

Customer Terms and Conditions

2 General

The following Terms and Conditions (T&Cs) shall apply to all contracts for the supply of goods or services by Landscape Services (us/we/our) to the Customer (you) and shall prevail over any other documentation or communication from you. Any variation to these T&Cs shall be inapplicable unless agreed in writing by us.

Nothing in these T&Cs shall prejudice any condition or warranty, express or implied, or any legal remedy to which we may be entitled in relation to our goods and services, by virtue of any statute, law or regulation. They will also not affect your statutory rights as a Consumer.

1 Definitions

In this document the following words shall have the following meanings:

1.1 "Customer" means any person, firm, company or organisation who purchases the Services from the Supplier;

1.2 "Proposal" means a statement of work, quotation, or other document or electronic media describing the Services to be provided by the Supplier.

1.3 "Service" or "Services" means the services to be provided by the supplier in accordance with the terms of the Agreement and/or individual order/contract.

1.4 "Goods" means the goods to be provided by the supplier in accordance with the terms of the Agreement and/or individual order/contract.

1.5 "Supplier" means Landscape Services, part of Commercial Services Trading Ltd, 1 Abbey Wood Road, Kings Hill, West Malling, Kent, ME19 4YT, a company wholly owned by Kent County Council.

1.6 "Terms and Conditions" means the terms and conditions of supply set out in this document and any special terms and conditions agreed in writing by the Supplier.

1.7 The expression 'the Act' means the Companies Act 1985 as amended by the Companies Act 1989, but so that any reference in these Terms and Conditions to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of the provision for the time being in force.

1.8 "Contract" means the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these conditions.

1.9 "Specification" means any specification of Goods and/or Services, including any descriptions, designs, plans or drawings

1.10 "Works" means Service or Services that shall have the meaning defined in 1.3

3 The Order

3.1 All Orders for Goods or Services shall be deemed to be acceptance of the Proposal pursuant to these Terms and Conditions.

3.2 Any samples, drawings, descriptions and/or advertising issued by the supplier in conjunction with any descriptions provided by the supplier relating to the goods and/or services provided are for the sole purpose of providing an approximate idea of the goods and/or services described or provided.

3.3 Any quotation/ specification provided by the Supplier shall not constitute an offer and is valid for a period of 30 days from its date of issue.

3.4 The Supplier reserves the rights to amend the specification/ proposal if required by any applicable statutory or regulatory requirements.

4 Payment and Charges

4.1 The price for the Goods and/or Services are subject to any applicable charges and only where stated in the Proposal are inclusive of VAT. Where the price is not stated as VAT inclusive they will be subject to the addition of vat at the prevailing rate.

4.2 Payment of the price shall be in the manner specified in the Proposal.

4.3 If the Customer fails to make any payment within 30 days of it becoming due, the Supplier shall be entitled to charge interest at the current base rate plus 8.00% per month on the outstanding amounts.

5 Delivery

5.1 The date of delivery specified by the Supplier is an estimate only. Time for delivery shall not be of the essence of the contract and the Supplier shall not be liable for any loss, costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods or performance of Services.

5.2 All risk in the Goods shall pass to the Customer upon delivery.



5.3 Services specified in the Proposal will be provided by the Supplier to the Customer for a specified period, as detailed within the scope of works. At the expiration of the agreed period the Supplier may at their sole discretion and without notice:

Either; Elect to terminate the Services supplied to the Customer; or invite the Customer to renew Services as specified by the Supplier and at prices prevailing at the time of renewal.

6 Title

Title in the Goods shall not pass to the Customer until the Supplier has been paid in full for the Goods.

7 Customer's Obligations

To enable the Supplier to perform its obligations the Customer shall:

7.1 co-operate with the Supplier;

7.2 provide the Supplier with any information reasonably required by the Supplier;

7.3 obtain all necessary permissions, licenses and consents which may be required before the commencement of the Services, the cost of which shall be the sole responsibility of the Customer; and

7.4 comply with such other requirements as may be set out in the Proposal or otherwise agreed between the parties.

7.5 for the provision of Services by the Supplier the Customer must provide the Supplier with a proper contact address (PO Box is not acceptable) and any contact details as required by the Supplier and agree to inform the Supplier immediately in writing (an email is an acceptable form of writing) of any changes thereto. The Supplier may at their discretion either suspend or terminate the supply of services if they are unable to contact the Customer.

7.6 allow the Supplier unrestricted access to the site(s) during agreed hours in order to effect the services in accordance with the contract

8 Supplier's Obligations

8.1 The Supplier warrants that the Goods will at the time of delivery correspond to the description given by the Supplier.

8.2 The Supplier shall perform the Services with reasonable skill and care and to a reasonable standard in accordance with recognised standards and codes of practice.

8.3 The Supplier accepts all responsibility for the condition of tools and equipment used in the performance of the Services and shall ensure that any materials supplied shall be free of defects.

9 Cancellations and Refunds for Goods & Services

9.1 Where Goods are faulty or do not comply with any of the Proposal, the Customer must notify the Supplier within 7 days of delivery and return the Goods to the Supplier within 48 hour of notifying the Supplier. Once the Supplier has confirmed the Goods are faulty or do not comply with any of the contract the Customer shall be entitled to replacement Goods or a full refund.

9.2 Where Services do not comply with any of the contract, the Customer must notify the Supplier within 7 days. Once the Supplier has confirmed the Services do not comply with any of the contract the Customer shall be entitled to a full refund.

9.3 Any request by the Customer to cancel an Order must be made by notifying the Supplier in writing (an email is an acceptable form of writing) at the contact address specified at the time of placing the order.

Refunds will not be made where

- (a) The Goods ordered have been manufactured; or
- (b) The Goods or Services being supplied comply with the contract; or

(c) The Supplier has incurred expenditure with sub contractors to fulfil the order.

10 Confidentiality

10.1 All mail items received and business information acquired by the Supplier are treated as commercially confidential and will not be disclosed or supplied to any third party outside of the Supplier or partner companies as agreed in the contract for provision of Services.

The duty of confidentiality by the Supplier to the Customer does not apply when the Supplier is required by English law to provide information to the police or other organisations empowered by statute or under any money laundering regulations in force for the time being.

10.2 The customer shall not disclose or share any quotation or contractual arrangements supplied by the Supplier to any third party outside of the contract.

10.3 Both parties shall ensure compliance with GDPR. For the avoidance of doubt the Supplier is the data processor and the Customer the Data Controller.



11 Limitation of Liability

11.1 Nothing in these Terms and Conditions shall exclude or limit the liability of the Supplier for death or personal injury, however the Supplier shall not be liable for any direct loss or damage suffered by the Customer howsoever caused, as a result of any negligence, breach of contract or otherwise in excess of the price for the Goods and Services purchased.

11.2 The Supplier shall not be liable under any circumstances to the Customer or any third party for any indirect or consequential loss of profit, consequential or other economic loss suffered by the Customer howsoever caused, as a result of any negligence, breach of contract, misrepresentation or otherwise by the actions of the customer.

11.3 For the avoidance of doubt, time shall not be of the essence and the Supplier shall incur no liability to the Customer in respect of any failure to complete the Services by any agreed completion date.

11.4 Any advice / technical information given to the Customer is that as seen at the time and no responsibility will therefore apply after on the Supplier.

12 Indemnity

The Customer agrees to indemnify each of the Supplier/s, his principals, agents and respective servants against:

12.1 The consequences of any defect in, or unsuitability of any article, plant or other equipment or incorrect information provided by the Customer.

12.2 The consequences of any breach of health and safety regulations made, or code of practice approved, pursuant to statute.

12.3 All claims by third parties and any other claim under common law or by statute arising out of any such defect, unsuitability or breach.

12.4 all damages, penalties, costs and expenses to which each or any of them may become liable as the result of work done in accordance with any Contract between them which involves the infringement of any letters patent, copyright, design, trademark or other intellectual property right or any claim for such infringement.

12.5 any claims, costs and expenses arising out of any slanderous matter, translated, printed or in any matter published by the Customer including any such loss arising out of costs and expenses incurred in respect of any threatened action and any costs

and expenses incurred arising out of any action which is settled by the parties concerned without being tried by a court or other tribunal; and all actions, costs, claims and demands arising out of any Contract between them whether occasioned by breach, negligence or by any other cause whatsoever.

13 Termination

13.1 The Supplier shall have the right to terminate any agreement with the Customer forthwith on giving notice in writing (an email is an acceptable form of writing) to the Customer on the occurrence of any one or more of the following events:

13.2 breach of any of the terms of this Contract by the Customer.

13.3 if a petition is made for the Customer's bankruptcy or a criminal bankrupt order is made against the Customer or if the Customer makes any composition or arrangement with or for the benefit of creditors or makes any conveyance or assignment for the benefit of creditors.

13.4 where the Customer is a company: if any action is taken for or with a view to its winding up, or a petition is presented for an administration or a winding up order against it or such an order is made, or it becomes insolvent or unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or an administrative receiver, receiver or manager of its undertaking is duly appointed by a creditor or by the court, or possession is taken of any of its property by an encumbrancer and in that event such termination shall not affect any rights which the Supplier may have against the Customer in consequence of the breach by the Customer.

13.5 If without reasonable cause the Customer with-holds either an agreed interim or full payment to the Supplier in respect of this contract or any other contract between the two parties.

13.6 If it is the Suppliers belief that the Services are being used with fraudulent or criminal intent.

13.7 Either party may terminate this contract without cause on giving the other party (one hundred eighty) 180 days notice.

13.8 Where a contract period has been specified in the contract then unless the Customer notifies the Supplier in writing (ninety) 90 days prior to the end of the contract period of its intention to terminate



the contract at the end of the contract period then the contract shall automatically roll over for a further 12 month period unless terminated as stated in clause 13.7.

14 Force Majeure

14.1 Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, drought, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and the party shall be entitled to a reasonable extension of its obligations.

15 Severance

15.1 If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

16 Assignment

16.1 The Customer shall not be entitled to assign his or its rights or obligations under any contract with the Supplier without the prior written consent of the Supplier.

17 Notices

17.1 Where a notice is to be given to any party hereto it may be served by leaving it at the registered office or last known address of that party. Otherwise it may be sent by first class letter post to the registered office or the last known address of that party, when it shall be deemed to have been served at the expiration of 48 hours after it has been posted.

18 Hours of Work

18.1 The services provided by the Supplier shall be undertaken during an agreed period of time as agreed between the Supplier and the Customer.

19 Out of Scope / Additional Work

19.1 Any services/ works required by the Customer that are not specified within the scope of works shall be subject to the Suppliers agreement and will be completed at either an additional 'one-off' rate or adjusted into the scope of works and priced

accordingly. Agreement of these services/ works will be done so by an authorised person from the Supplier and Customer.

20 Adjustment to the Scope of Works

20.1 The Supplier can at any time during the contract period assess the scope of works to ensure compliance and validity of work completed against the stated scope of works on the contract. Any such adjustments will be notified to the Customer in writing.

21 Availability of materials

21.1 All works / quotes provided to the Customer will be subject to the availability of materials (Plants, Plant (machinery), or any such items that are required to fulfil the works/ quote).

21.2 The Supplier accepts no liability or responsibility for the actions of third party suppliers utilised at the Customers request that may have an impact on the delivery of the Suppliers services to the Customer

22 Governing Law

22.1 These Terms and Conditions shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.