



**Standard Terms & Conditions for Gardening & Landscaping Works**

**Date:**

**Client:**

**Estimate Number:**

**Project booked to commence:**

1. The term client shall mean who will be responsible for all payments to the contractor, **MBS Gardens**, unless otherwise notified in writing prior to commencement. Bank details for transfer can be found with the payment schedule (page 2)
2. All work undertaken will be discussed and agreed prior to the start date and all work will be completed from the original estimate by **MBS Gardens** unless otherwise agreed – please check your estimate carefully.
3. The estimate/original price for work includes all materials, labour and VAT where stated from original agreement – see further clauses for exceptions/variations.
4. The client shall always provide access to the site and storage space for materials during the works progress – where MBS Gardens are required to store materials provision must be made for time to transfer to and from site.
5. **MBS Gardens** is not able to accept responsibility for any damage to (or cost involved with) any underground hazards, obstructions or services not made known to us in writing or obviously apparent on visual inspection.
6. It is the responsibility of the client to check the detailed description of works **BEFORE** signing the terms and conditions to ensure that this is accurate and meet their expectations. Any omissions or errors will not be the responsibility of the contractor once the contract is signed by the client.
7. The client will be responsible for all payments, together with any VAT, if applicable, to **MBS Gardens**, unless otherwise notified in writing prior to commencement
8. The total amount for the project (**CONTRACT SUM**) is **estimated** at **£**
9. ~~Once you have agreed to book in a project with us, we will ask for a payment of £100 to secure your project start date if the project is being booked into the future more than 4 weeks.~~
10. A mobilisation payment is payable prior to the commencement of any large projects. We will usually request this 2 weeks before the project starts unless otherwise agreed. The mobilisation payment will be used to purchase any materials

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necessary for the construction of the work/arrange disposal or hire machinery. If this amount is not paid on the date requested, this may delay the start of the project for which **MBS Gardens** is not responsible. Should the client end the agreement during the schedule of works, the mobilisation payment is non-refundable but all materials purchased will remain the property of the client, providing payment for existing work has been received.

11.All project durations are estimates and may be affected by any of the provisions mentioned in subsequent clauses.

12.Payment schedules for projects of 4 weeks or less are as follows. The schedule applicable to your project has been highlighted and figures added:

Projects up to 2 weeks	No mobilisation payment required	Full balance upon practical substantial completion:
Project 2 weeks	Mobilisation payment due 2 weeks prior to commencement:	50% of remaining balance payable at the end of week 1: Remaining balance upon practical substantial completion:
Project 3 weeks	Mobilisation payment 2 weeks prior to commencement or immediately if project is due to commence sooner:	33% of remaining balance payable at the end of week 1: 33% of remaining balance payable at the end of week 2: Remaining balance upon practical substantial completion:
Project 4 weeks	Mobilisation payment 2 weeks prior to commencement	25% of remaining balance payable at the end of week 1 25% of remaining balance payable at the end of week 2 25% of remaining balance payable at the end of week 3 Remaining balance upon practical substantial completion

13.For projects of 4+ weeks a bespoke payment schedule will be written and finalised in conjunction with the client. All payments to be made to **MBS Gardens**  
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14.If it becomes reasonably apparent to the contractor that the progress of the works is being delayed and/or the works will not be completed in a satisfactory timeframe, the contractor shall within 7 days of any event or occurrence, giving rise to such delay, notify the client of the cause and duration of such delay. The project will be extended by a fair and reasonable amount of time if the contractor:

a) Has to spend extra time completing the works because of variations made to the specification by the client.



- b) The works are delayed by any act or omission of the client.
- c) Cannot finish the works on time for reasons beyond his control such as excessively adverse weather conditions, and/or variable site conditions and/or any delay caused by the client, any other companies and/or late delivery of supplies to site. Please note, certain materials can NOT be installed in rain/frost or snow such as resin, render and some grouting solutions. If your project includes these items, please be aware delays may occur during inclement weather.

15. The contractor shall be entitled to claim any reasonable additional costs incurred because of the schedule being extended due to any events above, where they are within control of the client, and these shall be added to the contract sum where necessary.

16. We will be entitled to suspend performance of, or terminate the contract if the client fails to pay any sum due to us, in accordance with the payment terms, or is in breach of these terms, or becomes bankrupt, in which case we shall be entitled to payment for all the work carried out and for all goods supplied to the date of the termination or suspension of the contract, and to retain any deposit or interim payment made towards this.

17. We understand and will exercise our statutory right to claim interest and compensation for debt recovery costs under the late payment legislation if we are not paid according to agreed credit terms. Payment methods are by bank transfer, cash and debit or credit card via chip and pin. A surcharge of 2% will be added for card administration fees. If cash is paid, a written receipt will be given.

18. Late payment of invoices for completed works, beyond our payment terms, will be subject to monthly interest charges of *8% above the Bank of England base rate* (on all outstanding amounts). In addition, a £50.00 administration charge will be added to each subsequent invoice, limited to one per month.

19. The work is considered 'substantially complete' when all items as agreed have been constructed, installed, or disposed of (if this is agreed in the estimate) Substantial completion shall not include additional materials, adjustments, repair, replacement, or cleaning of any item so constructed or installed after final inspection. Requests for adjustment, repair, replacement, or cleaning of any constructed or installed item must be made **IN WRITING** and shall not be the cause for delay of final payment, but rather shall be considered warranty items.

20. Title to the materials only passes to the client when full payment has been made upon **PRACTICAL SUBSTANTIAL COMPLETION**.

21. Material costs have been calculated based on the current prices for labour, equipment, and the component materials. However, give the current climate, the market for landscaping materials is currently volatile due to Covid-19 recovery and Brexit. Labour shortages are possible and sudden price increases could occur. If prices have escalated due to supply and demand issues, material shortages occur, labour becomes unavailable, or any other event beyond Contractor's control the



Contractor will notify the client as soon as the issues become apparent and, if the client wishes to continue with the scheduled works, the contractor will be entitled to an equitable adjustment in the contract sum – which will be provided in writing to the client by way of a **VARIATION ORDER**. Should the client wish to cease works due to cost increase, the client is still liable to pay the balance for any works already undertaken.

22. Some materials, such as paving, will be purchased with a recommended 10% increase in volume to mitigate for damage/breakage, as is standard. Any materials that are surplus to the work will remain the property of the client and will not be removed from site upon completion unless otherwise agreed – only once the contract sum has been paid in full.

23. Any additions or alterations to the schedule of works, **AT THE POINT OF PRACTICAL SUBSTANTIAL COMPLETION**, outside of the description of the works on the written estimate, shall be treated as a separate project and will be estimated for, priced and scheduled in their own right. The balance, therefore, of the original project will be due – prior to the acceptance of additional works, for which a separate estimate and terms and conditions will be issued.

24. Any requests made by the client that are against either the advice of the contractor or materials manufacturers guidelines will, in most cases, not be carried out. Should the client request any such works this will only be considered where a waiver is in place and signed by the client that should any issues arise from the installation, **MBS Gardens** are not responsible.

25. Any addition and/or alterations to the schedule/project **DURING** the works shall be properly treated as variations and subject to written instructions and additional payments may be required to cover the agreed changes.

26. If the client adds extra work to the planned project, **AT ANY POINT DURING THE PROJECT**, then this will be chargeable, and **MUST** be requested in writing by the client. If the measurements given for the garden, by the client, are incorrect, then again, any extra labour and materials will be noted and charged to the client.

27. Obstacles, i.e. rubble, waste or tree stumps, which are uncovered during site preparations, which are not made known to us, or are unknown to the client may incur additional costs and affect the length of the works.

28. Any additions to the original description of works will be subject to the satisfactory completion of a **VARIATION ORDER** to be signed and agreed by both the client and **Michael Bell-Saunders** before any additional works will be carried out or changes made to the planned project.

29. While **MBS Gardens** makes every effort to have the full team on site each day, given the current material shortages and delivery delays, one or more members of staff may need to be absent from site to collect/transfer/source materials as the availability of such items are currently changing daily. Depending on the estimate



content, some items may be constructed off site at our workshop. An example of this, would be bespoke woodwork – this is common on smaller sites, where space is at a premium or for health and safety reasons.

30. It is the contractor's policy to reduce unnecessary landfill and waste. Where possible, suitable materials will be recycled on site. This in no way affects the quality of work supplied but has a positive effect on the environment and in most cases offers savings on project costs.

31. All, or any, special conditions, of which **MBS Gardens** has been informed are noted in the estimate, where applicable. If, on inspection of your estimate, something does not appear, it is the client's responsibility to notify us before work commences.

32. We are **NOT** able to accept responsibility for the well-being and maintenance of living plant material, including turf, following practical substantial completion. If necessary, we reserve the right to substitute any plant/turf with another of equal value and growth/habitat/colour in accordance with the specification.

33. After practical substantial completion, we are **NOT** able to accept responsibility for any damage through the elements, including drought, winds, rain or frost. We will also **NOT** accept responsibility to damage caused by animals/pet/pests to any material(s) including plants.

34. Upon practical substantial completion the responsibility for the care and watering of all plants, lawns, etc. is handed over to the **CLIENT** and will require regular attention until established. Great care is taken to remove all weeds/roots from the site when being prepared; **MBS Gardens** cannot accept responsibility for subsequent weed growth on completion of the project. We will provide turf care advice on completion of your project via email.

35. It is very important, and the sole responsibility of the client, to ensure we are made aware of any special/statutory bylaws/conditions/permissions that may be involved in the works.

36. We accept no responsibility for works that have been carried out on land that is not under the ownership of the client and it is assumed that all planning laws or regulations have been applied before commencement of any works.

37. The client should inform the contractor regarding any springs, flooding, rock, mine workings, covered wells, drainage issues or other cavities, running sand, service pipes and cables, sewage or land drains, pest problems such as ants, bees or wasps, foundations and sub-structures of former buildings or other hazards or obstructions except those which are reasonably apparent by inspection of the site prior to the date of the contract. **MBS Gardens** cannot accept any liability for any sub-surface issues or subsume any costs to rectify these issues should they arise after the estimate has been accepted.

38. Where reasonable inspection of below ground conditions is not possible prior to commencement of the project, the contractor reserves the right to make fair and



reasonable charges for extra costs arising from poor underground conditions, obstructions, pests or objects that need to be managed appropriately during the project.

39. The 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 hereof. No oral promises or agreements form a part of this contract. Any additions/scope creep/alterations – at any point – during the schedule of works without a written request and confirmation from **MBS Gardens** will not be actioned.

40. Maintenance is not included in the contract unless specified. Please discuss terms if you would like a separate quote for regular maintenance.

41. We shall not be liable for any defects arising from the client's own action or lack of care, including without limitation, inadequate watering, deliberate damage, placing excessive weight on newly laid paving/porcelain, removal of materials, damage due to pets or other abuse or damage caused by the client.

42. During the process of the contract, we will endeavour to liaise with you, at regular intervals, regarding the progress made or any issues that may arise. It is important that someone who is **AUTHORISED** to make decisions regarding the contract is available.

43. Should the client wish to make any form of complaint, this must be done, **IN WRITING** no more than **7 DAYS** after **PRACTICAL SUBSTANTIAL COMPLETION** and **MBS Gardens** will be more than happy to investigate any concerns.

44. Should an issue warrant remedial action, **MBS Gardens** reserve the right to revisit the site, in conjunction with the person who signed the terms and conditions, to remedy any issues before any further action is taken by the client. Should a resolution not be reached **MBS Gardens** will request the intervention of an ADR professional or direct the client to this service.

45. Cancellation of work not received within 5 working days of scheduled start of work will be subject to a charge of 15% of the quoted price. If the original price included a materials payment, this amount will be non-refundable, as materials would have already been ordered and purchased.

46. If you accept these terms and conditions, we request the right to use photographs of the garden (before, during and after construction) in promotional material. Such promotional material will not include any personal information and **MBS Gardens** will always ask before its use.

47. Quality of all work will be in accordance with constructional and horticultural practice and that materials supplied will be suitable for their intended use. Where normal ground conditions prevail and the client accepts the installation methods approved by the contractor, the contractor warrants a 12-month defects period from the date of practical completion for any workmanship found and proven to be

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defective due to any cause other than neglect, damage, or theft. The contractor is unable to offer guarantees for products supplied outside its own manufacture. Unless otherwise stated, timber supplied will be pressure treated. It should be noted that timber products can be prone to some natural movement and warping in extreme weather conditions for which the contractor can accept no liability.

48. **MBS Gardens** reserve the right to make changes to or amend these terms and conditions at any point.

49. Errors and omissions excepted.

**Client**

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Contractor**

Signed:

Print Name: Michael Bell-Saunders

Date: