

TERMS AND CONDITIONS

1. PAYMENT

1.1 On acceptance of any of these estimates you will be sent a 'deposit request' form which will need to be paid a week before commencement of the job.

1.2 The balance will be required on completion of each section of the job. For larger jobs you will be sent 'progress payment' requests weekly.

2. FINAL PAYMENT

Final Payment will be due two (2) days after the completion of the project.

3. COPYRIGHT

Copyright for the Drawings and Specifications belong to the LANDSCAPER and shall not be used on any other project. The CLIENT may retain copies of the Drawings and Specifications for information and reference provided LANDSCAPER has been paid in full for services rendered under this Agreement.

4. PROPERTY LINES

Prior to the commencement of the Work the CLIENT will provide LANDSCAPER with information as to the location of property lines and all subsurface utility and service lines, including but not limited to electrical, telephone and gas lines and water and irrigation pipe-lines and conduits, as far as known. LANDSCAPER may rely on the 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. Unless otherwise provided for herein.

5. BUILDING MATERIALS

Unless otherwise specified, all building materials provided shall be new. LANDSCAPER shall have total control of the Work and shall be solely responsible for the construction means, methods, techniques, sequences, and procedures. LANDSCAPER shall comply with all laws, rules, regulations and building codes which relate to the Work including applicable health and safety legislation. LANDSCAPER agrees to remove all debris and leave the premises in cleaning tidy condition, unless otherwise organised by the client.

6. CONCEALED PHYSICAL CONDITIONS

If subsurface or otherwise concealed physical conditions at the Premises differ materially from those indicated initially in this Agreement or from those ordinarily found to exist in the vicinity of the Premises, including subsurface utilities, boulders, tree stumps or construction debris, then the extra work will be billed at \$ 85 per hour and all material costs be subject to a markup of 25% for building materials and 20% for plant mixes, or passed over to an appropriate subcontractor required to carry out the Work.

7. LANDSCAPER COMPLIANCE

Should LANDSCAPER fail to comply with the requirements of the Agreement to a substantial degree, the CLIENT may notify LANDSCAPER in writing that LANDSCAPER is in default of its contractual obligations and instruct LANDSCAPER to correct the default within five (5) business days. If LANDSCAPER fails to correct the default in the time specified or subsequently agreed upon, the CLIENT may correct the default and deduct the cost thereof from any payment due to LANDSCAPER or terminate the Agreement. If the CLIENT so terminates the Agreement, LANDSCAPER shall be entitled to be paid for the value of all Work performed to the date of the termination.

8. LIABILITY INSURANCE

LANDSCAPER shall maintain at its own expense Comprehensive General Liability Insurance in the minimum amount of \$2,000,000 for bodily injury, death and property damage and Automobile insurance with respect to all licensed vehicles owned or leased by LANDSCAPER and used by LANDSCAPER in the performance of the Work. Evidence of this insurance shall be provided to the CLIENT upon the request.

9. CHANGES IN THE WORK

Changes in the Work can be requested by the CLIENT verbally but the price for a change in the Work must be agreed to in writing. If the CLIENT and LANDSCAPER cannot agree to a price for the change in the Work the parties may agree in writing that the proposed change in the Work be performed on a time and materials basis where all required labor will be charged at a rate of \$80 per hour and all material costs be subject to a markup of 25% for building materials and 20% for plant mixes.

TERMS AND CONDITIONS

10. PAYMENT FOR CHANGE(S) WORK

Payment for change/s in the Work will be made separately, on an invoice detailing the extra agreed work following LANDSCAPER's completion of the change and within 2 days of LANDSCAPER providing an invoice. All OVERDUE invoices will incur interest at a rate of 2% per month, or 24% per annum.

If because of climatic or other conditions reasonably beyond the control of LANDSCAPER the Work cannot be completed, payment in full for that portion of the Work which has been performed shall be made by the CLIENT and the CLIENT may withhold, until the remaining portion of the Work is completed such an amount sufficient and reasonable to cover the cost of performing such remaining work.

11. PAYMENT METHOD

All of the prices quoted are based on cash/bank transfer payments.

11.1 Cheque payments are not accepted.

12. CLIENT'S INSOLVENCY

Should the CLIENT be insolvent, be adjudged bankrupt or default in any payment described in Articles 1, 2 or 11, above, LANDSCAPER without further notice to the CLIENT may stop performance of the Work or terminate this Agreement such that LANDSCAPER's obligations hereunder will be suspended or terminated without limitation, the CLIENT will have the sole responsibility to monitor and manage the safety and condition of the Premises and LANDSCAPER shall be entitled to be paid for the value of all Work performed to the date of the termination.

13. WARRANTIES

13.1 LANDSCAPER warrants the Work against defects in workmanship and materials for a period of one (1) year for planting, if maintained by our own maintenance service, and irrigated in accordance with our recommendations regularly and carefully maintained by the CLIENT.

13.2 Two (2) years for all Hardscape installations and 13.3 Five (5) years for all paving surfaces where concrete has been used as base material.

Except for: In the case of a pool shell settling or other underground structure settling with climatic causes changing the clay structure beneath the pool, therefore causing change in heights for paving or decking this will be a maintenance cost and repairs will be paid for in full by the CLIENT.

13.4 The warranty takes effect from the date LANDSCAPER submits the invoice for final payment, provided the CLIENT has paid LANDSCAPER in full for all Work performed under this Agreement and subject to the following.

13.5 The warranty does not apply if the CLIENT is in default of this Agreement or to the effects of normal corrosion, erosion or wear and tear or against damage or deficiencies caused by the faulty operations or maintenance of the CLIENT, including the failure to properly maintain water or protect planting material.

13.6 The warranty of plant material is limited to a one-time replacement per item within the warranty period and will not apply if salt, weedkillers, chemical lawn products chlorine, 'wet and forget' or similar anti mould products, chem house wash, is used by the CLIENT on walkways or on the house at the Premises, in the area of those walkways or driveways and surrounding the house. Plants affected on Boundaries which may have been sprayed by a neighbour are also exempt from warranty.

13.7 The warranty of plant material does not apply to grass (turf), roses, annuals, bulbs, or Tropical plants not normally grown in the Auckland region. The warranty does not apply to plants affected by frost, fire, drought, flooding, ash debris and insect attack

13.8 The warranty of plant material does not apply if the client requests a non recommended plant mix to save costs.

13.9 Upon the CLIENT providing LANDSCAPER with notice of a proper warranty claim under this Agreement, LANDSCAPER will have 30 days to respond to the warranty, or such other reasonable period of time as is required in the circumstances.

14. 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 the Parties.

TERMS AND CONDITIONS

15. AMENDMENT AND SUPPLEMENT

Any amendment and supplement to this Agreement shall come into force only after a written agreement is signed by both parties seven (7) days before the start of Work. The amendment and supplement duly executed by both parties shall be part of this Agreement and shall have the same legal effect as this Agreement.

16. FORCE MAJEURE

No failure or omission by either party to carry out or observe any of the terms and conditions of this Agreement shall, except in relation to obligations to make payment hereunder, give rise to any claim against the party in question or deemed a breach of this Agreement if such failure or omission arises from any cause reasonably beyond the control of that party.

17. RESOLUTION OF DISPUTES

Any dispute or difference which may arise between the parties concerning the interpretation of this Agreement or in relation to any matter arising under this Agreement, which cannot be settled amicably and in good faith between the parties, shall be referred to arbitration under the Arbitration Act 1996

Contact

Partnership Name: BABYLON GARDENS

Office Address: 15 Turua St, St Heliers

Email: info@babylongardens.co.nz

Website: www.babylongardens.co.nz

Numbers: 021 802 800 Sandii, 021 802 890 Jared, 09 575 3141

WHAT PEOPLE SAY ABOUT US

Sandii and Jared recently landscaped our back yard including putting in a pool. The ideas they came up with and Jared and his team's execution were second to none. They were very respectful of us and our property and we are thrilled with the results. We wouldn't hesitate to recommend them to anyone wanting to improve the look and value of their property. Paul and Justine

*Hi Rachael, Sandii and Jared,
the project hasn't fully finished yet but I just wanted to say thanks for your great design! The more I live with it, the more I love it, We are getting amazing feedback from friends and family. Looks like the pool's always been here and a part of this home. Liz*

*We constantly get comments on the garden so thank you so much to you and the team. Looking forward to making the most of it this summer!!
Natalie*

*Hi Sandii
Just wanted to drop you guys a note to say thank you so much for sourcing such incredible plant features for our Sylvia Park store-they look incredible and have completely changed the look and feel of the store. It's been a pleasure working with you all and we look forward working with you further. Please pass on our thanks to the rest of your team.
Cheers Rochelle*

Over the past 10 years Sandii and Jared and their talented team at Babylon Gardens have transformed every inch of our outdoor space. I love that every outdoor vista is different and ever changing whether it be unique stonework, seasonal planting highlights, watching the kids in the much loved pool, or entertaining on our deck or outdoor room. I highly recommend them for their creativity, passion and professionalism. Kirsty & Mike

The professionalism of Babylon Gardens has been very much appreciated by us. Sandii and Jared have come up with some great landscaping suggestions that we would not have thought of ourselves and these designs have been implemented beautifully. Their expertise and the whole team's great work ethic has been a godsend - could not recommend more highly. Jane Carmicheal