety or quality reasons during or after inclement weather. This includes, but is not limited to:

- Excessive rainfall or standing water
- Flooding, erosion, or soft/muddy conditions
- Freezing temperatures, snow, or frost
- Extreme heat or drought conditions
- High winds or dust conditions that impact installation safety or quality

Larkin Landscaping will resume work once conditions allow for safe and proper performance. These delays are **beyond the Contractor's control** and shall not constitute a breach of contract or grounds for termination.

4.2 Acts of Nature and Resulting Damage



TERMS AND CONDITIONS

All weather-related events, including **flooding, drought, frost, snow, heat waves, windstorms, or other acts of nature**, are considered **force majeure conditions** and are **not covered by any warranty, guarantee, or liability**.

Larkin Landscaping shall not be held responsible for **damage or deterioration** to completed or in-progress work caused by these events, including but not limited to:

- Plant loss or stress due to temperature extremes or insufficient watering
- Soil erosion, washouts, or settling from heavy rainfall
- Cracked or heaved concrete, pavers, or stonework caused by freeze-thaw cycles
- Damage to turf, mulch, or finishes caused by wind or runoff
- Any delay in material installation caused by saturated or unstable site conditions

The Client understands that **weather-related damage is outside of Contractor control**, and any necessary repairs, reinstallation, or site restoration shall be billed to the Client at standard time-and-material rates.

4.3 Coordination and Other Delays

If progress is delayed by the **Client, other contractors, or third parties**, including but not limited to utility companies, builders, or inspectors, such delays shall extend the overall completion timeline accordingly. Larkin Landscaping shall not be liable for lost time, rescheduling costs, or damages caused by the actions or inactions of others.

If the project must be remobilized due to conditions outside Larkin Landscaping's control, the Client agrees to pay **remobilization fees** and any additional labor or equipment costs incurred as a result of the delay.



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7

5. UTILITIES AND IRRIGATION

Larkin Landscaping will exercise reasonable care when performing excavation, trenching, and installation work around existing utilities, irrigation systems, and conduits. However, due to the nature of landscaping and the limited visibility of underground components, certain risks are inherent and beyond the Contractor's control.

Larkin Landscaping assumes **no liability for damage to unmarked, improperly marked, inaccurately mapped, or hidden utility lines, irrigation systems, low-voltage lighting, or conduits.**

5.1 Blue Stake and Private Utilities

Larkin Landscaping will submit a **Blue Stake utility locate request** prior to excavation in accordance with Utah law. Work will not commence until Blue Stake has completed its markings and clearance has been confirmed. The Client acknowledges that this may delay the start of work, and Larkin Landscaping shall not be liable for such delays.

Blue Stake's responsibility is limited to locating **public utilities. Private or secondary lines**—including irrigation, gas, electrical, water, pool, septic, or communication lines beyond the public connection—are **not marked by Blue Stake**. The Client is solely responsible for identifying and marking all private utilities before work begins.

Larkin Landscaping shall not be held responsible for any damage caused to utilities, wiring, or pipes that are unmarked, mislocated, or inaccurately reported by Blue Stake or the Client.

5.2 Hidden or Pre-Existing Irrigation Conditions

Existing irrigation systems often contain hidden issues such as leaks, broken fittings, unpressurized lines, valve failures, or improper installation performed by others.

Larkin Landscaping is not responsible for **any existing or hidden defects** that become apparent during or after installation, including those uncovered while performing unrelated work.

Repairs or modifications required to correct these conditions will be billed to the Client at **time and material rates** or by **Change Order**, at Larkin Landscaping's discretion.

5.3 Irrigation Repairs and Modifications



TERMS AND CONDITIONS

Any relocation, modification, or extension of the irrigation system necessary to accommodate new landscape features shall be considered additional work unless explicitly included in the original Scope of Work. All irrigation work outside the defined contract will be billed accordingly.

If irrigation components are damaged due to unmarked or deteriorated conditions, or due to interference from other trades, repairs will be performed only upon written approval from the Client and billed separately.

5.4 Post-Completion Irrigation Performance

Larkin Landscaping is not responsible for the **performance, coverage, water pressure, programming, or efficiency** of any irrigation system following project completion, unless the irrigation system installation and final programming are explicitly included in the contracted scope.

Upon completion, the Client assumes all responsibility for operating and maintaining the irrigation system. This includes adjusting timers, monitoring for leaks, and verifying adequate watering to ensure plant health. Improper irrigation management or system malfunction shall void any applicable plant warranty.

5.5 Damage Caused by Others

Larkin Landscaping assumes no liability for damage to utilities, irrigation lines, or conduits caused by **other contractors, service providers, or individuals** working on or near the property before, during, or after Larkin Landscaping's services. Any rework, repairs, or restoration required due to such third-party interference will be billed to the Client as additional work.



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9

6. PLANT MATERIAL AND WARRANTY

All trees and shrubs installed by **Larkin Landscaping** (“Contractor”) include a **one (1) year limited warranty** from the date of installation, provided the plant material has been properly installed by the Contractor and maintained by the Client in accordance with industry-standard care practices. This limited warranty covers **the replacement of trees and shrubs that fail to survive** due to reasons attributable to the original installation or nursery quality.

This warranty applies **only** to trees and shrubs installed by Larkin Landscaping and purchased through approved nurseries. It does **not** apply to plant material supplied by the Client, relocated or transplanted material, or plants installed by others.

6.1 Warranty Conditions

To qualify for coverage under this limited warranty:

1. The Client must maintain proper care of all plant material after installation, including sufficient watering, fertilization, and pruning.
2. The Client must notify Larkin Landscaping in writing immediately upon noticing signs of plant distress, disease, or decline.
3. Larkin Landscaping shall be given reasonable access to inspect the affected plants and determine the cause of failure before removal, replacement, or alteration.
4. All warranty claims must be submitted within the one-year warranty period; claims submitted after this period will not be considered.

The warranty is limited to **a one-time replacement per plant** during the warranty period, and no cash refunds or credit will be issued in lieu of replacement.

6.2 Warranty Exclusions

This warranty **does not** cover damage or loss resulting from factors beyond Larkin Landscaping’s control, including but not limited to:



TERMS AND CONDITIONS

- **Neglect or improper maintenance**, including failure to water, overwatering, underwatering, or failure to adjust irrigation schedules to seasonal conditions;
- **Pest infestation, insects, disease, or fungal issues**;
- **Weather or environmental conditions**, including heat, frost, drought, flooding, hail, snow, ice, wind, or other acts of nature;
- **Soil compaction, poor drainage, or existing soil conditions** not created by Larkin Landscaping;
- **Pre-existing or transplanted plant material**, perennials, annuals, bulbs, groundcovers, or discounted items;
- **Damage by animals, pets, wildlife, vehicles, or foot traffic**;
- **Damage caused by other contractors, homeowners, or third parties** working in or around the landscape area;
- **Chemical or mechanical injury**, including exposure to herbicides, fertilizers, pesticides, or de-icing agents;
- **Vandalism, theft, or physical injury** to plant material after installation;
- **Improper irrigation system performance**, including lack of coverage, malfunctioning valves, timers, or emitters;
- **Failure to make full payment** for the project or for any additional work performed by Larkin Landscaping.

If any of the above conditions are present, **this warranty shall be considered null and void.**

6.3 Replacement Policy

Warranty replacements will be made **one time only per plant**, and only during optimal planting seasons:



TERMS AND CONDITIONS

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11

Spring: May 1 – June 30

Fall: September 1 – November 15

Replacements are subject to weather conditions, nursery availability, and scheduling limitations. Labor for removal and reinstallation may be billed separately at Larkin Landscaping's current rates. Replacement plants will be of similar species and size to the original when reasonably available, but Larkin Landscaping reserves the right to substitute comparable plant material if exact matches are not obtainable.

Replacement under warranty **does not reset the warranty period**; the replacement plant carries coverage for the remainder of the original one-year term.

If the replacement plant fails to survive for any reason, it will not be replaced again under this or any other warranty.

6.4 Care and Maintenance Requirements

The Client is responsible for maintaining all plant material after installation, including:

- **Watering:** Providing deep, consistent watering appropriate for each plant species and seasonal weather. In hot summer months, new plantings may require daily watering until established.
- **Mulching:** Maintaining proper mulch coverage (2–3 inches) to retain soil moisture and regulate temperature.
- **Fertilization:** Applying nutrients as needed to promote healthy root and leaf growth.
- **Weed Control:** Keeping planting beds free of invasive weeds and grass that compete for water and nutrients.
- **Pruning:** Removing dead or damaged branches and shaping plants appropriately to promote healthy growth.
- **Winter Protection:** Protecting sensitive plants from frost or extreme cold using burlap, coverings, or other methods.



TERMS AND CONDITIONS

Failure to follow proper maintenance practices may result in the **denial of warranty claims**.

6.5 Inspection and Verification

Larkin Landscaping reserves the right to inspect any plant material claimed under warranty. No removal, replacement, or adjustment may be made by the Client or third parties prior to inspection. Doing so will **void the warranty** for the affected plants.

All inspections will be scheduled at a mutually convenient time, and Larkin Landscaping's determination of the cause of failure shall be final.

6.6 Limitations of Warranty

This Limited Warranty covers **plant replacement only**. It does not cover:

- Labor, equipment, or materials required for reinstallation unless explicitly stated;
- Removal or disposal of dead plant material;
- Replacement of plants due to design preference changes;
- Collateral damage to other site elements; or
- Incidental or consequential damages of any kind.

Under no circumstance shall Larkin Landscaping's total liability under this warranty exceed the original purchase price of the plant material.

6.7 Warranty Voidance

This warranty shall be deemed **immediately void** if:

1. Full payment for the project has not been received within the terms of the contract;



TERMS AND CONDITIONS

2. Plants are moved, adjusted, pruned, or replaced by anyone other than Larkin Landscaping;
3. The Client alters the site grade, drainage, or irrigation in a manner that adversely affects plant health; or
4. The Client fails to provide ongoing maintenance or access for inspection.

Once Larkin Landscaping has completed installation and final walkthrough, **responsibility for plant health transfers to the Client.**

6.8 No Implied Warranties

This limited warranty is the **sole and exclusive warranty** offered by Larkin Landscaping. All other warranties, express or implied, including but not limited to implied warranties of merchantability or fitness for a particular purpose, are hereby disclaimed.

7. DAMAGE, SETTLING, AND POST-COMPLETION RESPONSIBILITY

Larkin Landscaping shall perform all work in a professional manner consistent with accepted landscape construction standards. However, the Client acknowledges that once installation is complete, certain **natural and environmental factors**—including soil composition, ground movement, weather, and use of the property—are beyond Larkin Landscaping's control and may affect the long-term appearance or performance of the work.

7.1 Natural Settling and Structural Movement

The Client understands and agrees that **settling is a natural and expected occurrence** in all outdoor construction. Soils expand and contract due to moisture, temperature, and compaction over time, which may result in **minor dips, unevenness, or movement** in pavers, concrete, retaining walls, or other hardscape elements.

These natural movements are not considered defects and do not indicate improper installation.

Specifically:



TERMS AND CONDITIONS

- **Pavers, slabs, or stonework** may settle or shift slightly as the subgrade stabilizes. This is normal and not covered under any warranty.
- **Concrete and mortar work** may develop **hairline cracks** due to curing, temperature fluctuation, or underlying soil movement. Such cracking is cosmetic, not structural, and is not warrantied.
- **Retaining walls or steps** may show slight displacement or joint separation as soil consolidates, provided they remain structurally sound.

Larkin Landscaping shall not be held responsible for **any cracking, settling, heaving, or shifting** of materials caused by soil movement, groundwater, frost, erosion, vibration, compaction from vehicles, or acts of nature.

If excessive or abnormal movement occurs due to site conditions beyond Larkin Landscaping's control, repairs may be performed upon written request and billed at standard time-and-material rates.

7.2 Post-Completion Conditions and Interference

Once Larkin Landscaping's work is completed and accepted, **all responsibility for site maintenance, monitoring, and upkeep transfers to the Client.**

The Client is responsible for maintaining proper drainage, irrigation, and grading to prevent erosion, pooling, or settlement after installation.

Larkin Landscaping shall not be responsible for any damage, malfunction, or deterioration resulting from:

- Vehicles, equipment, or heavy foot traffic crossing installed areas;
- Use of the property before surfaces have adequately cured or settled;
- Construction, excavation, or landscaping by other contractors after project completion;
- Tree root growth, ground shifting, or soil instability;
- Alterations made by the Client or others without written authorization.



TERMS AND CONDITIONS

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15

Any rework, repairs, or restoration needed due to the above factors shall be **considered additional work** and billed accordingly.

7.3 Drainage and Grading

All drainage and grading work performed by Larkin Landscaping is designed to move water **away from structures** and toward designated drainage points as conditions reasonably allow at the time of installation.

Because surface and subsurface water movement is influenced by **soil composition, slope, vegetation, irrigation practices, and subsequent modifications**, Larkin Landscaping cannot guarantee long-term drainage performance once the project is complete.

The Client acknowledges that future site alterations—including installation of new structures, concrete, fencing, sprinkler systems, or landscaping by others—may interfere with proper drainage or redirect water flow.

Larkin Landscaping shall not be held liable for **flooding, pooling, erosion, or drainage failure** resulting from such alterations or from extreme weather events.

Any grading or drainage corrections required after completion shall be billed as new work.

7.4 Transfer of Responsibility

Upon final completion and acceptance of the project, **all responsibility for maintenance, safety, and site conditions transfers to the Client**.

This includes the ongoing care, monitoring, and protection of all installed materials, structures, and plantings.

The Client assumes full responsibility for any damage, deterioration, or safety hazards that arise thereafter.

8. SAFETY, SITE CONDUCT, AND INTERFERENCE

Larkin Landscaping conducts all operations in accordance with standard safety practices and OSHA guidelines. The Client acknowledges that a landscape construction site is an **active work zone** involving heavy equipment, moving vehicles, power tools, and other potentially hazardous conditions.



TERMS AND CONDITIONS

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16

8.1 Client Conduct and Site Access

To maintain safety, efficiency, and clear communication, the Client agrees **not to interfere with workers, equipment, or operations** during active work hours.

- The Client, their family members, guests, and invitees must remain **outside the designated work zone** at all times while work is in progress.
- **Children and pets must be kept indoors or fully restrained** away from the work area. Even brief access or unsupervised presence within the job site poses significant safety risks and violates insurance and OSHA regulations.
- The Client shall not enter or walk through the construction area, handle materials, or approach equipment or vehicles without prior authorization from Larkin Landscaping supervision.

If site access is required for any reason (for example, to enter a garage, yard, or other structure), the Client must first notify the crew leader or project manager and await clearance to safely pass through.

8.2 Hazard Awareness

The Client understands that construction areas may include open trenches, uneven ground, debris, power cords, sharp tools, and heavy equipment.

While Larkin Landscaping takes reasonable precautions to maintain a clean and organized job site, the presence of these hazards is **inherent to construction work**.

The Client accepts full responsibility for any injuries, damages, or losses arising from unauthorized entry into the job site by the Client, their children, pets, guests, or representatives.

8.3 Interference, Directions, and On-Site Communication

All project questions, concerns, or change requests shall be communicated directly to Larkin Landscaping's **project manager or office** — not to crew members.

The Client shall not give instructions, directives, or corrections to field staff,



TERMS AND CONDITIONS

subcontractors, or delivery personnel, as doing so can cause confusion, unsafe conditions, or deviations from the approved Scope of Work.

Unauthorized direction or interference that alters workflow, disrupts crew operations, or compromises safety may result in **immediate suspension of work** until the issue is resolved.

8.4 Suspension of Work and Remobilization

Larkin Landscaping reserves the right to **pause or stop work at any time** if unsafe conditions, interference, or unauthorized access occur, or if weather or site conditions make continued operations hazardous.

If work is delayed or suspended for reasons outside of Larkin Landscaping's control — including but not limited to client interference, unsafe behavior, or restricted access — the Client shall be responsible for:

- **Lost labor time**, billed at the current hourly rate;
- **Remobilization fees** to cover equipment re-deployment, travel, or setup; and
- **Schedule adjustments** that may extend the project completion timeline.

Larkin Landscaping shall not be liable for any resulting delay, inconvenience, or cost increase stemming from such events.

8.5 Responsibility and Liability

By engaging Larkin Landscaping, the Client agrees to maintain a safe and cooperative work environment.

The Client shall be held responsible for any damage, injury, or loss arising from their failure to comply with these safety requirements, including incidents involving children, pets, or guests.

Once work begins, **the job site is considered under the control of Larkin Landscaping** until the end of each workday. Any unauthorized entry during this time shall be at the Client's sole risk.



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18

9. PAYMENT TERMS AND COLLECTION RIGHTS

All payments are due according to the **payment schedule** outlined in the proposal, contract, or invoice issued by **Larkin Landscaping**. Time is of the essence with respect to all payments.

9.1 Payment Schedule and Progress Billing

Payments shall be made promptly and in accordance with the schedule specified in the accepted proposal or contract.

- Unless otherwise agreed in writing, **a deposit** is required prior to commencement of work to secure materials, labor, and scheduling.
- **Progress payments** may be invoiced as phases of work are completed or as materials are delivered to the site.
- **Final payment** is due immediately upon substantial completion of the project, even if minor touch-up or punch-list items remain.

All payments must be made in full, without offset, holdback, or deduction for any reason, unless expressly authorized in writing by Larkin Landscaping.

9.2 Suspension of Work and Lien Rights

If payment is not received in accordance with the agreed schedule, **Larkin Landscaping reserves the right to suspend work immediately** until payment is made in full.

During such suspension, the Client remains responsible for all costs associated with demobilization, remobilization, scheduling delays, or material storage.

Larkin Landscaping further reserves the right to:

1. **Remove uninstalled materials** or equipment from the job site, whether purchased or fabricated for the Client's project; and
2. **File and record a mechanic's lien** or other legal claim against the property pursuant to **Utah Code Title 38, Chapter 1a**, to secure payment for all work performed and materials furnished.



TERMS AND CONDITIONS

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19

Filing a lien shall not limit Larkin Landscaping's right to pursue other legal or equitable remedies, including collection actions and recovery of damages for breach of contract.

9.3 Late Payments and Interest

Any payment not received by the due date shall accrue interest at the rate of **3% per month (18% annually)** or the maximum rate permitted by Utah law, whichever is lower, beginning on the day following the due date until payment is received in full.

Interest shall continue to accrue even during any suspension of work.

Partial payments shall first be applied to accrued interest, fees, and costs, and only thereafter to the principal balance.

9.4 Returned Checks and Payment Disputes

In the event of a **returned check, declined payment, or bank reversal**, the Client shall be charged a **\$50 processing fee** in addition to any fees imposed by Larkin Landscaping's financial institution.

Repeated or intentional payment failures may result in immediate termination of services and the initiation of collection or lien proceedings.

If the Client disputes any portion of an invoice, the undisputed portion must still be paid in full by the due date. Failure to pay the undisputed amount shall constitute default.

Disputes must be submitted **in writing** within **five (5) calendar days** of the invoice date, supported by specific reasons and documentation.

9.5 Collection and Legal Fees

If collection efforts become necessary, the Client shall be responsible for **all costs of collection**, including but not limited to **attorney's fees, court filing fees, interest, administrative time, and lien filing costs**.



TERMS AND CONDITIONS

The Client acknowledges and agrees that Larkin Landscaping shall be entitled to recover such costs **in addition to the original contract balance**.

Larkin Landscaping may also report unpaid or delinquent accounts to credit agencies and/or pursue judgment in the appropriate court of law.

9.6 Ownership and Title

All materials, plants, and equipment furnished by Larkin Landscaping shall remain the **property of Larkin Landscaping** until full payment has been received.

If payment is not made as required, Larkin Landscaping reserves the right to enter the property and remove uninstalled materials, provided such removal can be done safely and without damage to completed work.

Title and ownership of all work shall not transfer to the Client until the contract price and all applicable fees have been paid in full.

9.7 Client Default

Failure to make timely payments, issuance of non-sufficient funds (NSF) checks, interference with performance, or any other breach of contract by the Client shall constitute a **default** under this agreement.

In the event of default, Larkin Landscaping may, at its sole discretion:

- Terminate the agreement;
- Cease all work immediately;
- Retain all deposits and progress payments as liquidated damages; and
- Pursue legal remedies to recover all unpaid amounts, interest, and associated costs.

Reinstatement of work after default shall occur only upon full payment of all outstanding amounts and written authorization from Larkin Landscaping.



TERMS AND CONDITIONS

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Tyler Larkin 801-678-4212
Maddi Pastrana 801-209-5478
Email: Tyler@larkinlandscaping.com
PO BOX 678 Bountiful UT 84011

21

10. LIMITATION OF LIABILITY

To the fullest extent permitted by law, **Larkin Landscaping's total aggregate liability** for any and all claims, losses, damages, or expenses arising out of or related to the performance of work under this agreement — whether in **contract, tort (including negligence), warranty, indemnity, or otherwise** — shall be **strictly limited to the total amount actually paid to Larkin Landscaping for the specific services giving rise to such claim.**

Under no circumstances shall Larkin Landscaping's liability exceed the amount of compensation received for the portion of work directly related to the alleged issue, regardless of the nature, scope, or number of claims asserted.

This limitation applies to all forms of damages, including, but not limited to, **direct, special, incidental, consequential, punitive, or indirect damages**, and regardless of whether such damages were foreseeable or not.

10.1 Exclusion of Consequential and Indirect Damages

Larkin Landscaping shall **not be liable** for any consequential or secondary damages arising out of the use, performance, or failure of any work or materials provided under this contract. This includes, but is not limited to:

- Damage to structures, driveways, or property improvements not directly installed by Larkin Landscaping;
- Damage to underground utilities or systems beyond the immediate area of excavation;
- Damage to lawns, plants, or landscape areas adjacent to the work zone resulting from necessary access or construction activity;
- **Loss of use**, loss of enjoyment, loss of income, **lost profits**, or business interruption;
- Cost of rental equipment, temporary facilities, or replacement services;
- Diminution of property value or aesthetic dissatisfaction;



TERMS AND CONDITIONS

- Inconvenience, emotional distress, or delay damages;
- Any third-party claims arising from or related to the project.

The Client acknowledges that landscaping work involves exposure to **natural elements, subsurface conditions, and inherent construction risks**, and that minor imperfections, variations, or natural material inconsistencies are not defects and do not constitute grounds for liability.

10.2 No Liability for Third-Party Work or Materials

Larkin Landscaping shall not be responsible for defects, failures, or damages caused by materials, equipment, or products **manufactured or supplied by third parties**, nor for work performed, altered, or repaired by other contractors, subcontractors, or individuals not employed by Larkin Landscaping.

Any warranty, express or implied, applicable to third-party materials or components shall be limited to that offered by the original manufacturer or supplier, and Larkin Landscaping shall have no further responsibility or obligation in connection therewith.

10.3 Limitations of Warranty and Remedies

The Client's **sole and exclusive remedy** for any alleged defect, deficiency, or breach of contract shall be the correction or replacement of the specific work in question by Larkin Landscaping, subject to the applicable warranty terms set forth herein.

In no event shall Larkin Landscaping be required to perform corrective work or pay compensation unless it has first been given written notice of the issue and reasonable opportunity to inspect and correct it.

No verbal assurances, representations, or promises made by employees, subcontractors, or representatives of Larkin Landscaping shall expand or modify the scope of liability beyond the written terms of this agreement.



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23

10.4 Allocation of Risk

The Client agrees that the pricing and terms of this agreement reflect a **fair and reasonable allocation of risk** between the Parties. The limitations and exclusions set forth in this section are an essential part of this contract and shall apply notwithstanding any failure of essential purpose of any limited remedy.

By entering into this agreement, the Client expressly waives any right to recover damages in excess of the total amount paid for services and acknowledges that Larkin Landscaping would not perform the work at the agreed price without these limitations in place.

10.5 Survival of Terms

This limitation of liability shall **survive the completion or termination** of the contract and shall apply to all claims, whether discovered before or after completion of the project.

11. PUBLIC REVIEWS, DEFAMATION, AND CLIENT COMMUNICATIONS

Larkin Landscaping values open, respectful communication and strives to maintain positive, professional relationships with all Clients. The Client acknowledges that reputation and goodwill are critical components of Larkin Landscaping's business and agrees to engage in honest, constructive communication regarding any concerns, issues, or dissatisfaction.

11.1 Truthful and Fair Communication

The Client agrees that any **public statements, reviews, or comments** made about Larkin Landscaping, its owners, employees, subcontractors, or operations—whether verbal, written, or digital—must be **truthful, accurate, and made in good faith**.

Knowingly posting or spreading **false, misleading, or defamatory information**—including exaggerations, misrepresentations, or incomplete narratives intended to harm Larkin Landscaping's reputation—constitutes **defamation and business interference** and may result in legal action for damages, attorney's fees, and injunctive relief.

This includes, but is not limited to, posts or comments made on:



TERMS AND CONDITIONS

- **Google Reviews, Yelp, Facebook, Instagram, TikTok, YouTube,** or other social media or review platforms;
- **Neighborhood groups or online forums** (e.g., Nextdoor, HOA groups, or community pages); and
- **Private messages or emails** distributed to third parties that may disparage or harm Larkin Landscaping's reputation or business relationships.

11.2 Opportunity to Resolve

If the Client experiences dissatisfaction or concern at any point during or after the project, the Client **must first provide written notice** to Larkin Landscaping describing the issue and allow the company a **reasonable opportunity to investigate and resolve it** prior to making any public statements.

This process ensures that legitimate concerns are addressed professionally, efficiently, and in good faith, and prevents the spread of inaccurate or incomplete information.

Failure to provide such notice and opportunity for resolution prior to posting any negative or critical review shall be deemed a **material breach** of these Terms.

11.3 Restriction on Defamatory or Harmful Content

The Client agrees **not to publish or disseminate any review, comment, or statement—online or otherwise—that is defamatory, slanderous, misleading, or damaging** to Larkin Landscaping's reputation or goodwill.

The Client further agrees that frustration or dissatisfaction with normal project challenges, delays, or communication issues **does not justify the publication of disparaging reviews**. Landscaping and construction involve many variables, and temporary inconveniences are part of the process, not grounds for reputational harm.

By signing or accepting this agreement, the Client acknowledges that **constructive communication and professionalism** are expected at all times, and that **public disparagement**—even under the guise of “a bad review”—is not an acceptable substitute for resolving issues directly.



TERMS AND CONDITIONS

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25

11.4 Legal Remedies and Enforcement

Larkin Landscaping reserves all legal rights and remedies to address defamatory or harmful statements, including but not limited to:

- Demanding removal or correction of false statements;
- Issuing cease-and-desist communications;
- Seeking **monetary damages** for harm to reputation or loss of business; and
- Pursuing **injunctive relief** (court orders requiring removal of defamatory content).

The Client acknowledges that such actions may result in significant legal costs, which shall be recoverable by Larkin Landscaping in any resulting proceeding if the statements are found to be false or defamatory.

11.5 Acknowledgment

By accepting any proposal or contract with Larkin Landscaping, the Client agrees:

1. To communicate concerns directly and in good faith before posting public feedback;
2. To refrain from posting or sharing any false, misleading, or defamatory content;
3. To understand that **temporary dissatisfaction, delays, or construction inconveniences** are inherent to the landscaping process and not justification for disparagement; and
4. That failure to follow these provisions may result in **legal action** and **forfeiture of any warranty or service commitments**.

11.6 Preservation of Rights

Nothing in this section prohibits the Client from sharing **truthful, factual information or honest opinions** based on actual experience, provided such statements are made **without malice, exaggeration, or intent to harm**.



TERMS AND CONDITIONS

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26

This clause is intended solely to prevent **defamation, harassment, and reputational damage**, not to suppress fair and lawful consumer expression.

12. GOVERNING LAW, DISPUTE RESOLUTION, AND ATTORNEY'S FEES

12.1 Governing Law and Jurisdiction

These Terms and all matters arising from or relating to this agreement shall be **governed by, construed, and enforced in accordance with the laws of the State of Utah**, without regard to its conflict-of-law principles.

The Parties expressly agree that the **exclusive venue and jurisdiction** for any claim, dispute, or legal proceeding arising from or related to this agreement shall be the **state or federal courts located in Davis County, Utah**.

By entering into this agreement, the Client **waives any objection to jurisdiction or venue** in those courts, including any claim that such courts are an inconvenient forum.

The Client also waives the right to initiate or participate in any legal action against Larkin Landscaping in any other state, county, or jurisdiction.

12.2 Mediation Requirement

In the event of any controversy, claim, or dispute arising out of or related to the performance, interpretation, or breach of this agreement, the Parties agree to make a **good faith effort to resolve the matter through mediation** before pursuing litigation.

- Mediation shall take place in **Davis County, Utah**, and shall be conducted by a **neutral mediator mutually selected** by both Parties.
- Each Party shall share the mediator's fees and expenses equally.
- The mediation shall be confidential, non-binding, and conducted in accordance with Utah mediation procedures.
- If either Party fails or refuses to participate in mediation in good faith, that Party shall **forfeit the right to recover attorney's fees** in any subsequent action, even if otherwise entitled.



TERMS AND CONDITIONS

Mediation is a **mandatory prerequisite** to any legal proceeding. The filing of a lawsuit or lien to preserve statutory deadlines shall not waive the mediation requirement.

12.3 Venue for Litigation

If mediation is unsuccessful or the dispute remains unresolved after thirty (30) days from the mediation request, either Party may bring the matter before the **state or federal courts located in Davis County, Utah**.

All litigation shall proceed exclusively in those courts.

No arbitration, small claims action, or out-of-state proceeding shall be permitted unless expressly authorized in writing by Larkin Landscaping.

12.4 Attorney's Fees and Costs

In the event of any legal action, arbitration, or proceeding arising from or related to this agreement, the **prevailing party** shall be entitled to recover from the non-prevailing party:

- **Reasonable attorney's fees and legal costs** incurred before, during, and after the action, including appeals;
- **Mediation and expert witness costs**; and
- **Administrative, lien filing, or collection costs** necessary to enforce or defend this agreement.

This right to recover fees and costs shall apply regardless of whether the action is resolved through settlement, trial, or judgment.

The court shall determine the prevailing party for purposes of fee recovery.

12.5 Limitation on Claims

Any claim, demand, or cause of action arising out of or related to this agreement must be **commenced within one (1) year** from the date of substantial completion of the work or the date the cause of action arose, whichever is earlier.



TERMS AND CONDITIONS

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28

Failure to bring a claim within this period shall permanently bar the claim, regardless of any contrary statute of limitations.

12.6 Waiver of Jury Trial

To the fullest extent permitted by law, both Parties **waive the right to a jury trial** in any action, proceeding, or counterclaim arising out of or relating to this agreement.

All disputes shall be tried before a judge in a court of competent jurisdiction in Davis County, Utah.

12.7 Continuation of Obligations

Pending final resolution of any dispute, both Parties shall **continue to perform their respective, undisputed obligations** under this agreement to avoid unnecessary delay or damage.

Neither Party shall withhold performance, payment, or cooperation due to an ongoing dispute, except as expressly permitted in writing.

12.8 Enforcement and Survival

This section shall **survive completion, termination, or expiration** of the contract. The rights, remedies, and limitations stated herein shall remain enforceable after project completion and final payment.

12.9 Good Faith and Professionalism

Both Parties agree to act in **good faith and with professionalism** during any dispute resolution process. The Client acknowledges that landscaping and construction projects inherently involve variables and that minor deviations, delays, or differences in aesthetic outcome do not constitute a breach of contract or grounds for litigation.



TERMS AND CONDITIONS

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29

14. SNOW & ICE MANAGEMENT TERMS

These provisions govern all **snow and ice management services** ("Snow Services") provided by **Larkin Landscaping** during winter months.

By engaging Larkin Landscaping for snow removal, the Client acknowledges and agrees to these terms, which are an integral extension of the Field Terms & Conditions.

14.1 Service Overview and Scope

Snow removal services may include plowing, shoveling, de-icing, and related snow management activities as outlined in the Client's approved **snow service proposal or rate sheet**.

Work shall be performed on an **as-needed and weather-dependent basis**, subject to the following general scope:

- **Plowing of asphalt surfaces** using snow removal trucks or equipment;
- **Manual or mechanical shoveling** of sidewalks, pathways, and entry areas;
- **Application of salt or ice melt** products to designated surfaces for traction and melting purposes;
- **Post-storm cleanup** or site touch-ups at Larkin Landscaping's discretion, based on safety, accumulation, and weather conditions.

All Snow Services are contingent upon **storm timing, intensity, and accumulations**.

Larkin Landscaping makes no guarantee of exact arrival times or continuous on-site presence during prolonged snowfall.

14.2 Snowfall Triggers and Service Activation

Larkin Landscaping employs a **one-inch (1") trigger** for snow removal dispatch unless otherwise specified in writing.



TERMS AND CONDITIONS

This means crews will not be deployed until measurable accumulation reaches at least one inch.

During active or prolonged storms, Larkin Landscaping may perform **rotational clearing**—visiting each property once before repeating routes—to ensure fair coverage among all clients.

Clients should anticipate that **snow and ice may accumulate temporarily** between service visits and that **conditions may remain slippery or icy**.

14.3 Salting and De-Icing

- **Salt (for asphalt surfaces)** is billed at \$10 per 50-lb bag, applied as needed depending on snow type and temperature.
- **Ice melt (for concrete surfaces)** is billed at \$25 per 50-lb bag.
- Ice melt for walks and steps is applied at Larkin Landscaping's discretion for safety and effectiveness.

The Client acknowledges that **de-icing materials cannot eliminate all slip hazards** and are influenced by temperature, moisture, and traffic.

Larkin Landscaping makes no guarantee that treated areas will remain ice-free after service.

14.4 Walk Crew Pricing

Pricing may be adjusted mid-season in response to labor, material, or fuel cost changes, with written notice to the Client.

14.5 Timing, Delays, and Storm Conditions

The Client understands that **snow and ice management depends on unpredictable weather patterns**, including accumulation rate, temperature, and timing.

Larkin Landscaping shall not be held liable for:



TERMS AND CONDITIONS

- Delays in arrival due to storm severity, road closures, or ongoing snowfall;
- Ice or snow buildup occurring between service intervals;
- Accidents, injuries, or property damage resulting from **slippery, icy, or uncleared conditions** that develop before, during, or after a storm.

The Client is encouraged to **keep shovels and ice melt on hand** to assist in maintaining safety on their property during and between service visits.

14.6 Limitations of Liability

Larkin Landscaping shall not be responsible for:

- **Slips, trips, or falls** occurring on the property, regardless of whether services were rendered prior to the incident;
- **Property damage** caused by unseen obstacles such as raised edges, curbs, or irregular pavement;
- Damage to **landscape edging, turf, pavers, or concrete** resulting from standard plowing or ice-melt application;
- Preexisting conditions, poor drainage, or surface deterioration caused by freeze–thaw cycles or subgrade movement.

All Snow Services are provided at the Client's **own risk**, subject to weather, timing, and site conditions.

14.7 Payment Terms for Snow Services

All snow removal invoices are **due within thirty (3) days** of receipt.

Balances unpaid after 30 days shall accrue **10% finance charges per month** (24% annualized).

If a balance remains unpaid beyond **sixty (30) days**, all services will be **suspended immediately**, and the Client authorizes Larkin Landscaping to **charge the credit card on file** for the outstanding amount.



TERMS AND CONDITIONS

All clients must maintain an active payment method on file.

A **3% processing fee** applies to all transactions of \$1,000 or more.

All accounts must be **paid in full before services resume** for the next snow season.

All clients are required to have a credit card on file. Overdue balances of 60+ days allow Larkin Landscaping the right to run the credit card on file. A fee of 5% will be added to all credit card purchases.

14.8 Invoice Disputes

Any invoice disputes must be submitted in writing **within 30 days** of receipt.

After 30 days, disputes will not be honored, as records and conditions cannot be reliably verified.

Disputed invoices do not relieve the Client from paying the undisputed portion on time.

14.9 Liability and Safety Disclaimer

Snow and ice management inherently involve **risk and unpredictability**.

Larkin Landscaping will make every reasonable effort to maintain safe conditions, but no guarantee of slip-free or hazard-free surfaces is made or implied.

The Client agrees to **indemnify and hold harmless** Larkin Landscaping, its employees, and subcontractors from all claims, injuries, damages, or losses arising from snow and ice conditions, except where directly caused by gross negligence or willful misconduct.

14.10 Termination and Continuation of Service

This agreement automatically renews annually unless canceled in writing by either Party before November 15 of the upcoming snow season.

Clients who discontinue service must notify Larkin Landscaping promptly so routes can be reassigned.

Larkin Landscaping reserves the right to decline or terminate service for safety, non-payment, or site access issues, with written notice to the Client.



TERMS AND CONDITIONS

14.11 Contact and Communication

All communication regarding snow removal shall be directed to:

maddi@larkinlandscaping.com

Office: 801-294-0023

After-Hours / Emergencies:

- **Tyler:** 801-678-4212
- **Maddi:** 801-209-5478

The Client agrees to promptly report any damage, concerns, or emergencies.

14.12 Acknowledgment

By accepting snow removal services, the Client acknowledges that:

1. They have reviewed and accepted these terms in full;
 2. They understand the inherent limitations of snow and ice management; and
 3. They release Larkin Landscaping from liability for any slips, falls, delays, or conditions outside of the company's reasonable control.
-

14.13 Integration with Field Terms & Conditions

These Snow & Ice Management Terms are **fully incorporated into** Larkin Landscaping's Field Terms & Conditions and governed by the same legal, payment, and dispute resolution provisions.

In the event of conflict, the stricter or more specific clause shall apply.

These Terms & Conditions ensure clarity, fairness, and professionalism throughout each project.

By choosing Larkin Landscaping, you're partnering with a team that takes pride in craftsmanship, communication, and integrity—values we've built our name on.

We appreciate your business and look forward to bringing your landscape to life with the quality and care our clients have come to expect.