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Terms and Conditions

Doc no: 702.002

Version 2c

Last Updated: 08.03.16

Approved by: M Matheson

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TREESCAPE LIMITED | Terms and Conditions of Contract:

Treescape agrees to perform the work in a competent manner and in compliance with the specifications contained in the contract overleaf (page 1).

A. Arbitration

Should any dispute arise as to the interpretation of the contract, it shall be referred to arbitration in accordance with the Arbitration Act 1996 and its amendments. Any decision of the Arbitrator shall be final and binding, upon the parties.

B. Amendments

Amendments to the contract specifications and price must be made in writing and agreed upon by both parties.

C. Expiry of the Contract

Three (3) months after the submission of the contract, Treescape reserves the right to withdraw and re-price work, unless otherwise agreed in writing on acceptance of instructions from the customer.

D. Access

The customer accepts full responsibility for their driveways and paths and understands that to carry out work specified in the contract, it may be necessary to use heavy machinery that could cause damage to their driveways and paths. Treescape will not be liable for any damages caused to driveways or pathways.

E. Private Covenants and Boundaries

Investigation of private covenants and boundaries shall be the responsibility of the customer and no liability shall be attached to Treescape for a breach of any such covenant or boundary. The customer must obtain written permission from all tree owners prior to Treescape commencing work.

F. Underground Services

Unless a plan showing the exact location of underground pipes, wires, or cables has been forwarded to us by the customer prior to the formation of the contract, the Treescape shall be under no liability for any damage caused as a result of work performed under the contract to such pipes, wires, or cables, or any damage to property resulting there from. The customer shall be solely liable for any such damage. Treescape will, if required, call Dial Before U Dig for information relevant to the site before commencing work. Associated Dial Before U Dig costs are to be paid by the customer unless otherwise arranged.

G. Hidden Obstructions

Contracts for felling are based on the assumption that trees are free from metal, stone and other hidden obstructions. In the event of a tree being impossible to fell in the normal manner, Treescape reserves the right to requote accordingly.

H. Stump Grinding

Stump grinding involves the removal of the tree stump to a depth of 150mm, but does not include the removal of lateral roots or stump chippings, unless otherwise specified in the contract.

I. Firewood

Firewood left on site will be tidily stacked, and does not include ringing unless otherwise specified in the contract.

J. Transplanting

While Treescape will carry out best practice methods in relocating trees, Treescape cannot guarantee the survival of the relocated tree/s and will not be liable for any financial reimbursement for the cost of the relocation or for the loss of the tree/s.

K. Tree Preservation Orders, Conservation Areas and Tree Permits

The trees concerned in the contract may be protected by a local or regional authority. Where it is necessary to obtain resource consents and/or permits from the relevant authorities, it will remain the responsibility of the customer unless Treescape is authorised by the customer to carry out this service in the contract.

L. Fire / Rail Permits, Traffic Management, Erosion Control and Rail Clearance

The work concerned in the contract may trigger permits, licences, clearances, or plans from the local or regional authority. Where it is necessary to obtain further paperwork from the relevant authorities, it will remain the responsibility of the customer unless Treescape is authorised by the customer to carry out this service in the contract.

M. Historic Sites and Areas of Archaeological, Scientific, Environmental, Religious or Cultural Significance

It shall be the responsibility of the customer to fully investigate all matters pertaining to historic sites and areas of archaeological, scientific, environmental, religious or cultural significance; to obtain all necessary plans, permits and consents, and to supply Treescape with all supporting documentation arising from their investigations. Treescape accepts no liability for damage to any site or area of significance that was not fully disclosed to us at the time of quoting.

N. Complaints

The customer must raise any complaint or dispute about the Services within seven (7) days of the performance of the Services. If the customer does not do so, it has fully accepted the Services and cannot raise any complaint or dispute connected with them.

O. Payment

The customer must make full payment to Treescape within seven (7) days of the invoice date (time being of the essence). The customer cannot deduct or withhold any amounts for any reason whatsoever. All accounts settled by credit card will attract a 2% fee. If the customer does not pay Treescape in full by the due date then interest is payable on any unpaid amount at the rate of 1.5% per calendar month (or part thereof) until the calendar month in which actual payment is received (including after any intervening judgment), compounding monthly. Also the customer must pay to Treescape any and all costs charges and expenses suffered or incurred by Treescape connected with enforcing or attempting to enforce Treescape's rights and remedies against, or collecting payment from, the customer (including legal costs on a solicitor/client basis as those costs are incurred).

P. Suspension of Services

Treescape can suspend providing services to the Customer if the customer breaches any of its obligations to Treescape or anything happens that Treescape reasonably considers will cause or may cause delays, hazards, or any danger to the safety of any person. Treescape will have no liability if it suspends providing the services under this clause. This includes (but is not limited to) losses of profits and losses of opportunity.

If Treescape is undertaking services for the customer which would be defined as construction work under the Construction Contracts Act, then the provisions of that Act will also apply, in particular section 72, in substitution for the two paragraphs under this section.

Q. Force Majeure

Neither party shall be liable for any default due to any event beyond their reasonable control. This includes (but not limited to) fire, flood, storm, adverse weather conditions, an act of God, war, terrorism, strike, lock-out, industrial action.

R. Severability

If any of these terms and conditions or their application becomes invalid or unenforceable in any way, this does not mean that the remainder of these terms and conditions are affected and they will remain enforceable to the greatest extent permitted by law.

S. Rights Cumulative

Nothing in these terms limits any other rights and remedies available to any party.

T. Cancellation Fee

Treescape reserve the right to charge a cancellation fee to cover lost time and costs associated with the contract if less than 12 hours notice of cancellation is given. The customer must pay that fee in accordance with the payment terms above.

U. Insurance Cover

Treescape holds Third Party and Public Liability Insurance cover.

V. Limitation

Treescape's liability arising from or in connection with providing services to the customer will be limited to:

- Reasonable and reasonably foreseeable costs, claims, liabilities, damages or losses directly caused by Treescape's actions or omissions; and
- Reasonable and reasonably foreseeable indirect, consequential or special loss, loss of profits, loss of contract, loss of opportunity, loss of goodwill, loss of use, however arising, in each case to the extent that policies of insurance held by Treescape respond to such losses; and
- A maximum total limit under (a) and (b) above of [\$2,000,000] in the aggregate.

Nothing in this clause affects your rights (if any) under the Consumer Guarantees Act 1993, unless you acquire services from Treescape for the purpose of a business, in which case you agree that the Consumer Guarantees Act 1993 will not apply and acknowledge that it is fair and reasonable that the parties are bound by this provision V.

Without limiting any liability or obligation expressly set out above, Treescape shall not be liable in connection with any head contract or variation between the customer and a third party unless Treescape has seen and agreed in writing to those terms.

If either party is found liable to the other (whether in contract, tort or otherwise), and the claiming party has contributed to the loss or damage, then the liable party shall only contribute to the extent of its proportionate liability.