Contractors Terms & Conditions

The following Terms and Conditions are intended for Landscape Contractors only. They are designed for use when tendering for construction contracts. Other Terms & Conditions for Designers and Maintenance Contractors are under separate sections, indicating the needs for different levels and types of protection.

Use the Landscaping and Associated Works Terms & Conditions on your own headed notepaper, making reference to their existence in the wording of your Contract documents.

Draw attention to the various clauses in your quotations, and not treat them as 'small print', rather as reinforcing the professional nature of your business.

Each Term has been provided with Notes and Explanations under separate cover as part of this article, and these should be read in association with the Terms and Conditions form.

I suggest that you do not add, alter or delete any Term, or substitute anything with another Term that you have discovered elsewhere. All such additions or alterations may render the document meaningless or valueless in case of conflicting statements.

Alan Sargent

Standard Terms and Conditions For Landscaping and Associated Works

Date

Client

Address of Site

Project Number

1. The Term 'The Client' shall mean…… who will be responsible for all payments to the Contractor unless otherwise notified in writing prior to commencement. Unless otherwise stated in writing, the Client shall be deemed to be the rightful owner of the property as per the address shown above.
2. The Term 'The Contractor' shall mean……who will be responsible to the Client for works as described in the Contract attached.
3. Nothing in these Terms and Conditions shall affect the Client's statutory Rights as a Consumer.
4. All requirements and obligations concerning The Construction (Design Management) Regulations 2015 (CDM) shall be properly identified and dealt with under the Contract documents, and responsibilities designated within that CDM Plan. The CDM Plan shall form part of the quotation and must be read in conjunction with that document.
5. All requirements and obligations under any Plant Biosecurity or Plant Passport Regulations shall be properly identified and dealt with under the Contract

documents and any planting schedule/plan. Any such plan shall form part of the quotation and must be read in conjunction with that document.

6. The Client shall provide water and electricity at no charge to the Contractor.
7. The Client shall provide access to site and storage space for materials at all times during working progress. Welfare facilities and their siting/location are subject to written agreement between the Client and Contractor. The Contractor to provide the Client with a written Method Statement setting out agreed working practices including parking prior to quoting for the works.
8. Any additions or alterations to the Works Schedule shall be properly treated as variations and subject to written instructions. Persons authorised by both Parties to issue such instructions shall be agreed in writing prior to commencement of works. Any variations may not be subject to pro rata cost equations, and must be detailed within the Variation Order, scheduling any financial and/or time implications which may affect the programme of works.
9. The Contractor is not able to accept responsibility for any damage to, or costs involved, with any underground hazards, obstructions or services not made known in writing or apparent visual inspection prior to commencement of works. The Client remains responsible at all times for any matters regarding licences, permits, planning permission and similar legal requirements, unless such responsibility is specifically assigned in writing to the Contractor.
10. A mobilisation payment of £……..plus VAT is payable with order. Stage payments against works completed/materials on site shall be made at …… intervals, payable within three days of the date of invoice. As the contract is expected to last……weeks, this will amount to …….. such claim/s. A final payment to be made following practical substantial completion and payable within ……..days of invoice, otherwise subject to 3% interest per month thereafter until paid. The mobilisation payment may be used to purchase material necessary for the construction of the works and is therefore not subject to a percentage value of the project total. The works shall be deemed to be substantially complete when all items in the works schedule have been constructed or installed. In the case of certain items e.g. bulb planting, which may not be possible due to seasonal delays in obtaining materials, these works will be shown in the Contract as being outside of the time schedule and therefore subject to a separate Contract.

    Substantial completion shall not include adjustments, repairs, replacement, or cleaning of any item so constructed after practical substantial completion, and any warranty periods shall commence from the date of substantial practical completion, and not following any such remedial works. Requests for any such adjustments, repairs, replacements or cleaning of any item constructed or installed following practical substantial completion shall not be the cause of any delay of final payment but shall properly be considered as warranty items.
11. Price to remain fixed until the end of ……..Acceptance before that date will ensure no increase in the cost of the works specified. Any special conditions are noted in the Quotation.
12. The Contractor is not able to accept responsibility for any plant material, including turf, following practical substantial completion. If necessary, we reserve the right to

substitute any plant with another of equal value and growth/habit/colour unless specifically instructed otherwise, when the quotation may be adjusted under a Variation Order.

13. The Contractor is not able to accept responsibility following practical substantial completion for any damage caused by frost, snow, wind, drought or animals or other physical action beyond their control.
14. All materials surplus to the requirements of the contract shall remain the property of the Contractor and removed from site on completion.
15. This contract contains the entire understanding and agreement between the Parties with respect to the work and supersedes all prior or contemporaneous written and oral agreements and understandings with respect to the subject matter thereof. No oral promises or agreements are part of this contract.
16. The Contractor shall be entitled to suspend performance of, or terminate the contract if the Client fails to pay any sum due in accordance with the payment terms, or is in breach of these terms, or becomes bankrupt. In such cases, the Contractor shall be entitled to payment for all works carried out and all goods supplied at the date of termination or suspension of the contract and retain any deposit or interim payments made toward this. Any materials on site that are not fixed remain the property of the Contractor and may be removed from site by the Contractor or their Agents.
17. If the contract is suspended or delayed for any reason beyond the control of the Contractor, the Contractor reserves the right to transfer labour and equipment to other sites. Upon recommencement, any costs involved in leaving site and returning to site including off hiring/rehiring machinery and equipment shall be assessed and agreed prior to recommencement of works.
18. Any defects in the works which result from faulty workmanship or materials must be notified in writing within six months of practical substantial completion and may be remedied by the Contractor without charge to the Client. Any plants that fail within the first twelve months following practical substantial completion shall be replaced by the Contractor without charge to the Client (substitute plants may be required, to the same value as the failed plants)
19. Warranty works shall not extend to, and defects arising from, the Client's actions or lack of care, including any Agents that may have been employed by the Client. Such actions include watering, staking and tying of plant material or other Horticultural procedures including mowing and lawn care.
20. The value of any claim made against this Contract shall be limited to the value of the agreed works and values contained and described within the Quotation.
21. It is important that the Client reads and understands the Terms & Conditions that apply to the Contract prior to signing. A separate **Notice of The Right to Cancel** this contract is attached under separate cover and must be signed by the Client and appended hereto as part of the Agreement.
22. This Contract and Terms and Conditions are governed by the Law of England.

Notes:

1. It is vital to identify the person or persons you are working for. If more than one person is involved, e.g. husband and wife, both must be included and named. In case of a company, the Director responsible for the work must be identified and named.
2. Your Company name must be shown in full, including status e.g. Arun Landscapes Limited.
3. Legal Statement included to prove that you understand the needs for Legal documentation.
4. CDM Plans must be produced. Responsibility under CDM falls upon the Designer (Principal Designer) or Contractor (Principal Contractor) transferring the Legal obligations under that Act away from the
   Client.
5. The Contractor must take responsibility under the Law for any Plant Passports, which should be retained by the Contractor under the Regulations.
6. Never assume that you will be allowed to use the customer's services and facilities.
7. You may wish to nominate your times of working as part of the 'access to site'. This avoids being refused entry as being 'too early' or 'too late'. You may wish to add the word 'dry' as in dry storage.
8. This is a protection against the client changing their minds regarding areas, products, etc. It is also a safeguard against the client from requesting additional works pro rata, recognising that the cost of one metre of paving (for example) will cost more than a percentage of the main contract figures. A Method Statement should form part of the main quotation and will identify those staff members who are authorised to make decisions on behalf of the Company.
9. Legal safeguard for the Contractor, unless something untoward happens that should have been obvious to any professional designer/contractor. Take plenty of photographs during the project.
10. Your payment terms are yours to agree within your Company. It is best to adhere firmly to your chosen terms without deviation, so you are always clear and aware of your financial situation.
11. Self explanatory. It can act as a spur to getting a firm decision from the client.
12. Self explanatory. You may wish to take time dated photographs of the finished project to avoid any questions regarding the condition of the site one the day you left.
13. As above, but including the condition of the whole site, especially cleanliness and any existing visual damage to your work, or the area in general.
14. Some clients think they own everything that has been delivered to site.
15. Very important. This statement clearly states the foundation of the contract documents.
16. Very important. In the event of non-payment for whatever reason, the Contractor need to protect their interests, especially in regard to bankruptcy.
17. Self explanatory, but essential to prevent the client from delaying the project through their own indecision, ensuring they realise the cost implications of the Contractor leaving and returning to site.
18. Self explanatory. This statement ensures that the Client is aware of the need to proclaim Practical Substantial Completion i.e. the end of the contracted works.

Unless and until this statement is made, any warranty period cannot be fixed as a date for starting the warranty obligations.

19. Very important. This statement ensures that anyone taking over the maintenance of the completed site must be responsible for their actions and assiduity in properly maintaining the site.
20. Very important. This statement prevents (or reduces) the opportunity for a client to make a claim against a Contractor for a sum greater than the original contact price.
21. This statement draws attention to the essential requirements of the Terms and Conditions and understand their obligations to you as the Contractor. It also draws attention to their Legal Rights.
22. Very important. This statement confirms the Region and Laws under which the contract was written and agreed.

It is very important that you understand your Terms and Conditions and have them in mind at all times during a project.

It is equally important that you do not undermine those Terms by allowing any slippage or deviation from them, otherwise they will be devalued in the eyes of the Client.

NOTICE OF THE RIGHT TO CANCEL
(Consumers Home or Place of Work Regulations 2008)

This notice must be read in conjunction with Project No……

The Client may cancel the Contract at any time within fourteen days of receiving it, by delivering by hand or recorded post, or sending via electronic device, giving a Notice of Cancellation.

This Notice of Cancellation shall be deemed to have been given at the time of sending it.

If the Client wishes the Contractor to commence work or purchase materials before the end of the fourteen day period, and issues a Notice of Cancellation during that period, the Contractor shall have the right to be paid for materials and services provided up to the date of cancellation.

Notice of Cancellation should be in writing, and include the name and address of The Client, and name and address of The Contractor, quoting the Project Number.

The Contractor is not obliged to carry out any work during that fourteen day period unless requested in writing by the Client and agreed with the Contractor.

(These notes refer to Contracts signed at Home or a Place of Work)

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If the Client wishes to terminate or cancel a Contract at any time during works progress, this must be done in writing and delivered personally or by electronic mail including the date

and time of Termination.
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Standard Terms and Conditions for Garden Designers

Download the doc

Introduction

Throughout my career, although I have designed around two hundred gardens for private clients or House Building Firms in the domestic sector, including thirty-seven Royal Horticultural Society Show Gardens at Chelsea, Hampton Court, Gardener's World Live and Tatton Park, I have never considered myself a Garden Designer.

Contractor first, Designer second. For this reason, I have always taken a pragmatic view of my work, concerned primarily with getting paid. Over the past ten years, the majority of my work has been Consultancy, mainly involving dispute issues and problems, and I now think of myself as Consultant first, and Designer/Contractor second. Indeed, now that I have retired from both design and build, I am now a full - time consultant.

The Society of Garden Designers have a comprehensive template for Terms and Conditions for the Designer world, and although they are known as Terms of Engagement, they cover almost every aspect of design work, including a considerable amount regarding copyright and intellectual property rights.

The following Terms and Conditions are not intended to rival or compete with the SGD document in any way. They are simply another version designed to protect you as a professional individual, concentrating on Getting Paid rather than trying to protect your work from plagiarism. I consider copyright issues to be a confusing distraction in many ways, as the words and circumstances under which such claims may be made are too myriad and complex for what should be a simple set of rules under which a designer can operate and run their practice.

Terms and Conditions should be separated in some way, as your Terms are Your terms of selling Your services, skills and time. How much money per hour/day/project/mile etc; and when and how payments should be made and to whom. Conditions are the structure under which you are prepared to offer those Terms. Keep everything as simple as possible, so that Clients can clearly understand what you are offering and for how much money.

The following Terms and Conditions should be understood and known in detail by the Designer, almost as second nature. I strongly suggest that you do not add, alter or delete any one of them, as they are a combined chain. Coming across a Term you have discovered elsewhere and like the sound of, by adding it into the progressive chain of words, you may

negate some part, or all of the rest of the document by repetition or contradiction without being aware of that matter.