

At Kiwi Landscapes we specialise in transforming outside spaces, Designing, Building & Planting Gardens in West London since 2003.

We look forward to working with you. Our terms and conditions which are set out below govern the contract between us.

OUR TERMS

1. THESE TERMS

1.1 What these Terms cover? These are the terms and conditions on which we will carry out the services we agree to provide to you and any products we purchase on your behalf.

1.2 Why you should read them? *Please read these Terms carefully before you confirm your Order with us.* These Terms tell you who we are, how we will provide services to you, how either one of us can change the contract or how we can end the contract, what to do if there is a problem and other important information. If you have any questions on these Terms, please contact us to discuss.

1.3 Definitions used in these Terms. The following definitions in this clause shall apply in these Terms:

Completion Date means the date the Works are intended to be completed as agreed between you and us from time to time.

Consumer means any person who enters into a contract with us for the provision of services for domestic and non-business purposes only.

Contract Sum means the sum owed to us under the contract for the completion of the Works as described further in Clause 5.1.

Our Intellectual Property as defined in clause 3.10.

Your Intellectual Property as defined in clause 3.11.

Order means your instruction to us agreeing the Quotation on these Terms.

Order Date means the date on which we send you a confirmation that we accept your Order.

Quotation means the written estimate together with any plans and/or drawings provided by us to you for the completion of the Works.

Site means the location where the Works are to be performed by us.

Start Date means the date that we shall commence the Works as agreed between us from time to time.

Terms means these terms and conditions.

Works mean the work to be carried out by us as set out in the Quotation together with any other work which we agree between us from time to time.

Writing when we use the words “writing” or “written” in these terms, this includes emails.

2. INFORMATION ABOUT US AND HOW TO CONTACT US

- 2.1 Who we are:** We are KIWI LANDSCAPES LIMITED a company registered in England and Wales. Our company registration number is 04638391 and our registered office is at Walkers Accountants Ltd, Suite 3, Aireside House Aireside Business Centre, Royd Ings Avenue, Keighley, West Yorkshire, England, BD21 4BZ. Our registered VAT number is 848 463 294. We provide landscaping and gardening services for residential and commercial spaces.
- 2.2 How to contact us:** You can contact us by calling our team at **020 8843 9795** or by writing to us at **info@kiwilandscapes.com** or Kiwi Landscapes Ltd, Patterson House, Canalside, Trumpers Way, Hanwell, W7 2BD.
- 2.3 How we will contact you:** If we need to contact you, we will do so by phone or by writing to you at the email address or postal address you have used to contact us. When we use the words “writing” or “written” in these terms, this includes emails.
- 2.4 UK based services.** Our website, catalogue and brochure are solely for the promotion of our services in the United Kingdom. Unfortunately, we do not accept Orders from addresses outside the UK.

3. QUOTATION

- 3.1 Site Visit** Before providing you with a Quotation for the Works you have asked us to carry out or quote for, we will, in most cases, unless the work is relatively straightforward, usually arrange a Site Visit at the Site, to carry out measurements and provide you with a Quotation for the necessary Works and materials.
- 3.2 How we take measurements:** All measurements that are taken in connection with the Works, as set out in the Quotation will be conducted on Site prior to the Site being cleared.
- 3.3** Where it is not possible to carry out all or some measurements on Site before Site clearance, due to obstructions or access restrictions or otherwise, we shall use our reasonable endeavours to provide an accurate Quotation based on the information and measurements available to us at the time.
- 3.4 How long before we give you a Quotation?** We aim to provide you with a Quotation within 10 days of the Site Visit.
- 3.5 How long does a Quotation last?** Any Quotation we produce will be valid for a period of 90 days from the date we send it to you, after which it will expire. If you wish us to carry out the Works after this, we may need to provide you with a revised Quotation.
- 3.6 What changes might be required?** The Quotation is a best estimate of price at the time it is made using all the information that was available to us, taking into account (if applicable) existing Site conditions and layout at the time of the Site Visit. We may on certain occasions have to provide you with a revised Quotation in the event that we later find inaccuracies in the measurements or matters come to our attention regarding the Site that were not clear at the time of the Site Visit.

3.7 What is included in a Quotation? Only the Works described in the Quotation are included. The supply of any additional materials or labour costs to carry out work other than stated within the Quotation is excluded.

3.8 How do you deal with Hazards? We will make allowance for those Hazards (as defined in clause 9.1) of which we are notified before submitting our Quotation. If we later discover additional Hazards, we will provide you with a revised Quotation. Further details of how we deal with Hazards can be found in Clause 9.2.

3.9 The Quotation shall exclude any work which is non-standard, for example:

- (a) excavation in or removal of any rock or concrete deeper than 150mm thick;
- (b) filling of wells, mines or shafts;
- (c) removal of any air raid shelters;
- (d) removal of asbestos;
- (e) removal of any chemicals;
- (f) removal or grinding of any tree stumps;
- (g) the re-routing of any services unless otherwise specified in the Quotation or agreed in writing between us.

3.10 Our Intellectual Property Any drawings and schematics provided by us to you free of charge for the purpose of providing you with a Quotation will form our Intellectual Property. Please do not use, reproduce or communicate these to a third party without our prior written consent.

3.11 Your Intellectual Property Any drawings and schematics provided by us to you which form part of our service to you and for which you have paid a fee in cleared funds will form your Intellectual Property.

4. OUR CONTRACT WITH YOU

4.1 How we will accept your Order: Once you are satisfied with our Quotation you can either let us know by phone or in writing. We will then confirm to you that we will carry out the Works and the Start Date and the date of this confirmation will be the Order Date. Our confirmation to you, the Quotation along with these Terms together form our contract with you. This is also the point at which the price contained in the Quotation will become the Contract Sum.

4.2 If we cannot accept your Order. If we are unable to accept your Order, for example due to insufficient resources or any error in the price or description of the Works or for any other reason, we will inform you of this as soon as possible.

5. PRICE AND PAYMENT

5.1 How is payment made? We reserve the right for larger projects to require an advance payment of 10% of the Contract Sum, before the Start Date. We will invoice you for the balance of the Contract Sum on an interim basis which is usually week by week and in arrear for the Works until the Works are completed. Each subsequent invoice shall be payable upon presentation of the invoice. We accept payment by Bank Transfer.

5.2 What about additional costs? If we invoice you for additional costs you incur during the course of the Works, either for additional work we have agreed between us or payments under clauses in these Terms, these will be payable upon presentation of the relevant invoice.

5.3 Changes to the price We will wherever possible check prices before accepting your Order. If the Contract Sum on your Order Date is less than the price stated in the Quotation, we will charge you the lower amount. If the Contract Sum on your Order Date is higher than the price stated in the Quotation, we will contact you for your instructions before we accept your Order. If we accept and process your Order where a pricing error is obvious and unmistakeable and could reasonably have been recognised by you as a mispricing, we may end the contract, refund you any sums you have paid and not perform the Works.

5.4 We will pass on changes in the rate of VAT. We are registered for VAT. If the rate of VAT changes between your Order Date and the Start Date, we will adjust the rate of VAT that you pay, unless you have already paid for the Works in full before the change in the rate of VAT takes effect.

5.5 Additional or 'ad hoc' unquoted work. We will do our best to set out the full cost of the Works to you in advance as part of the Quotation. Any additional, or 'ad hoc', work that is agreed between us from time to time, or that we have to carry out to meet our obligations under these Terms or any other contractual or legal obligation that we have with you or a third party, will be invoiced separately.

5.6 Interest for late payment. If you do not make any payment to us by the due date, we may charge interest to you on the overdue amount at the rate of 8% a year. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You will have to pay us interest together with any overdue amount.

5.7 What to do if you think an invoice is wrong. If you think an invoice is wrong, please contact us as soon as possible to let us know. You will not have to pay any interest until the matter is resolved. We will then charge interest on correctly invoiced sums from the original due date.

6. YOUR RIGHTS TO MAKE CHANGES

6.1 If you want to make changes. You may wish to make changes to your Order. In the event that you do, please write to us as we can only accept changes in writing to avoid miscommunication between us. Please also contact us as soon as possible so that we can tell you if what you have in mind is possible.

6.2 How we will address your changes? Where the proposed changes are of a similar nature to the Works, we will aim to retain the cost breakdown set out in the Quotation. Otherwise we will provide you with a revised Quotation valued at fair rates and prices at that time and any additional payment due to us or any extension to the Completion Date shall be added to the Contract Sum and Completion Date respectively.

6.3 Confirmation of changes. Before we implement your proposed changes, we will ask you to confirm, in writing, whether you wish to go ahead. We expect you to respond without delay and in any event within 48 hours to enable us to complete the Works in good time and avoid unnecessary delays for which we will not be liable. In the event that we do not hear from you within this time, we will be entitled to assume you no longer wish to proceed with the proposed changes.

6.4 What if we cannot agree to your changes? If we cannot make the change or the consequences of making the change are unacceptable to you, you may want to end the contract, details of how to do that are found in Clause 14.

7. OUR RIGHTS TO MAKE CHANGES

7.1 Minor changes to the Works. We may change the Order to reflect changes in relevant laws and regulatory requirements and to implement minor technical adjustments and improvements.

7.2 More significant changes to the Works and these Terms. In addition, we may make some changes to these Terms or the Works. We will always notify you of significant changes in advance and you may then contact us to end the contract and receive a refund for Works not yet carried out.

8. CARRYING OUT THE WORKS

8.1 While we aim to always complete the Works within the time agreed between us, there will be certain circumstances in which that is not possible.

8.2 When do we start? The **Start Date** will be the date that we will begin the Works as agreed between us.

8.3 If we are delayed by other parties. We expect to provide the Works unimpeded by and not reliant on third-party contractors other than those expressly recommended or arranged by us. If the Works are delayed as a result of third-party contractors, not recommended or arranged by us, we reserve the right to charge an additional fee not exceeding the sum of £500 plus VAT per day. This sum may be chargeable regardless of the duration of the delay on any given day.

8.4 We may have to suspend the Works to:

- (a)** deal with technical problems;
- (b)** update the Quotation to reflect changes in relevant laws and regulatory requirements;

(b) make changes to the Quotation as requested by you or notified by us to you (see Clause 6 and Clause 7.2).

8.5 Your rights if we suspend the Works. We will contact you in advance to tell you we will be suspending the Works, unless the problem is urgent or an emergency. You may contact us to cancel the Order if we suspend the Works, or tell you we are going to suspend them, in each case for a period of more than 8 weeks and we will refund any sums you have paid in advance for Works not yet carried out but you shall be responsible for any costs or liability we may have incurred on your behalf prior to your cancellation including without limitation sums for any materials relating to the Works.

8.6 We may also suspend the Works if you do not pay. If you do not pay us for the Works when payment is due (see Clauses 5.1 and 5.2) and you still do not make payment within 48 hours of us reminding you that payment is due, we may suspend the Works until you have paid us the outstanding amounts. We will contact you to tell you if we are suspending the Works. We will not suspend the Works where there is a legitimate dispute regarding the unpaid invoice (see Clause 5.7). We will not charge you for the Works during the period for which they are suspended unless we incur a cost as a result of such delay or suspension.

9. YOUR OBLIGATIONS TO US

9.1 Hazards. It is important that you have provided us with all necessary information regarding the condition of the Site in order for us to carry out the Works. You promise that the Site is free from springs, flooding, rock, tree stumps not specified to be removed, mine workings, covered wells or other cavities, running sand, service pipes and cables, sewage or land drains, bomb shelters, foundations or other Hazards or other obstructions which are not discoverable upon visual inspection of the surface of the Site or made known to us in writing prior to the submission date of the Quotation.

9.2 How do we deal with Hazards? We reserve the right to charge a reasonable fee for any additional work necessary resulting from the discovery of such Hazards and we shall use reasonable endeavours to notify you of such charges in advance but you accept that this may not always be possible given the manner in which Hazards can often make themselves known whilst we are on Site and you agree to make payment of such charges in any event.

9.3 Lines and boundaries. You agree that you shall confirm to us the line of the boundaries, underground cables and pipes located at the Site before the Start Date. We cannot accept responsibility for any losses or future disputes which you may have with the owner(s) of neighbouring properties or other parties as a result of the Works carried out by us at the Site.

9.4 Facilities. You agree to provide access to water, electricity and toilet facilities wherever possible at your own cost for use by our team members in carrying out the Works.

9.5 Access to the Site. You agree to provide us with proper and adequate access to the Site at all times to allow us to carry out and complete the Works without interruption so that we may carry out the Works as swiftly and as cost effectively as possible. In particular, the Site and electricity and water facilities must be accessible to us from Monday to Friday for the duration of the Works. We will not require access to the Site and will not provide the Works at weekends or on public or bank holidays unless otherwise agreed in advance.

9.6 Permissions and consents. You are responsible for obtaining any permissions, permits and consents required for us to carry out work that you have instructed us to undertake. These include but are not limited to planning permission required, including the preparation and submission to the local authority of any necessary applications in relation to the Works to be carried out at the Site, compliance with all other relevant regulations relating to building controls, changes to drainage systems, installation of sheds or summerhouses, decking, consents required for tree felling the erection of fences, walls and gates of a particular height. We do not accept responsibility for any loss or damages incurred as a result of failed planning permission or you having to obtain planning permission in retrospect or your failure to comply with any such orders, permissions or regulations.

9.7 Your style and colour preferences. We will need certain information from you so that we can provide the Works to you, for example, your style and colour preferences. We will contact you in writing to ask for this information. If you do not, within a reasonable time of us asking for it, provide us with this information, or you provide us with incomplete or incorrect information, we may either end the Order (see Clause 15) or charge a reasonable amount to compensate us for any extra work that is required as a result. We will not be responsible for providing the Works late or not providing any part of the Works if this is caused by you not giving us the information, we need within 7 days of us asking for it.

9.8 Furniture and valuables. When we access the Site, our team is always mindful that they are passing through what may be your home, but the nature of the Works requires tools and equipment that cannot always be practicably carried to the Site. We ask that you clear the way to the Site as much as possible of any valuables, fragile items or pieces of furniture. We will not be responsible for lost or damaged items that have not been cleared to enable access to the Site.

9.9 Access Restrictions. Please let us know of any access restrictions to the Site no later than 21 days in advance before the Start Date. If we encounter any restrictions to the Site at shorter notice, we reserve the right to charge an additional fee not exceeding the sum of £500 plus VAT per day to compensate for any disruption. This sum may be chargeable regardless of the duration of the delay on any given day.

9.10 Parking. We ask that you ensure access to parking at your own cost including contacting your local council to request a parking permit or parking bay suspension, if necessary. Any parking fees or fines, accrued during the time the Works are being carried out at the Site, are to be paid by you. We will use reasonable endeavours not to incur unnecessary fines during the time of the Works.

9.11 Family safety. Our team is always mindful of their surroundings but due to the nature of the Works and the tools used, we ask that you look after the safety of any children, family members, pets and visitors present on the Site at all times while the Works are being carried out.

9.12 Waste Unless we agree otherwise in writing, including where we have specifically agreed to undertake waste removal in our Quotation, you will be responsible for the removal of all waste materials from the Site following completion of the Works.

10. OUR RESPONSIBILITIES TO YOU

- 10.1** We will carry out and complete the Works described in the Quotation with reasonable care, skill and diligence.
- 10.2 We are responsible to you for foreseeable loss and damage caused by us.** If we fail to comply with these Terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaching these Terms or our failing to use reasonable care and skill. We cannot, however, be responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the Order was made, both we and you knew it might happen, for example, if you discussed it with us during the Site Visit.
- 10.3 We do not exclude or limit in any way our responsibility to you where it would be unlawful to do so.** This includes responsibility for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors or fraud or fraudulent misrepresentation.
- 10.4 When we are responsible for damage to your property.** If we are providing the Works in your property, we will make good any damage to your property caused by us while doing so. However, we are not responsible for the cost of repairing any pre-existing faults or damage to your property that we discover while providing the Works.
- 10.5 Our insurance cover.** In the event that we are responsible for any breach of these Terms, we will pay you damages in respect of such breach up to the value of the Contract Sum.
- 10.6 Business Losses.** We are not responsible for business losses. We only supply the Works for domestic and private use. If you use the Works for any commercial, business or re-sale purpose we will have no responsibility to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.
- 10.7 Events outside of our control.** If our performance of the Works is affected by an event outside our control, including but not limited to adverse weather conditions, strikes, lock-outs, war or other hostilities, then we will contact you as soon as possible to let you know and we will take reasonable steps to minimise the effect of the delay. Provided we do this we will not be responsible for delays caused by the event. If there is a risk of substantial delay you may end your Order by contacting us.
- 10.8 Efflorescence.** We will not be responsible for the fading of colours due to efflorescence which is a natural condition producing very small white particles covering the surface of concrete products.
- 10.9 Weather damage.** Wood is a natural product and is therefore susceptible to certain changes in an outdoor environment. Extremes of temperature or weather conditions may cause a number of changes in the wood. Certain conditions may cause features to split, lose shape or warp. This is natural and in all but the most extreme cases, normal shape will be resumed. We are not responsible for such changes to the wood as these are outside of our control.

10.10 Artificial lawns. If the Works involve the laying of artificial lawns, you are advised that where such lawns are wider than 4 metres, they will have a join and may be visible to some degree. This is unavoidable, and we accept no responsibility for such matters. We also accept no responsibility for moss or weeds which may appear in artificial lawns over time, which is natural and not related to the installation process.

11. MATERIALS

11.1 Incorporated materials. Where any materials have been incorporated into the Works or the Site, the title in such materials and goods shall pass to you immediately upon their installation, even if the value of such materials and goods may not have been included in any payment received by us from you.

11.2 What happens if you reject materials? If you previously approve any materials to be used for the Works (whether as part of the Quotation or otherwise) and you later reject those materials after we have purchased them on your behalf, we reserve the right to charge an additional restocking or handling fee not exceeding the sum of £500 plus VAT.

11.3 When do materials become yours? Unfixed materials and goods delivered, placed on or adjacent to the Site and intended for use in connection with the Works shall remain our property until the value of such materials and goods have been included in an invoice and the amount has been paid in full when such materials and goods shall become your property.

11.4 Excess materials. All materials brought on the Site by us which prove to be either in excess of your requirements, or not necessary for any other reason, shall remain our property and shall be removable by us. We reserve the right to enter the Site for that purpose, at a time agreed with you in advance, as soon as possible after the Completion Date.

11.5 Natural variation. Natural products may show some colour, texture or spatial variations. While we aim to accommodate for this, we cannot guarantee that supplied materials are exact representations of any samples provided.

11.6 What to do if you are not satisfied because of a natural variation. If you are not satisfied with the final result of the Works due to the colour, texture or spatial variations, please let us know as soon as possible. If possible, we will provide you with a Quotation for either the modification, replacement or removal of that part of the Works which you are not satisfied with and this will be charged separately, depending on the nature of the work required.

11.7 Substitutes. If a particular variety (i.e. species or cultivar) is not available at the time of your Order, we will use reasonable endeavours to find a suitable substitute.

12. MAINTENANCE AFTER COMPLETION

12.1 What is included? We will include in your Quotation the fees for the initial installation of planting and grass areas. We will water plants, trees, shrubs and turf on the day of installation (if necessary) provided we have access to functional outdoor taps. It is your responsibility to care for the watering of plants, trees, shrubs and turf after we complete the Works.

12.2 Terracotta and stone. In extreme changes of weather conditions, certain plants and materials such as terracotta, natural stone and other paving can be adversely affected, suffering damage if not protected. You should take the necessary precautions to prevent such damage.

12.3 Roots. We do our best to advise where roots may be an issue, but you must do your own due diligence as root growth is beyond our control. We would be happy to assist you with problems, if they arise, but this work will be separately chargeable.

12.4 Irrigation. As part of the Works we shall test and program your irrigation system, if needed. Your irrigation system will however require periodic maintenance and upkeep to ensure it continues to run optimally. This is available from us on request and agreed between us in writing and this work will be separately chargeable.

13. IF THERE IS A PROBLEM WITH THE WORKS

13.1 How to tell us about problems? If you have any questions or complaints about the Works, please contact us as soon as possible and we will work hard to try and resolve this between us as swiftly as possible. You can contact us by at calling our team at **020 8843 9795** or by writing to us at **info@kiwilandscapes.com** or Kiwi Landscapes Ltd, Patterson House, Canalside, Trumpers Way, Hanwell, W7 2BD.

13.2 Summary of your legal rights. If you are a Consumer the following is a summary of your key legal rights when you make an Order with us.

Summary of your key legal rights

This is a summary of your key legal rights. These are subject to certain exceptions. For detailed information please visit the Citizens Advice website www.adviceguide.org.uk or call 03454040506.

The Consumer Rights Act 2015 says:

- (1)** you can ask us to repeat or fix a service if it's not carried out with reasonable care and skill or get some money back if we can't fix it.
- (2)** if you haven't agreed a price beforehand, what you're asked to pay must be reasonable.
- (3)** if you haven't agreed a time beforehand, it must be carried out within a reasonable time.

14. YOUR RIGHTS TO END THE ORDER

14.1 You have the right to change your mind. Within 14 days after the day we email you the confirmation of your Order, you have the right to change your mind and cancel the Order without the need to provide a reason. However, once we have completed the Works you cannot change your mind, even if this period is still running. If you cancel after we have started the Works, you must pay us for the Works provided up until the time you tell us that you have changed your mind.

14.2 What happens if you have good reason for cancelling the Order? If you cancel the Order for a reason set out at (a) to (e) below the contract between us will end immediately and we will refund you in full for any Works which have not yet been carried out or have not been properly provided. The relevant reasons are:

- (a) we have told you about an upcoming change to the Works or these Terms which you do not agree to;
- (b) we have told you about an error in the price or description of the Works you have ordered, and you do not wish to proceed;
- (c) there is a risk the Works may be significantly delayed because of events outside our control;
- (d) we suspend the Works, or notify you are going to suspend them, in each case for a period of more than 8 weeks; or
- (e) you have a legal right to cancel the Order because of something we have done wrong.

14.3 What happens if you cancel the Order without a good reason? If you cancel the Order for a reasons not set out in Clause 14.2, the Order will end immediately but we may charge you reasonable compensation for costs we have incurred or will incur as a result of your ending the contract with us.

14.4 Model cancellation form You can end your contract with us by telephone or email providing us with details about your contract with us and your reasons for cancelling. You can also use the model cancellation from below.

MODEL CANCELLATION FORM
(Complete and return this form only if you wish to cancel the Order)

To Kiwi Landscapes Limited,
info@kiwilandscapes.com
 020 8843 9795

I/We hereby give notice that I/We cancel my/our Order for the following Works,

Ordered on
 Name
 Address

Signature (only if this form is notified on paper),
 Date

15. OUR RIGHTS TO END THE CONTRACT

15.1 What happens if you breach the contract? We may terminate the contract between us at any time by writing to you if you breach it in any of the following ways:

- (a) you do not make any payment to us when it is due, and you still do not make payment within 48 hours of us reminding you that payment is due;
- (b) you do not, within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the Works, for example, your style and colour preferences;
- (c) you do not give us access to the Site to enable us to provide the Works to you in accordance with Clause 9.5.

15.2 You must compensate us if you breach the contract. If we end the contract in the situations set out in Clause 15.1 we will refund any money you have paid in advance for the Works we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of your breaking the contract.

15.3 We may stop providing the Works. We may write to you to let you know that we are going to stop providing the Works. We will let you know in advance of our stopping the Works and will refund any sums you have paid in advance for Works which will not be carried out.

16. OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED IF YOU ARE A BUSINESS CUSTOMER

16.1 This Clause 16 applies to you only if you are a Business Customer. **Business Customer** means either a person, firm or company who enters into a contract with us for the provision of services and is not a consumer.

16.2 Clauses 10.2 to 10.4 do not apply to Business Customers.

16.3 Nothing in these terms shall limit or exclude our liability for:

- (a) death or personal injury resulting from negligence;
- (b) any damage or liability incurred by you as result of fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
- (d) any other liability that cannot be excluded or limited by English law.

16.4 Subject to Clause 16.3:

- (a) We shall under no circumstances whatsoever be responsible to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profits, sales, business or revenues, loss of business opportunity, loss of goodwill, loss of anticipated savings, loss of or corruption of data, or any indirect or consequential loss arising under or in connection with the Order; and

(b) Our total liability in contract, tort (including negligence and breach of statutory duty), misrepresentation, restitution or otherwise arising out of or in connection with the performance or contemplated performance of your Order shall be limited to the Contract Sum.

16.5 All warranties, conditions and other terms implied by statute or common law, including but not limited to the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded.

16.6 This Clause 16 shall survive termination or expiry of the contract between us.

16.7 These Terms, together with the Quotation and the Order, constitute the entire agreement between us and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

17. HOW WE MAY USE YOUR PERSONAL INFORMATION

17.1 How we will use your personal information. We will only use your personal information as set out in our Privacy Policy. You can find our Privacy Policy on our website at <https://www.kiwilandscapes.com/privacy-policy>.

18. OTHER IMPORTANT TERMS

18.1 We may transfer the contract to someone else. We may transfer our rights and obligations to another organisation or business. We will contact you to let you know if we plan to do this. If you are unhappy with the transfer, you may contact us to end the contract within 7 days of us telling you about it and we will refund you any payments you have made in advance for Works not carried out.

18.2 Nobody else has any rights under the contract. This contract is between you and us. No other person shall have any rights to enforce any of its terms. Neither of us will need the consent of any person to end the contract or make any changes to these Terms.

18.3 If a court finds part of these Terms unlawful, the rest will continue to be in force. Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

18.4 Even if we delay in enforcing these Terms, we can still enforce them later. If we do not insist immediately that you do anything you are required to do under these Terms, or if we delay in taking steps against you in respect of your breaching these Terms, that will not mean that you do not have to do those things or prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you, but we continue to provide the Works, we can still require you to make the payment at a later date.

Which laws apply to the contract and where you may bring legal proceedings. These Terms are governed by English law and you can bring legal proceedings in respect of the Works in the English courts.

18.5 Alternative dispute resolution. If you submitted a complaint to us in accordance with clause 13.1 of these Terms and we have not been able to resolve this between ourselves, then we will work with you through an alternative dispute resolution process to settle the matter between us. If you have a complaint about our services to you then in the first instance Alternative dispute resolution is a process where an independent body considers the facts of a dispute and seeks to resolve it, without you having to go to court. If you are not happy with how we have handled any complaint, you may want to contact the alternative dispute resolution provider we use. You can submit a complaint to CEDR via their website <http://www.cedr.com/>