

Tree Scape | Terms and Conditions of Contract:

These terms and conditions apply to all services provided by Tree Scape

1. Quote or Tender valid for 3 months

Any quote or tender provided by Tree Scape will be valid for 90 days unless otherwise agreed in writing.

2. Credit Check

You authorise Tree Scape to use any consumer credit reporting service for the purposes of obtaining a credit check reference, for debt collection and/or notifying a default by you.

3. Privacy

You authorise Tree Scape to collect and hold personal information from any source Tree Scape considers appropriate for determining creditworthiness, debt collection purposes or for any other purpose related to these terms and any associated quote or order. You further authorise Tree Scape to disclose personal information held by Tree Scape for the purposes set out above to any other person. You have a right of access and may request correction of personal information held by Tree Scape about you.

4. Acceptance of Quote or Tender

By accepting any quote or tender, or allowing Tree Scape to commence any work, you agree to these terms and conditions.

5. Services

Tree Scape agrees to perform the Services in a competent manner using reasonable skill and care and in accordance with any agreed specifications.

6. Access

You accept full responsibility for driveways, paths, or other landscaping at the property where Services are to be performed (including any property used for access) and understand that, to carry out the Services, it may be necessary to use heavy machinery that could cause damage to the same. Tree Scape will not be liable for any damage caused to driveways, paths, or other landscaping which occurs in connection with the Services. Additional charges may apply where access required to complete the Services becomes, or is discovered to be, more difficult than anticipated at the date of any quote.

7. Easements, Covenants and Boundaries

You are responsible for determining the extent of any relevant easements, covenants and boundaries. You must obtain all necessary authorisations and consents from co-owners of shared trees, and neighbours of adjacent properties where appropriate, prior to Tree Scape commencing the Services. Tree Scape will have no liability in relation to breaches of any such easement, covenant or issue regarding boundaries.

8. Underground Services

Unless a plan showing the exact location of underground pipes, wires, or cables has been provided to us by you prior to the formation of the contract, Tree Scape shall have no liability for any damage caused as a result of performing the Services to such pipes, wires, or cables, or any damage to property resulting therefrom. You shall be solely liable for any such damage. Tree Scape will, if required, contact Dial Before U Dig for information relevant to the site before commencing work. Should a mark out or pot-holing be required to identify exact service location, any/all costs associated with this will be passed on to the customer with a 15% handling fee included.

9. 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 the tree/s being contaminated, Tree Scape reserves the right to reprice the work to cover damage to equipment or change in methodology.

10. Stump Grinding

Stump grinding involves the removal of the tree stump to a depth of approximately 150mm, but does not include the removal of lateral roots or stump chippings, unless otherwise specified in the contract. All tailings are to remain levelled out on site unless otherwise specified.

11. Firewood

Logs left for firewood will be trimmed neatly and stacked safely in the immediate vicinity of the tree from which they originate unless otherwise specified. Ringing (cutting) into firewood is not included unless otherwise agreed.

12. Transplanting

While Tree Scape will use best practice methods in relocating trees, Tree Scape 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.

13. 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 your responsibility unless otherwise agreed in writing.

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

The Services may necessitate permits, licences, clearances, or plans from the local or regional authority. It is your responsibility to obtain any such authorisation or information from the relevant authorities unless otherwise agreed in writing.

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

It shall be your responsibility 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 Tree Scape with all supporting documentation arising from such investigations. Tree Scape shall have no liability for damage, or any costs or losses arising from such damage, to any site or area of significance that was not fully disclosed to us at the time of quoting.

16. Payment

You must make full payment to Tree Scape within the time, or before the date, specified in the invoice (time being of the essence). You shall not deduct or withhold any amounts for any reason whatsoever. All accounts settled by credit card will attract a 2% fee. If payment is not received 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. In addition you must pay to Tree Scape any and all costs charges and expenses suffered or incurred by Tree Scape connected with enforcing or attempting to enforce Tree Scape's rights and remedies against, or collecting payment from you (including legal costs on a solicitor/client basis as those costs are incurred).

17. Complaints

You must raise any complaint or dispute about the Services within seven (7) days of the performance of the Services. If you do not do so, you will be deemed to have fully accepted the Services.

18. Delays

Dates provided for commencement and/or completion of any Services are provided in good faith as an indication for planning purposes only. Tree Scape shall have the right to amend any such dates in its absolute sole discretion and shall have no liability arising from any delay in commencing or completing any Services.

19. Suspension of Services

Tree Scape can suspend providing Services if you breach any of your obligations to Tree Scape or anything happens that Tree Scape reasonably considers will, or may, cause delays, hazards, or any danger to the safety of any person. Tree Scape 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 Tree Scape is undertaking services for you which would be defined as construction work under the Construction Contracts Act 2002, then the provisions of that Act will also apply, in particular sections 24A(1) and 24(2) shall apply in substitution for this clause 19.

20. Termination

Tree Scape may terminate any contract for the provision of Services by five (5) days notice in writing, or immediately if you commit a material breach of these terms and such breach, if capable of remedy, is not remedied within twenty (20) days of receipt of written notice of such breach or you commit an act of bankruptcy, have a receiver or manager appointed over all or any of your property, or (if a company) you go into liquidation, have a manager or receiver appointed or are wound up.

21. 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, volcanic eruption, earthquake, act of a government, war, terrorism, strike, lock-out, industrial action.

22. 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.

23. Rights Cumulative

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

24. Cancellation Fee

Tree Scape reserve the right to charge a cancellation fee of up to 20% to cover lost time and costs associated with the contract if less than 24 hours notice of cancellation is given. You must pay that fee in accordance with the payment terms above.

25. Insurance Cover

Tree Scape holds Third Party and Public Liability Insurance cover.

26. Limitation

Tree Scape's liability arising from or in connection with providing the Services to you will be limited to:

- Reasonable and reasonably foreseeable costs, claims, liabilities, damages or losses directly caused by Tree Scape's actions or omissions; and
- Reasonable and reasonably foreseeable indirect, 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 Tree Scape respond to such losses; and
- A maximum total limit under (a) and (b) above of \$2,000,000 in the aggregate.

Nothing in these terms affect your rights (if any) under the Consumer Guarantees Act 1993, unless you acquire services from Tree Scape 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 26.

Without limiting any liability or obligation expressly set out above, Tree Scape shall not be liable in connection with any head contract or variation between you and a third party unless Tree Scape 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.

27. Disputes

Should any dispute arise as to any matter relating to this agreement, the parties shall use all reasonable efforts in good faith to negotiate a resolution without litigation. If such dispute remains unresolved 10 days after the dispute was notified by the party seeking a resolution to the other party then the parties may pursue legal remedies.

28. Waiver

No waiver of a breach of any of these terms by any party will in any way affect limit or waive that party's right to subsequently require strict compliance with these terms.

29. Entire Agreement

These terms and any associated quote or order constitute the sole understanding of the parties in relation to its subject matter and supersede all prior understandings, written or oral, which will be of no further force or effect.

30. Amendments

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

31. Assignment

Your rights arising out of or under these terms may only be assigned with the prior written consent of Tree Scape. Tree Scape may assign its rights or obligations (or both) at any time by giving written notice of this to you.

32. Definitions

"Services" means any and all services, and all goods used in performing those services, provided to you by Tree Scape.

"we", "us", "our" and "Tree Scape" means Tree Scape, New Zealand registered company no. 289783, and its related companies (as that term is defined in the Companies Act 1993), agents, successors or assigns.

"you" and "your" refers to you, our customer, and, in the case of joint customers, includes each of you jointly and severally.