

North Carolina

## CONTRACT

Mecklenburg County

### **PARTIES:**

1. This agreement is made and entered into between Holly Homemaker ("Client") and Jeff Adams, president of Adam and Eve Landscaping, Inc. ("A&EL") for landscaping services to be done at 555 Hollyhock Dr. Charlotte, NC 28226 which is a residence. On this 1st day of June, 2010

### **CONSIDERATION:**

2. **Whereas** Client agrees to pay A&EL the sum of \$10,000 at the completion of the following services by A&EL:
  - To located all underground utilities prior to tilling;
  - To prepare the subgrade and soil prior to tilling;
  - To add peat moss and Paigeland sand to improve the condition of the soil being tilled;
  - To install the following landscape plants;
    - One (1) Japanese Maple (*Acer palmatum*) B&B
    - Three (3) Crepe Myrtles (*Lagerstroemia indica*) B&B
    - Fifteen (15) Otto Laurels (*Prunus laurocerasus* 'Otto Luyken') B&B
    - Twenty-Two (22) Helleri Hollies (*Ilex crenata* 'helleri') B&B
    - One-Hundred Fifty (150) Variegated Liriope Muscari (*Liriope muscari* 'variegata') B&B
    - Twelve (12) flats of Red Salvia (*Salvia splendens*)
      - To mulch with 2-3 inches pine needles (approximately twenty bales)
3. **Whereas** the above services being rendered are to be completed by the 1st day of August, 2011.

### **WARRANTIES:**

4. A&EL will replace any plants guaranteed for one full growing season. However, A&EL will not be liable for plants that may die due to inadequate watering on the part of the Client. It is suggested that ALL plant material be thoroughly soaked daily.

### **WAIVERS:**

5. This agreement shall constitute the entire agreement between the parties, and no variance or modification shall be valid except by a written agreement, executed in the same manner as this agreement.

#### **ASSIGNMENT:**

6. This contract is not transferable or assignable.

#### **DELEGATION:**

7. The obligations specified in this Agreement may not be delegated by the parties.

#### **TERMINOLOGY & DEFINITIONS:**

8. Unless otherwise indicated, all contractual terms are construed in their ordinary meaning.
- **B & B** - Balled and burlapped plants are transplants shipped to the consumer after having been planted, dug up and wrapped. "Balled" refers to the rootball which has been dug up, while "burlapped" refers to the wrapping material traditionally used for transporting tree and shrub deliveries.
  - **Bale** - Will adhere to an industry standard of 50 lbs. each. Southern Pine needles are to be used.
  - **Flat** - A shallow lidless box or frame for seedlings. Each flat will have an 18 count.
  - All plant materials will be ordered according to its Latin scientific name in parenthesis.

#### **PRONOUNS:**

9. Any masculine personal pronoun as set forth in this Agreement shall be considered to mean the corresponding feminine or neuter personal pronoun, as the case may be.

#### **SEVERABILITY:**

10. If, for any reason, any provision hereof shall be inoperative, the validity and effect of all other provisions shall not be affected thereby.

#### **SUCCESSORS:**

11. This Agreement and all provisions hereunder shall inure to the benefits of and shall be binding upon the heirs, executors, legal representatives, next of kin, transferees, and assigns of the parties hereto.

#### **TIME IS OF THE ESSENCE:**

12. Time in all respects is of the essence of this contract.

#### **TERMINATION:**

13. In the event of a default of any of these provisions, Client shall notify A&EL in writing by first class mail or fax, of such default. Should Client fail to resolve such default within 5 business days, Client shall be in breach of agreement.
14. Reasons for termination may include but are not limited to the following:
- Failure of a condition specified in this contract;
  - Dissolution of one or more of the contracting entities;
  - Death, illness, or disability of A&EL.

#### **REMEDIES:**

15. Should Client or A&EL in any way default upon its obligation under this agreement, he shall be in breach of contract.
16. The breaching party shall be responsible for all costs including reasonable attorney's fees.

#### **CHOICE OF LAW:**

17. This Agreement shall be construed in accordance with and governed in all respects by the law of the State of North Carolina.

#### **ARBITRATION:**

18. All disputes, differences, and controversies arising under and in connection with this Agreement shall be settled and finally determined by arbitration according to the rules of the American Arbitration Association now in force or hereafter adopted.

#### **JURISDICTION:**

19. The parties hereto agree that, in the case of any dispute or controversy arising under or out of this Agreement, to submit to the jurisdiction of the courts of the State of North Carolina for a settlement of said dispute or controversy.

**WITNESS WHEREOF**, the parties hereto, have executed this contract in duplicate originals, one of which is retained by each of the parties, the day and year first above written.

This the 1st day of June, 2010

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Holly Homemaker ("Client")

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Jeff Adams, President

Adam and Eve Landscaping, Inc. ("A&EL")