

TERMS & CONDITIONS

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mackay

looking after your environment

TERMS & CONDITIONS

1. DEFINITIONS

The Contractor (I, we, us, our) is A & S Mackay t/a 'mackay gardening services'

The Client (you, your) is the purchaser of goods or services, or your agent(s)

Dayworks (hourly rates, man-hours, mhrs) means work for which our standard hourly rates apply (a firm fixed total price has not been agreed). Task rates vary by task type (current rates available on request). Travel time and expenses, e.g., man hours, waste-disposal time, fees, and any chargeable material expenses, are levied over and above the onsite hourly rates.

Estimates, where provided, unlike quotes, should be seen as an informal indication of the anticipated cost of carrying out a particular piece of work (both labour and materials). The price given in the estimate will potentially vary, either up or down, as more detail of the proposed work becomes apparent, and as such estimates should not be seen as contractually binding.

The Service (service level) is the agreement of the scope of the work, and the structure of the rates, made between the Client & the Contractor. This can be for fixed-rate work or dayworks. Where no fixed rate has been put in place, and the Client has asked us to progress with work, it is considered that the Client agrees to settle on the basis of our standard dayworks rates.

Weed spraying. Unless otherwise defined in quotes or other agreements, weed spraying should generally be taken to mean 'spraying of glyphosate-based total weedkiller over hard surfaces' (note- other chemical types / functions are available and would be defined as such)

2. DURATION

The works carried out shall by default, unless stated or agreed otherwise (e.g., in the case of contracts spanning more than one year, or in year-round tasks), take place within the following seasonal timeframes:

- Summer work (e.g., grass cutting and application of glyphosate), will generally be conducted between April and November.
- Winter work (e.g., application of salt etc.), will generally be conducted between early December through to mid-March.

Unless otherwise defined (by you or us) we will assume that you want regular work with repeating visits, such as cutting grass, to be done every year. We will continue with the work each year, unless you inform us otherwise, and may implement minor price variations from year to year (see section 3).

3. VARIATIONS, RENEWALS & EXPENSES

Quotes may be issued verbally, by email, using online software, or as a 'hard copy' in the post.

Work rates and prices are by default reviewed annually (around Jan-March for summer work, and Aug-Oct for winter work). Prices will increase or decrease to essentially keep step with inflation, as measured by the Retail Price Index (RPI). If prices are to stay the same, or are within the movement of the RPI, it will not be necessary for us to contact you with a revised annual quote for approval (although we may do so in some instances), and we will carry on with work at the revised rate.

If increases are greater-than but within 5% of RPI, or there are particularly significant changes to terms, or regular payment amounts, we'll issue a revised quote, but we'll not need a reply from you for this - we'll assume that you're happy for us to continue with work in line with the revised rates / terms, unless you inform us otherwise.

Where rates, specification or terms are otherwise significantly changed, we will normally wait until we get a response from you, to confirm whether we're to continue under the new terms before proceeding with work.

Any other significant variation to work quoted for (e.g., you add a new job, or change the scope of the specification, or there are changes to your site) will necessitate a corresponding change to the price. Such variation, and corresponding change in cost, will wherever practicable be agreed verbally / fax / email / in writing, before work continues.

However, where it is necessary that work progresses without prior agreement as to cost implication, then the price will be altered based on our standard dayworks rates, and additionally on the cost of any materials and other expenses necessitated by the variation, including the time spent meeting onsite or otherwise in discussion regards the variation, and in administering the changes.

Current dayworks rates for various task types are available on request.

We will change our hourly rates from time to time (to reflect changes in overheads, such as wages, fuel, plant costs, etc.). If these changes are minor (e.g., within 5% of RPI), we will not be expected to notify you of changes to hourly rates.

To be clear – if at any time you do not want us to continue with work, you must get in touch with us to arrange cancellation of the service. We will by default return to do 'regular' seasonal work year after year, until you indicate otherwise.

4. PAYMENT TERMS

Payment in full is required no later than 30 days from the invoice date. We reserve the right to add interest at 8% above the Bank of England base interest rate, on a cumulative daily basis, for any amounts overdue, and to add any reasonable fees and expenses incurred in chasing overdue amounts, including our staffs' administrative time (at standard hourly rate) and any third-party expenses.

We reserve the right to suspend work until payment has been received for invoices raised, although this will only be resorted to in exceptional circumstances.

If a cheque is returned by the bank as unpaid for any reason, you'll be liable for a 'returned cheque' admin fee of £20.

5. FORCE MAJEURE

There may be exceptional circumstances where the service becomes unavailable, or prices may have to increase, due to reasons outside our control. This could occur, for example, because of severe weather conditions, outbreak of war, or resulting from unavailability, shortages, or extremely high cost of essential raw materials. In such circumstances, we'll do whatever we reasonably can to continue the service, but should any such circumstances render the service non-practicable, we may need to either cease or suspend the service without notice, or (with a reasonable measure of notice) increase our rates as a result of increased overheads.

In any such circumstance we'll do whatever we reasonably can to inform you of the situation and will resume the service on its original agreement as soon as circumstances permit.

Should suspension of the service result in additional work for us when the service resumes (e.g., a build-up of weeks or months growth to contend with), we may have to charge you an additional amount, accordingly, as may be deemed reasonable in accordance with section 3, Variation & Expenses.

6. SERVICE LEVEL AGREEMENT

Where a contract or agreement does not state otherwise, the following should be assumed for each task type.

General tasks:

Scope

The borders and extent of work are those agreed either verbally between you and us in a site meeting / telephone conversation, or in email / writing, or in a map. The onus is upon you to make clear the scope and specification of the work agreed.

Where borders or the extent of the work are disputed, you will be liable for the full amount per visit for any work we have already done (rates for any remaining or future work would have to be renegotiated).

Tipping & travel time

Tipping and travel time charges (based on the man-hours and expense involved in getting back and forth from site and disposing of arisings) are generally built into our quotes, unless stated otherwise. However, in the case of dayworks, the tipping and travel element will be itemised separately in our invoice from the on-site time.

Schedule

A regular programme of work will be adhered to as closely as is reasonably practicable. Where an indication of visit dates / intervals / frequency has been provided, there will not be an unreasonable extension of the length of time between visits / alteration of visit dates. We will stick as closely to the intended intervals / dates as practicable, but tolerances can typically be 35% briefer or 70% longer.

To illustrate: Where approximately 14 days have been allotted between visits, we may leave a minimum of 9 or a maximum of 24 days between visits.

Where tolerances are approached or exceeded, we may reduce the fee at our discretion. Should any problem arise with adherence to the programme of work we have provided you with, we will, where practicable, keep you informed.

Factors affecting time spent delivering / administering your service.

We will, as far as we reasonably can, provide the service stated in the quote.

However, if circumstances change, for example:

- Access to the site is restricted (e.g., new fencing or other features restrict access route for vehicles / machinery or personnel)
- Fertiliser is applied to lawns / grassed areas causing increased growth.
- The work site is found to be obstructed by debris / rubbish / dog faeces etc.
- Other obstructions appear onsite, including new flowers / shrubs / trees planted.
- Additional man-hours imposed by you for any reason, such as complying with Client specific safety training or your imposition of a highly detailed set of contract terms intended to supercede these terms, or any other detailed 'reporting' procedures such as taking photographs, completing site visit forms, obtaining signatures, requests for detailed written safety or environmental documentation, etc.

In these circumstances, we would have to charge additional rates for:

- Travel time incurred in visiting the site, whether work proceeds or not.
- Travel time and work involved in revisiting the site at a later time / date.
- Additional work in clearing the site / dealing with excess growth / additional administration and the like.

Grass cutting

Prices for cutting grass are offered on the assumption that no fertiliser or other chemical will be applied to the lawn by anyone, unless this is otherwise agreed beforehand by us in writing / email.

We reserve the right not to cut in areas with excessive excrement or other problem litter and will not reduce the cost per cut if we have to miss out or high cut such areas.

Where small plants or saplings are within the turf, no liability will be accepted for damage where these are not separated from the turf or otherwise protected or identified, for example by creating a lawn edge, establishing a mulch border, or putting protective barriers or stakes around them.

By default, we will only cut grass in areas we can readily access with our machinery. We will not use non-mechanical hand tools to cut or remove grass in difficult to access areas unless this has been specifically agreed.

Hedge trimming

Prices are provided for hedge trimming, on the assumption that only thin new growth is to be cut. Cutting of hedges, where thick old woody growth is to be cut, is defined, and referred to separately (see below) as 'hard pruning' and is not within the scope of 'hedge trimming'.

Hard Pruning

The extent of work to be done is usually agreed in site meetings between us and you. Any misunderstanding or disagreement regards the scope of the work, and the fee, is not our liability; the onus is on you to make clear to us what you want done, and should you require a quote or estimate, that the scope of such has been defined to your satisfaction.

We will endeavour to carry out the work to your satisfaction, to the best of our ability and in line with your verbal or written instructions. If you need us to do more work than we quoted for, then we reserve the right to charge you for this extra work at our standard dayworks rates as per section 3 (Variation & Expenses), and for any additional tipping fee or other expenses reasonably incurred.

Litter picking

Litter picking is defined as removal of light litter which can easily be lifted by litter picking tongs and removed in either a 'black' plastic rubbish sack or small sharps container.

Excess waste and debris, such as mechanical components, large volumes of broken glass, chemicals, bulk goods, rocks, lengths of wood and fly-tipped garden waste are not included within the scope of litter picking.

Weed spraying

To comply with the relevant 'codes of practice', weed spraying can only take place during suitable calm, dry weather conditions where no rain is imminently forecast.

Due to the vagaries of the UK weather the scheduling and provision of this service can frequently be disrupted, more so than the other services we provide.

If weed spray, for whatever reason, is not fully effective following application or is slow to act, due to reasons beyond our control (e.g., unforecast rainfall following application or subsequent drought conditions), we reserve the right to charge you the full amount quoted for work done, whether effective or otherwise. However, in these circumstances we will generally offer to reapply at a reduced rate or free of charge, at our discretion.

Glyphosate & other chemicals

Glyphosate does not kill moss and has limited effect on some weeds such as marestail and can generally take up to a month to be effective. It must be applied at least three times during the growing period to keep weeds at bay and is only

effective when weeds have already formed significant leaf and are actively growing. Glyphosate has no residual effect following application and isn't effective against pre-emergent weed growth. New weed growth should be expected following application.

We reserve the right to use other herbicides in place of, or in conjunction with glyphosate should we deem this necessary or appropriate and without seeking your prior approval. For example, it may be more appropriate to apply a residual herbicide to some stone chipped areas. The use of alternative chemicals will not affect the quoted cost.

7. INTELLECTUAL PROPERTY & CONFIDENTIALITY

Any designs, drawing, original concept, creation, written document, image, information, or other intellectual property issued to you verbally, by email, fax in writing or by any other means, remains our property and does not become yours when we issue a copy of a document to you. You must recognize our ownership of any such material, and you may not pass a copy on to any third party.

Any schedule, price, pricing structure, method statement, risk assessment, quality statement or other document issued to you by us, is commercially sensitive and is provided in strict confidence, and you must not pass it, or a copy, to any third party.

8. TERMINATION

This contract can be terminated by either party at any time, subject to a period of notice of fourteen days.

9. IMDEMNITY, INSURANCE, COMPLIANCE

We'll strive to fulfil all our necessary obligations regards compliance with health and safety legislation and codes of practice. Copies of our RAMS (Risk Assessment Method Statement) are available on request.

We hold the following relevant insurance:

- Public liability insurance £5,000,000