

1. Definitions

1.1 The following expressions shall where the context admits have the following meanings:- "Buyer": the party named or implied as buyer overleaf; "Company": J B Landscape & Property Maintenance Ltd; "Conditions": these terms and conditions; "Contract": the contract for the sale of Goods made by the Company to the Buyer subject to the Conditions; "Goods": goods and/or services provided under the Contract; "Invoice Price": the total price stated as payable on the face of the invoice inclusive of Value Added Tax at the prevailing rate (where applicable); "Site": the location where the supply of the Goods is to take place; "Supply" and/or "Supplied": delivery (of goods) and/or performance (of services).

1.2 Headings are for ease of reference only and do not affect the interpretation or construction of these Conditions.

2. Incorporation of Conditions and Formation of Contract

2.1 All contracts of sale and supply of Goods that are the subject of the Contract made by the Company and the Buyer shall be deemed to incorporate these Conditions which shall prevail over and take the place of any other terms and conditions stipulated incorporated or referred to or contained in any purchase order or any other document of or communication from the Buyer in the course of negotiation.

2.2 No other agreement representation or promise of any kind shall form part of alter vary supersede or operate as a waiver of these Conditions or any of them unless expressly made or accepted by the Company in writing.

2.3 A contract on these Conditions shall be made when the Company accepts an order from the Buyer on these Conditions.

3. Quotations

Unless otherwise expressly stated in writing by the Company quotations are given and orders accepted on the basis that:

3.1 all prices are exclusive of Value Added Tax which will accordingly be charged (where appropriate) at the rate prevailing at the date of Supply of the Goods;

3.2 prices quoted expire 30 days after date of issue;

3.3 quotations do not constitute an offer to sell, contracts being formed pursuant to Condition 2.3 above and, in any event, even after Contract the Company shall be entitled without prior notice to adjust the stated price to take account of:-

3.3.1 any cost to the Company including reasonable storage charges resulting from delay by the Buyer in giving the Company sufficient information to enable it to Supply the Goods contracted for or resulting from any alteration made at the request of the Buyer in the specification of the Goods to be Supplied or in the place to which they are to be Supplied;

3.3.2 any increase in the cost to the Company of producing or delivering the Goods which occurs due to causes beyond the Company's control between the date of the Contract and the date when delivery is complete including but without limitation increases in wages materials production or other costs or fluctuation in currency exchange rates taxes or similar levies or duties;

3.3.3 any cost to the Company incurred as a result of the Company, its employees and agents being unable through no fault on its part to gain access to the Site to Supply the Goods.

4. Prices

4.1 Unless otherwise agreed in writing by the Company:-

4.1.1 all Goods are Supplied on a time and materials basis at the Company's current rates as amended from time to time; and

4.1.2 no builders' retention or discount will apply to the Invoice Price.

4.2 All requests for additional work and/or variations to the order shall be made in writing by the Buyer. Irrespective of whether such requests are in writing the Buyer agrees to pay the Company for such work and/or variations at the rates agreed or failing agreement in accordance with the provisions of Condition 4.1.

5. Delivery

5.1 Despatch or delivery dates of Goods are business estimates only and in no case is delivery or performance on or by a fixed date a term of the Contract. Late delivery or performance shall not be a ground for cancellation or refusal to take delivery and the Company accepts no liability for any loss or damage whatsoever and howsoever caused resulting from any delays in delivery in any circumstances.

6. Payment

6.1 The Invoice Price is due and payable in sterling net 30 days from the date the invoice is rendered ("the Due Date").

6.2 The Company shall be entitled to render invoices at such intervals it deems appropriate irrespective of whether or not all deliveries and/or services relating to the Goods have been supplied.

6.3 If full payment is not made by the Due Date:-

6.3.1 the Company shall be entitled to charge and receive interest on the unpaid balance at the rate of 3% above HSBC Bank PLC base rate for the time being as well after as before any judgment until full payment be made and the Buyer acknowledges that such rate is reasonable;

6.3.2 the Company may suspend any further Supplies under the Contract until payment is made (or without prejudice to any of its other rights) the Company may cancel the Contract in relation to such further Supplies and recover the Goods at the Buyer's expense.

6.4 If the Buyer delays or requests delay in fulfilment of the Contract by the Company for whatever reason or in any way defaults in its obligations to the Company or the Company has any reason to believe the Goods are in jeopardy or that the Buyer is unable to pay for the Goods then without prejudice to any other rights the Company will be entitled (as it deems appropriate to the circumstances) to claim interest as above and damages with interest thereon and/or recover the Goods at the Buyer's expense and/or terminate the Contract and/or forthwith sue for and receive payment in respect of the Goods already Supplied in accordance with the Contract and any other outstanding contracts.

6.5 Cancellation of any order forming the subject matter of the Contract for whatever cause can be made only with the Company's written consent and on payment of all costs incurred. No time or indulgence granted by the Company shall prejudice its rights or remedies.

7. Risk in the Goods

The risk in the Goods shall immediately pass to the Buyer upon Supply of the Goods to the Site or into the custody care or control of the Buyer or its agents and the Buyer thereafter shall be responsible for all claims actions and losses arising out of or in any way associated with the Goods.

8. Passing of Title

8.1 Unless and until the Company shall have been paid in full for the Goods comprised in the Contract:-

8.1.1 property in the Goods shall remain in the Company notwithstanding that the risk in the Goods has passed to the Buyer and notwithstanding that the Buyer may have possession of the Goods and the Buyer shall hold the Goods as bailee for the Company;

8.1.2 the Buyer will insure the Goods to their full replacement value without charge to the Company and shall indemnify the Company against any loss caused to it by virtue of the loss or damage of the Goods;

8.1.3 so long as property in the Goods does remain in the Company, the Company is authorised to enter the Site or the Buyer's premises for the purposes of recovering the Goods with or without vehicles;

8.1.4 upon the happening of any of the termination events set out in Condition 14 below payment of the purchase price shall become immediately due despite any credit period allowed by the Company to the Buyer and the Buyer shall cease to have any right to use or dispose of the Goods.

9. Defects

9.1 If the Buyer fails to give written notice to the Company within 7 days of the Supply of Goods, specifying any fault or dissatisfaction with the Goods then the Goods of the quality and quantity specified in the Contract shall be deemed to have been delivered to the Buyer and the Buyer shall be bound to pay for the same.

9.2 Defects in Goods shall be notified in accordance with the provisions of Condition 9.1, the Buyer being responsible to examine for defect upon delivery, and in any event the Company's responsibility to the Buyer in respect of defects shall be subject to such examination upon delivery whereafter the Company shall be responsible only to pass on, to the extent it is able, the benefit of any warranties or guarantees which the Company has received from the Company's supplier to the limit of such warranties and guarantees but shall have no further obligation to the Buyer.

10. Limitations of Liability

The Company limits its liabilities and obligations to the Buyer to the extent that the Company is able to pass on responsibilities from the Company's suppliers and shall have no greater responsibility or liability to the Buyer than the Company's suppliers have to the Company under the Company's purchase agreement with the Company's suppliers:

10.1 The Company does not exclude or restrict its liability for:-

10.1.1 death or personal injury to the extent it results from the negligence of the Company its employees' agents or sub-contractors or

10.1.2 direct physical damage to tangible property of the Buyer to the extent it results from negligence (subject to a limited liability in respect of any one incident to the Invoice Price net of Value Added Tax of the Contract relevant to which a claim arises and the provisions of the pre-able to this Condition 10).

10.2 Subject to Condition 10.1, subject also to Condition 9 and to Condition 10.2.1 and to the extent that any applicable statutory provisions shall not make it unlawful so to do, the obligations undertaken by the Company under these Conditions constitute the sole liability of the Company in respect of defects in the Goods and accordingly:-

10.2.1 save as herein provided all other conditions warranties statements representations as to description merchantability quality fitness or performance of the Goods expressed and implied by statute or common law and without limitation to the foregoing the implied terms conditions and warranties of the Sale of Goods Act 1979 ("the 1979 Act") and the Supply of Goods and Services Act 1982 ("the 1982 Act") or any re-enactment or statutory modifications thereof are excluded with the same effect as if the same were severally expressly set out and excluded Provided always that the Buyer is entitled in all cases to the Buyer's statutory rights under Section 12 of the 1979 Act and Section 2 of the 1982 Act;

10.2.2 the Company shall be under no liability in contract or in tort for any loss damage death or injury arising directly or indirectly from any defect or in failure of the Goods to fulfil the Buyer's functions or caused directly or indirectly by or resulting from the Goods or their use by the Buyer or any third party;

10.2.3 in no circumstances shall the Company be liable for any direct, indirect or consequential loss or loss of use of profits or contracts suffered by the Buyer or any third party arising out of or in connection with the subject matter herein.

10.2.4 in no circumstances will the Company accept liability for loss or damage due to or arising from the goods or services supplied to the Buyer's specifications drawings or other specific requirements unless such loss or damage results solely from the goods or services being defective due to the materials methods or workmanship not being in accordance with the said specifications drawings or requirements or to the negligence of the Company or its servants.

10.2.5 the exclusions set out above apply whether the purpose for which the Goods are purchased have been made known to the Company or samples have been supplied to the Company. Accordingly, the Buyer is responsible to ensure that the Goods purchased meet the Buyer's requirements and are fit for the Buyer's purpose.

11. Force Majeure

The Company shall not be liable for failure to perform or for delay in performing any of its obligations hereunder resulting from any cause beyond its control or due to any act or force majeure. Upon any such cause the Company shall give notice to the Buyer with reasonable promptness and be entitled to claim suspension of its obligations during the continuance of such cause, it being understood that the parties will use their best endeavours to remove or avoid such cause with all reasonable despatch.

12. Termination

If: (a) the Buyer shall make default in or commit any breach of any of its obligations to the Company; or (b) any distress or execution shall be levied upon the Buyer its property or assets; or (c) the Buyer shall make or offer to make any arrangement or composition with creditors or commit any act or bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against the Buyer or if the Buyer shall be a limited company an Administrator is appointed and any resolution or petition to wind up such company's business shall be passed or presented otherwise than for reconstruction or amalgamation; or (d) if a receiver over/ or administrator or administrative receiver of such company's undertaking property or assets or any part thereof shall be appointed

then and in any such event the Company shall have the right forthwith to determine any order then subsisting and upon written notice of such determination being posted to the Buyer's last known address any subsisting order shall be deemed to have been determined without prejudice to any claim or right the Company might otherwise make or exercise.

13. Waiver

No forbearance or indulgence on the part of the Company in enforcing these terms and conditions shall prejudice its strict rights hereunder nor shall be construed as a waiver thereof.

14. Severance

If any clauses in these terms and conditions or any part of any one of them is rendered void or unenforceable, then it shall be unenforceable to the extent that it is shown that it would not be fair or reasonable to allow reliance upon it and no further.

15. Non-Assignment

The Buyer shall not be entitled to assign or transfer (in whole or in part) or purport to assign or transfer the benefit of the Contract to any third party howsoever.

16. Notices

Notices or other communications required to be given by either party under these conditions shall be in writing and delivered personally or sent by first class post with recorded delivery, or by fax (confirmed by sender's fax acknowledgement) addressed to the intended recipient at the address set out overleaf (or at such other address as the parties may notify to each other in writing from time to time). Any notice or communication shall be deemed served immediately if delivered personally or given by fax (confirmed by sender's fax acknowledgement) or 2 business days after posting, (7 business days if to or from abroad sent by registered express post).

17. Arbitration

All Agreements between the Company and the Buyer shall be governed by English Law and any dispute difference or question between the Company and any Buyer with respect to any matter or thing arising out of or relating to any agreement between them shall be referred to the Arbitration of two persons one to be appointed by the Company and one by the Buyer or their umpire in accordance with the provisions of the Arbitration Act 1950 or any statutory modification or re-enactment thereof which may for the time being in force and such arbitration shall be a condition precedent to the commencement of any action at law.