

Babylon
Gardens

Landscaping Terms and Conditions

Babylon Gardens



Estimates and Billing

Our Estimating is as accurate as we can get it, as we put a lot of time into the quotes, Having said that, Being a construction project unforeseen items can and do (occasionally) come up. As with any building work it is advisable to have at least 10% contingency in place and also bear in mind that any changes on the fly can increase the costs dramatically.

Estimates do not cover any unforeseen or unexpected Drainage, Services, Removal of Concrete over 100mm, or any other items underground or otherwise.

Estimates do not allow for extra labour and materials if ground is soft to a deeper depth than normal.

These items will have to be quoted on encounter or passed over to the appropriate contractor. Some items are not estimated in the initial pricing as they cannot be done until a later stage due to detailing design or measuring areas etc. eg. ready lawn

Payment and terms

You will be asked for a deposit before the start of the job and then invoiced every one week, every two weeks, or on completion of a stage, depending on the scope of the work. Some jobs require a deposit before the start of each stage.

Invoices are expected to be paid in Full within two days of issue. All materials remain the property of Babylon Gardens until all the Invoices are paid in full.

Payments are to be made by internet transfer only except for Pots and items on the webshop which may also be paid by credit card via Paypal.

Landscaping Agreement

THIS LANDSCAPING AGREEMENT is entered into on [DATE] by and between THE CLIENT hereinafter referred to as the "CLIENT" and on behalf of Babylon Gardens hereinafter referred to as the "LANDSCAPER"

WHEREAS the LANDSCAPER agrees to provide Landscaping service for CLIENT'S stated Work/Project.

NOW THEREFORE both parties bind themselves and agree as follows:

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 within a week of 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 fortnightly which will be taken off the end balance.

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.

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 Contract Price will be adjusted to account for any changes required to this Agreement or in the materials or method of work 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 Ten (10) 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 \$1,000,000 per occurrence 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 \$75 per hour and all material costs be subject to a markup of 15% for building materials and 20% for plants and plant mixes.

10. PAYMENT FOR CHANGE(S) WORK

Payment for change/s in the Work will be made separately, on an invoice called 'extras' following LANDSCAPER's completion of the change and within 2 days of LANDSCAPER providing an invoice. All invoices are due when rendered and 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 payments.

12.2 Cheque payments are due seven (7) days before the Work/Project's completion date.

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 may give notice of said default to the CLIENT and should said default remain uncorrected for a period of five (5) days thereafter 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 maintenance service, and irrigated or 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 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 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, chlorine, 'wet and forget' or similar anti mould products is used by the CLIENT on walkways at the Premises, in the area of those walkways or driveways.

13.7 The warranty of plant material also does not apply to grass (turf), roses, annuals, bulbs, or Tropical plants not normally grown in the Auckland region.

13.8 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.

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

THE CLIENT

on behalf of Babylon Gardens