

THIS NON-EXCLUSIVE LICENSE AGREEMENT made in duplicate this ____ day of _____, _____.

BETWEEN:

NORTHSCAPING INC.
(hereinafter called "Northscaping"),

OF THE FIRST PART,

- and -

(hereinafter called the "Customer"),

OF THE SECOND PART.

WHEREAS Northscaping currently operates an online resource for gardeners, homeowners and landscapers known as the Landscape Plant Search;

AND WHEREAS Northscaping has expanded its operations by giving businesses the ability to utilize a technology based on the Landscape Plant Search on their website and to also allow potential customers to create lists of required plants and place orders;

AND WHEREAS the Customer wishes to obtain the right to utilize the Technology offered by Northscaping;

NOW, THEREFORE, in consideration of the sum of TEN DOLLARS (\$10.00) now paid by each party hereto to the other, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree as follows:

1.0 DEFINITIONS

- 1.1 Account - A unique 8-digit identification number assigned to a Customer by Northscaping for each purchase of an implementation of the Technology.
- 1.2 Seat - One implementation of the Technology per Account per Customer, linked to or otherwise employed in conjunction with one (1) Website and employing the hosting services provided by Northscaping. Additional Seats for a given non-exclusive license may be purchased from Northscaping at a nominal fee.
- 1.3 Technology - The Northscaping NetPS application, including, without limitation, the software, photographs, plant data, written descriptions, and all hardware and equipment related to the provision of the application.
- 1.4 Website - A single unique domain name (i.e. "www.mydomain.com"), including any or all subdomains (e.g. "plants.mydomain.com").

2.0 GENERAL

2.1 This Agreement ("Terms and Conditions"), in addition to any other specific agreement between Northscaping and the Customer, represents the complete understanding and agreement between Northscaping and the Customer. This agreement supersedes any other written agreement including, without limitation, digitized, computerized, oral agreement, and/or agreement by conduct, except when expressly agreed to the contrary in writing by Northscaping.

2.2. In accordance with the Terms and Conditions, Northscaping will provide the Technology to the Customer in exchange for fees and full compliance with the following Terms and Conditions:

3.0 LICENSE TO USE THE TECHNOLOGY

3.1 Northscaping grants the Customer a non-exclusive license to implement one Seat for a period of one (1) year from the earlier of the date of activation of the Seat by Northscaping or ninety (90) days from the date of this Agreement.

3.2 The Customer acknowledges and agrees that any provision of the Technology to the Customer by Northscaping grants the Customer only a non-exclusive license to occupy the space on a web server, and that the Customer has no property interest in the space, software, web server and equipment. Payment by the Customer for the Technology does not create or vest in the Customer (or in any other party) any estate, ownership interest, or other proprietary right or interest of any nature in any part of Northscaping's premises or facilities including, without limitation, the space, software, web server and equipment.

3.3 The Technology is licensed to the Customer for use solely on their corporate Website. Notwithstanding any rights granted herein, Northscaping shall remain the sole owner of the Technology. The Customer shall acquire no right or interest in the Technology including with respect to any copyrights, trademarks or other proprietary rights therein, which proprietary rights shall remain the property of Northscaping, and any and all goodwill associated with the Technology shall inure exclusively to the benefit of Northscaping. The Customer acknowledges that the license herein granted is non-exclusive and that Northscaping may license the Technology to third parties.

3.4 All content, text, images, photographs and other such materials provided in conjunction with the Technology are protected under national and international copyright laws and remain the exclusive property of Northscaping and/or their rightful assigns. Distribution or reproduction in whole or in part without the written consent of Northscaping is strictly prohibited.

4.0 LAWFUL USE OF SERVICES

4.1 The Customer may only employ the Technology on their Website through their Customer's Account. The Customer may not sell, lease, rent or assign, in any way, any part of the whole of the Customer's Account and/or the Technology to any party without the prior written consent of Northscaping.

4.2 The Customer agrees to maintain a secure password for the Customer's Account. The Customer is solely responsible for changing the password as required to ensure secure access to the Customer's Account, and is additionally solely responsible for ensuring the confidentiality and security of the Customer's Password.

4.3 The Customer shall actively endeavor to prevent any corruption of the Technology and/or Northscaping's systems, including, without limitation, viruses. Northscaping reserves the right to review all Customer-provided code and configuration settings and to run anti-virus programs at Northscaping's sole discretion to minimize potential and actual damages.

4.4 The Customer must not commit or permit any reverse engineering, reverse assembling, disassembling, reverse compiling, or any attempt to derive source code from any prototypes, hardware, software or other tangible objects provided to the Customer by Northscaping.

5.0 LIMITATION OF LIABILITY

- 5.1 The Customer is solely responsible for any legal liability arising out of, or relating to, the Customer's use of the Technology. The Customer agrees to indemnify and hold Northscaping, any third party related to Northscaping, including, without limitation, third party vendors, Northscaping's executives, directors, officers, managers, employees, consultants, agents, parent companies and subsidiaries harmless from and against all liabilities, losses, costs, judgments, damages, claims, or causes of action, including, without limitation, any and all legal fees and expenses arising out of or relating to the Customer's breach of any of the representations or warranties herein, or resulting from the Customer's use of the Technology, or any other third party claim with respect thereto.
- 5.2 To the maximum extent permitted by applicable law, in no event, and under no theory of law or equity, will Northscaping, Northscaping's executives, directors, officers, managers, employees, consultants, agents, parent companies and subsidiaries, third party providers, merchants, licensors, or the like, or anyone else involved in creating, producing or distributing the Technology be liable for personal loss, revenue decrease, expense increase, cost of substitute products and/or services, or any loss or damage whatsoever, or for any consequential, special, incidental, punitive or indirect damages of any kind arising out of any use of, or any inability to use, the Technology, even if Northscaping has been advised of the possibility of such damages. Northscaping's cumulative liability, if any, to the Customer, or any third party, for any and all damages related to these Terms and Conditions, the Technology, including, without limitation, negligence, any act or omission by Northscaping or Northscaping's representatives, or under any other theory of law or equity, will be limited to, and shall not exceed, the amount paid to Northscaping by the Customer in the form of fees for the Technology for the period of this Agreement, but in no case to exceed one (1) year's fees.
- 5.3 Northscaping does not make or otherwise imply any warranty that the information, which includes, without limitation, all content, data, applications, images, photographs, materials, opinions and advice provided in conjunction with the Technology, is free of errors, omissions or inaccuracies, or that any defects found will necessarily be corrected. All such information is provided for the Customer's business purposes only, and reliance on such information by the Customer, and any of its clients or users, is at their own risk. Consumers of this information are advised to exercise their own best judgment when using or acting on any information or advice dispensed in conjunction with the use of the Technology.
- 5.4 The Customer agrees that Northscaping may, on thirty (30) days prior written notice, upgrade, replace, modify, or change in any way, without limitation, any software, applications, programs, data, hardware, equipment, or portions or components thereof, used in the provision of the Technology. The Customer understands, agrees, and acknowledges that certain changes to the Technology may affect the operation of the Customer's personalized application. Northscaping makes no warranty of any kind, either express or implied, regarding the performance, condition, or existence of any of the Customer's personalized applications and content. Therefore, the Customer agrees that the Customer is solely responsible for any of the Customer's personalized settings, configuration data, applications and content, including, without limitation, the management and backup of all the Customer's data.

6.0 TERMINATION

- 6.1 Northscaping reserves the right to terminate this Agreement for any reason whatsoever prior to its expiry by providing thirty (30) days written or electronic notice to the Customer together with a refund of the annual charges for the balance of the remaining term and, if this Agreement is terminated during its first year by Northscaping, then Northscaping will refund all setup fees.
- 6.2 Subsequent to any breach of the Terms and Conditions by the Customer, the Customer's Account may be suspended or terminated at the sole discretion of Northscaping, with no prior notice required and without financial recourse to the Customer. A reactivation fee or a full setup fee may be charged to reactivate the Account and bring the Account back into good standing, at Northscaping's sole discretion. Northscaping reserves the right to not renew a contract after its expiry without providing justification or cause.
- 6.3 The Customer may terminate this Agreement for any reason whatsoever at any time during the term of the Agreement by providing written or electronic notice to Northscaping. Regardless of the circumstances, Northscaping will not refund any fees or payments in this event.

6.4 The Customer agrees to cease using the Technology forthwith following termination of this Agreement.

7.0 EXECUTION OF AGREEMENT AND DURATION

7.1 This Agreement shall remain in effect for a period of one (1) year from the date referred to in section 3.1 hereof. For the purposes of this Agreement, an Account is considered activated when payment in full has been received by Northscaping, Northscaping has received two (2) copies of this agreement duly executed, the account configuration status flag has been set to "Valid", and the Customer has been notified in writing or electronically that the Account has been activated. Account activation is NOT contingent upon the status of technical implementation or readiness, or on the performance of the Technology subsequent to the account activation.

7.2 This Agreement may be renewed by the Customer prior to the Account expiry date on receipt of full payment for the ensuing period of one (1) year within the stated terms of payment, without incurring additional setup fees. Delinquent Accounts may be reactivated for a \$100.00 US fee for a period of one (1) year from the date of Account expiry, following which time full setup fees shall once again apply.

8.0 TERMS OF PAYMENT

8.1 Payment in full is required prior to initial activation of the Customer's Account. Subsequent payment terms for changes and renewals shall be net thirty (30) days from date of invoice subject to approval of credit. Accounts for which payment has not been received by this date shall be considered delinquent, with applicable penalties and fees as per this Agreement.

9.0 SUCCESSORS AND ASSIGNS

9.1 The rights and liabilities of both the Customer and Northscaping under the Terms and Conditions will bind and inure to the benefit of the parties' respective successors, executors, and administrators, as the case may be. However, the Customer may not assign or delegate the Customer's rights and obligations under any of the Customer's business relationships, including, without limitation, any contract, agreement, or business arrangement, with Northscaping, either in whole or in part, without the prior written consent of Northscaping. Northscaping may assign its rights and obligations under the Terms and Conditions to any third party in connection with a merger, acquisition, sale of all of substantially all of Northscaping's assets, or any other corporate reorganization.

10.0 PRIVACY

10.1 Northscaping does not sell or distribute any information on the Customer to any third party. Personal information of the customer is used solely in the performance of the Technology and management of the Customer's Account. Northscaping reserves the right to use individually identifiable information to contact the Customer in regards to their Account, their implementation of the Technology and/or any other services provided by Northscaping, for technical support, and to provide product updates.

10.2 All personal information collected by Northscaping is kept in secure areas restricted to authorized personnel only. Credit card information is not kept online in any form.

11.0 CONDITIONS SUBJECT TO CHANGE

11.1 Upon thirty (30) days written or electronic notice to the Customer, Northscaping may change or discontinue any provision of this Terms and Conditions agreement from time to time, including, without limitation, pricing and policies. Any such change or discontinuance of any provision will legally bind the Customer from the time Northscaping provides notice of the change as stated above. Upon Northscaping having provided such notice, it is the Customer's sole responsibility to ensure that the Customer is up to date on the most current version of the Terms and Conditions agreement.

12.0 GOVERNING LAW

12.1 This Agreement shall be governed and construed in accordance with the laws of the Province of Manitoba and the laws of Canada applicable therein and the parties agree to attorn to the jurisdiction of the Courts of Manitoba with respect to any dispute.

IN WITNESS WHEREOF the parties hereto have caused their hands and seals to be affixed as of the date first above written.

for NORTHSCAPING INC.:

Authorized Signature: _____

Witness: _____

for _____:

(insert Customer name here)

Authorized Signature: _____

Witness: _____