

## Terms and Conditions

### **1.1 Definitions; In these terms:-**

- 1.1.1 'the Company' means Emerald Landscapes (Cambridge) Ltd
- 1.1.2 'the Client' means the person, firm or company to whom the quote was addressed.
- 1.1.3 'the Assignment' means the job to be undertaken by the Company to supply to the Client goods or services.

### **1.2 Formation of the contract**

- 1.2.1 These terms shall form the basis of the contract for the supply of goods or services by the Company to the Client and any associated company of the Client.
- 1.2.2 No representative of the Company has power to vary these terms orally, or to make representations or promises about the quality of the services, or any other matter whatsoever.
- 1.2.3 Any special conditions not specified in this agreement but included elsewhere in writing particularly regarding stage payments shall prevail.
- 1.2.4 This agreement constitutes the whole of the agreement between the parties and supersedes all prior negotiations, representations or agreements. Neither party shall assign any part of this agreement without the written consent of the other. No act or failure to act shall constitute a waiver of any right or duty under this agreement nor constitute an approval of or acquiescence in any breach of this agreement unless expressly agreed to in writing by both parties.

### **1.3 Price and payments**

- 1.3.1 The Client cannot offer our staff to do paid or unpaid work bypassing the office, if this is found to have taken place the client will be charged accordingly.
- 1.3.2 Rates quoted are exclusive of VAT, which will be added to all invoices at the rate applying at the appropriate tax point.
- 1.3.3 Invoices are payable by stage payments as outlined below with final payment on completion of Assignment. 30% on commencement of Assignment. 30% during the Assignment. 30% during the Assignment. 10% outstanding on completion of the Assignment.
- 1.3.4 Where other payment schedules have not been agreed in writing this schedule will prevail.
- 1.3.5 The Company's bank details are clearly detailed on the invoice and the Client is liable if an issue arises with the bank transaction.
- 1.3.6 No reduction will be applied for Client's registered with the CIS system and/or any other schemes, any retainers must be added to the quotation as they deemed to be excluded.
- 1.3.7 The Company will charge interest at 2% per month above the bank of England base rate on all overdue invoices from the date of invoice to the date of actual payment of the invoice, together with compensation for the costs suffered by the Company arising from late payment, in accordance with its rights under the late payment of Commercial Debts (interest Act) 1998.
- 1.3.8 All reasonably incurred legal costs and expenses incurred by the Company in seeking to collect overdue invoices from the Client will be payable by the Client.
- 1.3.9 The Client shall not be entitled to withhold payment of any amount that is owed under this contract by reason off any dispute or claim by the Client, or for any other reason whatsoever.
- 1.3.10 Without prejudice to any other rights of the Company, if the Client shall fail to make prompt payments of any sum due under any contract between the Company and the Client, the Company may at its choice, either withhold the provision of its services until the total indebtedness of the Client to the Company has been discharged or cancel this contract without notice.
- 1.3.11 All materials remain the property of the Company until payment is received in full. The Company is entitled to reclaim any materials provided to the Client to the value of any outstanding debt, plus the cost of the reclamation to offset any indebtedness of the Client to the Company.
- 1.3.12 If because of climatic or other conditions reasonably beyond the control of the Company work cannot be completed, payment in full for that portion of the work will become payable with the remainder due upon completion of the works.

- 1.3.13 All the prices quoted are based on cash payments. Cheque payments are due 7 days prior to the works completion.
- 1.3.14 Should the Client be insolvent, be judged bankrupt or default on any payment described in this contract, the Company will give notice of said default to the Client and should the default remain uncorrected for a period of ten (10) days. The Company without further notice to the Client may stop performance of the work or terminate this agreement. The Company's obligations will be suspended or terminated without limitation, the company will make the site safe before departure and the responsibility will fall onto the client at that point. The Company shall be entitled to be paid for the value of all work performed to the date of termination.

### **1.4 Planning applications/Design costs/Drawings**

- 1.4.1 Any planning applications or design fees will be charged at £65.00 per hour plus costs.
- 1.4.2 Copyright for drawings and specifications belonging to the Company shall not be used on any other project. The Client may retain copies of the drawings and specifications for information and reference providing the Company has been paid in full for all services rendered under this agreement.
- 1.4.3 Designs are payable in full regardless of our services being used or not.
- 1.4.4 If a client provides drawings A) That don't include levels and falls then additional costs will be incurred by the client for the Company to establish them B) on surfacing, if not specified, a nominal fall will be adopted for run off.  
C) If information specific to the build or drawings is not provided in time, in full, or accurately, any increased work will be charged. D) Where measurements are not given we will build to what is normally adopted or standard size, for example, 1.8m high fence. Should the client have specific requirements or measurements the client must specify in writing at the time of quote or before work starts on the assignment.
- 1.4.5 If the company is required to discuss or set out levels on site the works will be chargeable.

### **1.5 Quotes/Preparation works/Groundworks**

- 1.5.1 It is the client's responsibility to check prices and elements of the assignment listed on the quote, if it's not listed then it's not included. This also applies to alterations and subsequent quotes.
- 1.5.2 Where others have done preparation works prior to our work. The company will not be responsible for any defects, this includes but not limited to excavation, 1st fix work, foundations, groundworks or any other preparation whatsoever.
- 1.5.3 Prior to the commencement of the Assignment the Client will provide the Company with information as to the location of property lines, all subsurface utility and service lines, including but not limited to electrical, telephone, internet, gas, water, irrigation pipes, and conduits. The company shall rely on accuracy and completeness of all such information and shall not be liable for damages or costs resulting from any errors or omissions in that regard.
- 1.5.4 During preparation phase of a project if the client disturbs the works and it needs to be redone. It will be assumed that the cost of redoing this work falls between 25-50% of the cost of that item.
- 1.5.5 Where works quantities are calculated i.e. brickwork. Layers not visible count towards works and are chargeable.
- 1.5.6 If a camera is required to survey the drains this will be charged from £150.00 +VAT
- 1.5.7 Works will be completed to an appropriate standard using the correct materials. Any unforeseen works will be treated as an extra and charged accordingly.
- 1.5.8 With specification and/or foundation build up on works or surfacing figures given by the company on depth and thickness are given within 30% tolerance and calculated as an average across the surface structure or structures.
- 1.5.9 If the client has given the working levels and it is found that more soil extraction and soil movement is required this will be charged inline without current rates.

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1.5.10 When meterage's are disputed, any gravel border, French drain or Dutch drain will count towards meterage when measuring any area of paving or surfacing laid.

### **1.6 Delivery and quality of service**

1.6.1 No liability will be accepted by the Company for any loss or indirect loss suffered by the Client or a third party caused through delays/incompletion of the assignment for any reason. The Client shall indemnify the Company in respect of any claim of any person in respect of such indirect loss.

1.6.2 If the Company is delayed in the performance of work by an action or omission by the Client or by circumstances beyond control of the Company, then the schedule shall be extended for such reasonable period as is required to accommodate the delay.

1.6.3 When removing tress/plants/hedging/bushes and any cutting back the Client is responsible to provide either a drawing of what is to stay or be removed. Alternatively, the Client can mark plants to be retained with string. The Company will take no responsibility for items removed when the above is not followed. Where trees have preservation orders in place the Client is responsible to make the company aware. The Client will indemnify the company against any possible damages caused by inaccurate or incomplete data.

1.6.4 If subsurface or otherwise concealed physical conditions at the premises differ materially from those indicated in this agreement or from those ordinarily found to exist near the premises, including subsurface utilities, boulders, tree stumps, or construction debris, then the contract price will be adjusted to account for any changes required to this agreement or in the materials or methods of work required to carry out work.

1.6.5 If the Client and the Company cannot agree on any element of the assignment the Company withholds the right not to provide that element of the assignment, with the client incurring no cost for that element if work hasn't already started and/or any work up till that point is paid for.

1.6.6 The client must be contactable throughout the project or have a spokesperson in their absence. If the Client is uncontactable, we reserve the right to withdraw off site, this will extend any completion clauses agreed.

1.6.7 The Company will always ensure that the assignment is carried out with minimal impact to surrounding surfaces i.e. lawns, paving and edging, paths, but not limited to these surfaces. When damage does occur that is not reasonable to avoid. For example, poorly installed or quality surface. This will be reinstated at the Client's expense.

1.6.8 Should the Company cause accidental damage to the Clients property the Company has the right to choose either: A) Repair the damage 'in- house' to a professional standard B) Pay another company to rectify the work C) Go through our insurance company. The Client agrees to give free access to facilitate the repair and making good, this includes the supply of water and electricity. No discounts/reductions are to be/will be made against our invoice. It is the client's responsibility to notify their insurance company ahead of works.

1.6.9 It is the Company's responsibility to ensure that all health and safety precautions are adhered to. The Client is asked to respect the fact that while we are working there may be risks of physical endangerment and to take all necessary precautions in this regard. Barriers, fencing, cones, signs and health and safety can add cost to works and these are to be charged separately from any itemised works and are not included. If these are required during the project they will be quoted separately.

### **1.7 Materials**

1.7.1 Building materials, unless otherwise stated, are new. The Company shall have total control of all work and shall be solely responsible for the construction means, methods, techniques, sequences and procedures. The Company shall comply with all laws, rules, regulations, building and fire codes which relate to work including applicable health and safety.

1.7.2 Holes created by screws, nails or hidden fixings during construction of carpentry or related trades are part of the construction process

including so called 'hidden fixings'. We will not be liable for such small imperfections. Not limited to millboard decking.

1.7.3 When Clients amend product choices different from those quoted, they must confirm the change/selection in writing to the Project Manager. The Foreman and/or Administration staff cannot accept any changes or amendments to the project.

1.7.4 The Company cannot guarantee an exact colour match in materials i.e. mortar, bricks, blocks, and in mixes, blends, paint and resin mixes that are made in batches. However, the Company will endeavour to get the closest match reasonably possible. The Company does not have jurisdiction on the supplies and manufacturing and therefore cannot be held accountable for any differences in materials and/or colours.

1.7.5 Salts emitting from masonry work are an unpredictable issue that can occur naturally on all kinds of brick, masonry and paving work. Whether it is believed to emit from pointing, mortar, block, brick or any other compound or material. This is a natural occurrence and not a fault of the company. As such will not be treated as a defect. The salts must be allowed to emit. Once this has ceased, we will happily quote for any remedial works.

1.7.6 Where materials are damaged by us or we need to replace or order more on a job, no liability will be taken by the Company on colour match or availability.

1.7.7 If a delivery vehicle damages client's property or the public highway, this is a matter for the highway, delivery company and client, not the company.

1.7.8 Paving is susceptible to staining from various sources, bed mortar, ingredients in pointing compound and outside conditions. We recommend an extra cost is paid for sealing the slabs prior to pointing. The cost of which is not included in this quote. We especially recommend this is open course, calibrated or porous stone is being used.

1.7.9 When materials are supplied by the client, we cannot be responsible for chips/cracks/stains.

1.7.10 Wood and timber cracking is beyond our control and is a natural occurrence; we therefore cannot guarantee this material.

### **1.8 Extras/Amendments**

1.8.1 Any further alterations to the Assignment which are deemed by the Company to be excessive will result in charges of £65 plus VAT per hour for a site visit and £40 plus VAT for office administration.

1.8.2 Any component that is not on the original quotation is deemed as an extra and needs to be paid for as such, this includes any lighting, furniture or other items.

1.8.3 The payment of extras is not to be added to the end of the payment schedule and must be paid on demand.

1.8.4 Any unforeseen work below the ground that arises during excavation, not in the original proposal is deemed an extra.

1.8.5 Any expansion in size of works will be charged at the same unit price as in the original proposal.

1.8.6 The Company cannot be held responsible for any other person disposing of unwanted items in the skips whilst it is on site. If any other additional items are placed in the skip a £80 charge will have to be implemented due to the cost incurred for disposing of 'mixed' waste. This also applies to fly tipped items.

1.8.7 Asbestos is treated as unforeseen in terms of both health and safety and specialist removal charge.

### **1.9 Guarantee/Completion**

1.9.1 The Company agrees to remove all debris and leave the premises in broom clean condition following completion of the Assignment.

1.9.2 Where other contractors, the public or the client's customers have been working/walking near our work we will not be responsible for cleaning at the end of the project but can be quoted separately.

1.9.3 The Company is not responsible for any colour changes to any materials (including but not limited to block paving or paving slabs) which occur for any reason following completion of the Assignment.

1.9.4 The Company will not guarantee any work when using materials supplied by the Client.

1.9.5 The Company shall have access to the site, for taking photographs in relation to the work both prior to and after completion of the work

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and shall have and retain all copyright in said photographs which may be used by the Company at its sole discretion in reference and promotional materials, portfolios and/or publications.

- 1.9.6 This guarantee is invalid if: a) The customer fails to settle the final bill in total in accordance with this agreement;  
b) The customer makes payments that are deemed unreasonably late; c) The customer misuses, mistreats the structure, area, item;  
d) Damage is caused by unusual weather conditions
- 1.9.7 The guarantee is valid only if all correspondence relating to the work is produced on demand.
- 1.9.8 This guarantee is for labour only and does not cover faulty materials, where other guarantees may be in place.
- 1.9.9 The guarantee is invalid if you or a third party have conducted any remedial work to any service we have provided.
- 1.9.10 The guarantee does not extend to lawns in any way, due to potential variations in soil quality which are beyond the Company's control. No guarantee regarding lawns is promised or implied by the Company.
- 1.9.11 The guarantee does not extend to plants, shrubs and trees after Completion unless there is a planned and agreed maintenance programme in place.
- 1.9.12 No compensation is offered in exchange for this guarantee, we will not pay for another Tradesman or company to rectify our work, and we will only offer to come back and rectify our work to its original high standard when all components of the guarantee are satisfied.

### **1.10 Cancellation**

- 1.10.1 Should the Company fail to comply with the requirements of the agreement to a substantial degree, the Client may notify the Company in writing that the Company is in default of its contractual obligations and instruct the Company to correct the default. If the company fails to correct the default in the time specified or the time scale subsequently agreed upon, the client may commence terminating the contract.
- 1.10.2 If the Client so terminates the agreement, the Company will be entitled to payment for the value of all work performed up to and including the date of termination.
- 1.10.3 Rights of cancellation, Cancellation can occur with no financial loss to the client up to the point of scheduling, there after we will only charge for costs incurred.