SERVICE AGREEMENT

THIS SERVICE AGREEMENT (the "**Agreement**") is entered into as of the date set forth below, by and between **D.S. Landscapes** ("**DS**") with an address of 33 Howland Terrace, Worcester, MA 01602, and the Customer, for the purpose of setting forth the scope of services and terms and conditions that shall apply to the services DS will provide to the Customer. DS and the Customer are referred to collectively herein as the "**Parties.**"

Billing Contact: Name and Address:_____

Service Property Address IF DIFFERENT:_____

Telephone & Email Address:_____/_____

1. **Term**. This Agreement will commence on the date first written above, and continue until completion of the Services by DS, unless sooner terminated pursuant to the terms of this Agreement.

2. **Services**. DS agrees to render the services (the "**Services**") to the Customer as set forth in Exhibit A.

3. **Compensation/Estimate**. As consideration for the rendering of Services, DS shall receive the compensation set forth in Exhibit A.

    a. Customer acknowledges and agrees that the compensation set forth in Exhibit A, is an ESTIMATE ONLY for the cost of the Services, made in good faith and based on appropriate research and physical inspection by DS, its employees or subcontractors.

    b. Customer further agrees and understands that the possibility always exists in any project that cost overruns may occur due to unforeseen circumstances. DS will use best commercially reasonably efforts to keep the Customer advised at all times of potential cost overruns in each instance, barring emergencies, prior to said overruns being incurred by the Customer.

4. **Payment**. Consideration and payment for the Services under this Agreement are expressly subject to the following terms and conditions:

    a. Upon execution of the Agreement, a $100 booking deposit is required. This deposit will be deducted from the final payment. If customer cancels booked job, the $100 booking deposit is nonrefundable.

    b. Upon execution of this Agreement, jobs consisting of $800.00 or more will require a fifty percent (50%) of the total estimated price for Services, payment shall be paid to DS via check or credit card to an account designated by DS, or other immediately available funds.

    c. DS will issue invoices to Customer periodically if required during the performance of the Services hereunder.

    d. Final payment is due immediately upon completion of job. Any job $800 or less we require payment in full upon completion of job accompanied by receipt to Customer of a final invoice.

    e. In the event invoices are not paid within thirty (30) days after the date of the invoice, DS reserves the right to discontinue services and DS may impose a late fee equal (10%) of the payment due; additionally, DS may impose an interest charge of 1.25% per month for each month the balance remains unpaid (a 15% annual percentage rate), until paid in full.

    f. If any portion of an invoice is under dispute, the remainder of the invoice shall remain due and payable according to the terms and conditions of this Agreement, and Customer shall have no authority to withhold due payments except as expressly permitted herein or otherwise agreed to in writing by DS.

g. If DS must pursue legal or other formal measures to enforce the payment provisions of this Agreement or for any other reason, Customer expressly agrees that it shall be liable for such costs incurred by DS in enforcing this Agreement, including reasonable attorneys' fees.

i. All and any certificate or tax forms, etc. including but not limited to COI, W9, etc. must be requested by homeowner or company prior to project start. Payment cannot be withheld as collateral for such request after job completion.

h. If Customer makes payment for the Services by credit card*, DS will notify Customer on the day the card will be charged. There is a 3% charge for credit card payments. If payment is declined or not received within ten (10) days of the date of the invoice, a 20% charge will be added to the invoice. Checks returned for any reason are subject to a $25.00 service fee. Customer shall be responsible for all costs incurred by DS, including legal and attorneys' fees, if DS must pursue legal or other formal measures to enforce this Agreement.

5. **Changes**. Changes or modifications to the terms of this Agreement or to the scope of Services are expressly subject to the following terms and conditions:

a. Additional services, parts, materials, or labor (the "**Additional Work**") that are not included in the estimates set forth in Exhibit A may be required for the full performance of the Services, or otherwise requested by Customer.

b. If Additional Work is required, DS will present a Work Order to Customer in writing for approval by the Customer prior to executing said Additional Work. Work order must be paid in full before work is executed.

c. Any such Work Orders shall be subject to the terms and conditions of this Agreement, and your signature on this Agreement acknowledges said work orders.

6. **Termination**.

a. DS may terminate this Agreement upon fifteen (15) days' written notice to the Customer.

b. Customer may terminate this Agreement upon fifteen (15) days' written notice to DS. In the event of termination by Customer, payment is immediately due for any Services rendered or expenses actually incurred by DS prior to the date of termination.

7. **Performance**. DS shall use best reasonable efforts to perform the Services with due diligence and in full compliance with the highest professional standards of practice in the industry. DS shall comply with all applicable laws and safety rules in the course of performing the Services. DS shall be responsible for obtaining any licenses or other authority reasonably required for the performance of the Services.

8. **Warranty**. DS will provide a one (1) year standard industry warranty on labor, commencing upon completion of the Services. DS' warranty excludes remedy for damage or defect caused by abuse, alterations not executed by DS, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. Any warranties on plants provided by DS' are valid for 90 days from installation date. Plants that are not provided by DS void all warrantees. Plants that are installed during hot weather are subject to environmental conditions that void all warrantees. Such situations may warrant a 50% plant refund upon review. Any warranties on materials used to complete the Services shall be as established by the manufacturer of such materials. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, DS DISCLAIMS ALL EXPRESS, IMPLIED OR STATUTORY WARRANTIES WITH REGARD TO SERVICES PROVIDED HEREUNDER, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9. **Independent Contractor**. The relationship of DS and Customer established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed to (i) give either Party the power to direct and control the day-to-day activities of the other, (ii) constitute the Parties as partners,

party to a joint venture, co-owners or otherwise as participants in a joint or common undertaking, or (iii) allow either Party to create or assume any obligation on behalf of the other Party for any purpose whatsoever.

10. **Disclaimer**- DS Landscapes LLC is not responsible for any undisclosed or unforeseen wires, pipes, sprinklers, etc. during excavation or digging.

    a. We are not responsible for determining if proposed work areas are within owners' boundaries.

    b. We will not be held responsible be any scuffing, marks, divots, etc. incurred

    c. Customer is responsible for clearly marking property line stakes, hidden rocks, air condition lines/wires, sprinkler heads, water shut offs, invisible fence lines, and any other hazards that are on location of job site.

11. **Limitation of Liability**. DS' AGGREGATE CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER ARISING FROM CONTRACT, TORT OR OTHERWISE) IS LIMITED TO THE TOTAL AMOUNT OF FEES PAID BY CUSTOMER FOR THE SERVICES PERFORMED UNDER THIS AGREEMENT. DS SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER BASED UPON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, ARISING FROM ITS PERFORMANCE OR NONPERFORMANCE UNDER THIS AGREEMENT.

12. **Governing Law**. Any dispute in connection with this Agreement shall be resolved in accordance with the laws of the State of Massachusetts and federal law, as applicable, and the Parties submit to the exclusive jurisdiction and venue of the federal and state courts thereof.

13. **Notices**. All notices required to be given or made by the Parties shall be deemed properly made if mailed, postage prepaid, to the addresses first written above, or such other address established by notice hereunder.

14. **Force Majeure**. If DS's performance of its obligations under this Agreement are rendered impossible or hazardous or is otherwise prevented or impaired due to illness, accident, Act(s) of God, riots, strikes, labor difficulties, epidemics, earthquakes, and/or any other cause or event, similar or dissimilar, beyond the control of DS, then DS's obligations under this Agreement shall be excused or delayed until such time as any such event is remedied and DS shall not have any liability to Customer under or in connection with this Agreement.

15. **Entire Agreement**. This Agreement contains the entire understanding of the Parties regarding its subject matter and supersedes any prior agreement, written or oral, and can only be modified by a subsequent written agreement executed by both Parties.

16. **Counterparts**. This Agreement may be executed simultaneously in two or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument.

17. **Survival**. The obligations under Sections 4, 8 and 10 of this Agreement shall continue in effect after termination of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

DS Landscapes:	**Customer:**
Print: __Dimitri Saffron - Owner___	Print: _____
Sign: _Dimitri Saffron_____	Sign: _____
	Date: _____

*If Customer pays for the Services by credit card, Customer's signature hereon authorizes DS to charge the credit card on file for the Services in accordance with this Agreement.

SERVICES- Please see Attachment A (Estimate)