



Design Terms of Engagement

Welcome to Goom Landscapes and thank you for choosing to use us for your landscape design and construction requirements. Below are our Design Terms of Engagement to be read in conjunction with your Offer of Service.

TERMS OF ENGAGEMENT

The Terms of Engagement set out the agreement between us for the design and construction of landscaping at the site address (“the Project”).

You authorise us to design plans for the landscaping of your home to be constructed by us in accordance with your design brief. You will then engage us to prepare a quote for the construction of the Project by us based on the plans. Once you accept the construction quote, we will then construct the Project. You can alter the plans to reduce the construction cost and we will provide design services to ensure that the design meets your expectations and budget at no further cost, if you engage us to construct the Project.

We significantly subsidise the fee for designing high quality architectural landscape plans based on selling a full package as described above (design, manage and construct). For that reason, you will use the plans solely for the purpose of planning and engaging us to construct the Project.

COOLING OFF PERIOD

You can cancel the agreement between us as recorded in these Terms of Engagement, within 5 working days of the date of these Terms of Engagement and we will refund any fees you paid at the time of signing these Terms of Engagement. We will start the preparation of the plans once the 5 working day cooling off period has expired.

Initial Here _____

1. FURTHER TERMS

- 1.1 These terms of engagement including these further terms ("terms") apply to the Project to be carried out for you by Goom Landscapes Limited and its agents, employees and subcontractors ("we", "us", "our").
- 1.2 These terms shall be deemed to be accepted by you upon either you signing and returning the terms or you instructing us to proceed with the Project.
- 1.3 This fee proposal is valid for a period of time of three (3) months from the date shown on this document.

2 FEES & CHARGES

- 2.1 Once we have commenced the Project you will become liable for the Design fees set out in the Offer of Service.
- 2.2 All our fees are due and payable within 7 days from the date of the invoice issued and we will usually issue the first invoice when you approve the preliminary concept design plan. All payments must be made without deduction, withholding or set off.
- 2.3 Where we do not receive full payment by the due date, we may charge you:
 - a) interest at the rate of 1.5% per month from the due date to the date payment is made; and
 - b) our reasonable costs of recovering the debt.
- 2.4 Where we have an arrangement with you that we will address an invoice to another person, you remain responsible for ensuring that payment is made by the due date. If payment is not made, clause 2.3 will apply.
- 2.5 Fees for special materials, consent fees and consultant fees (if any) should be paid directly to the supplier of such services unless we agree with you otherwise.

3 YOUR OBLIGATIONS

- 3.1 You agree to promptly respond to communications from us so as to keep the Project moving at a reasonable rate. You are required to sign off and/or approve each stage of the service before we can proceed to a subsequent stage.
- 3.2 You agree to provide us with reasonable access to the site address (excluding the interior of any buildings at the site address) to inspect the site for the purposes of the Project.

4 USE OF PLANS AND DESIGNS

- 4.1 While the preliminary concept design plan and, in particular, the developed plan will have a reasonably high degree of accuracy as to scale,

perspective and visual presentation, they cannot be relied upon for use in any application for a construction or engineering cost quotation from a third party or a building or resource consent from any local or territorial authority. Where such quotation or consent is needed you will be required to obtain the assistance of consultants qualified to ensure any assessment or application based on our plans is sufficiently accurate and meets the legal requirements of any consent process. We can assist you to connect with such consultants.

- 4.2 We retain copyright in all plans we prepare. Upon payment of all fees payable in respect of the preparation of such plans, you have an exclusive and perpetual licence to use such plans for the site for which they were prepared but for no other purpose.
- 4.3 You must not use, copy or reproduce (or allow anyone else to use, copy or reproduce) any documents we supply to you for any purpose other than:
 - a) for the purpose of performing your obligations and enjoying your rights as licensee under these terms; or
 - b) after the construction of any works, for the use, maintenance, alteration or demolition of such works.
- 4.4 Without disclosing your name and the site address, we may publish any plans, designs or photographs or other images in respect of the services we have provided to you.
- 4.5 We take no responsibility for the accuracy of the legal boundaries of your site.

5 DEFAULT

- 5.1 An event of default under these terms occurs if:
 - a) you fail to pay us any amounts owing within 30 days of the due date for payment;
 - b) you breach your obligations under these terms and, where that breach is capable of remedy, fail to remedy it within 7 days of becoming aware of it; or
 - c) you become insolvent, bankrupt or unable to pay your debts as they fall due.
- 5.2 Following an event of default, we may, at our sole discretion and without prejudice to any other rights we may have:
 - a) require you to pay the costs of remedying any breach of these terms; or
 - b) terminate the Project without prejudice to our accrued rights and claims under these terms.
- 5.3 Nothing in this agreement, precludes you from lawfully exercising any rights you may have to terminate the agreement at law.

6 YOUR RESPONSIBILITY

- 6.1 Where we have provided any services to you under these terms, you are responsible for any costs, damages or losses suffered by us arising out of any

works carried out by you or anyone else, where such construction is not strictly in accordance with the terms of any statutory or local authority consent that we assisted you to obtain, or where such works are not carried out in compliance with all relevant building or engineering laws, regulations or codes in force at the relevant time.

damage, loss, or consequential or other loss whatsoever in respect of or arising out of the goods or services provided to you or any act or omission by us, which happen as a side effect of the main loss or damage and which are not reasonably foreseeable by us.

7 LIABILITY

- 7.1 We warrant that we will provide the services to you with reasonable care and skill, within a reasonable time, and substantially as described in this agreement. To the extent permitted by law:
- a) we do not make any other promises or warranties about the goods or services;
 - b) our liability in connection with any goods or services which fail to comply with any guarantee contained in the Consumer Guarantees Act 1993 is limited (at our option) to repair or replacement of the relevant goods or services; and
 - c) in no event shall our liability to you exceed the price paid by you for the relevant goods and services.
- 7.2 We shall not be liable in contract, tort (including negligence) or otherwise for any direct or indirect

8 GENERAL

- 8.1 If you are a business you are deemed to have acknowledged that the supply of goods and services under these terms is a supply for business purposes and that the Consumer Guarantees Act 1993 shall not apply.
- 8.2 Neither party may assign its rights under these terms without the other party's prior written consent.

9 EXCLUSIONS TO SERVICES

- 9.1 Other consultant fees e.g. structural/fire/mechanical/professional surveying etc.
- 9.2 Council consent fees, resource and building consent fees etc.