

# Advance Landscape Systems Limited – Terms & Conditions of Trade

<b>1. Definitions</b>		9.1	<b>9. Title</b>		16.1	<b>16.1.1. Cancellation</b>	
1.1	“ALSL” means Advance Landscape Systems Limited, its successors and assigns.		9.1	ALSL and the Customer agree that ownership of the Goods shall not pass until:		16.1	Without prejudice to any other remedies the parties may have, if at any time either party is in breach of this provision (including those relating to payment) under these terms and conditions the other party may suspend or terminate the supply of services or purchase of Goods to the other party. Neither party will be liable for any loss or damage the other party suffers because one of the parties has exercised its rights under this clause.
1.2	the Customer has paid to ALSL all amounts owing to ALSL; and			(a) the Customer has met all of its other obligations to ALSL; and			If ALSL, due to reasons beyond ALSL’s reasonable control, is unable to deliver any Goods and/or Services to the Customer, ALSL may cancel any Contract to which these terms and conditions apply or cancel Delivery of Goods and/or Services at any time before the Goods and/or Services are delivered by giving written notice to the Customer. On giving such notice ALSL shall repay to the Customer any money paid by the Customer for the Goods and/or Services. ALSL shall not be liable for any loss or damage whatsoever arising from such cancellation.
1.3	the Customer has accepted the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.			(b) the Customer has paid to ALSL all amounts owing to ALSL; and			The Customer may cancel Delivery of the Goods and/or Services by written notice served within 14 days of the date of receipt of the order. Failure by the Customer to give such notice to accept Delivery of the Goods and/or Services shall place the Customer in breach of this Contract. Cancellation of orders for Goods made to the Customer’s specifications, or for non-stockist items, will definitely not be accepted once production has commenced, or an order has been placed.
1.4	“Cookies” means small files which are stored on a user’s computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website, and can be accessed either by the web server or the client’s computer. If the Customer does not wish to allow Cookies to operate in the background when using ALSL’s website, then the Customer shall have the right to enable / disable Cookies first by selecting the option to enable / disable provided on the website, prior to making enquiries via the website.			(c) the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or part with possession of the Goods to a third party, the proceeds of any sale or part with possession of the Goods must be paid over to ALSL on demand; and			Privacy Policy
1.5	“Customer” means the person, entity or any person acting on behalf of and with the authority of the Customer requesting ALSL to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:			(d) the Customer should not convert or present the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of ALSL and must sell, dispose or return the resulting product to ALSL as it so directs;			All emails, documents, images or other recorded information held or used by ALSL is ‘Personal Information’ as defined and referred to in clause 17.3 and therefore considered confidential. ALSL acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 2020 (“the Act”) including Part II of the OECD Guidelines as set out in the Act. ALSL acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Customer’s Personal Information held by ALSL that may affect the Customer, ALSL will notify the Customer in accordance with the Act. Any release of such Personal Information must be in accordance with the Act and must be approved by the Customer by written consent, unless subject to an operation of law.
1.6	“Customer” means the person, entity or any person acting on behalf of and with the authority of the Customer requesting ALSL to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:			(e) the Customer irrevocably authorises ALSL to enter any premises where ALSL believes the Goods are kept and recover possession of the Goods;			Notwithstanding clause 17.1, privacy limitations will extend to ALSL in respect of Cookies where the Customer utilises ALSL’s website to make enquiries. ALSL agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Customer’s:
1.7	“Price” means the Price payable (plus any Goods and Services Tax (“GST”) where applicable) for the Goods as agreed between ALSL and the Customer in accordance with clause 5 below.			(f) ALSL may recover possession of any Goods in transit whether or not Delivery has occurred;			(a) IP address, browser, email client type and other similar details;
2.1	<b>2. Acceptance</b>			(g) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of ALSL; and			(b) tracking website usage and traffic; and
2.2	The parties acknowledge and agree that:			(h) ALSL may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.			(c) reports are available to ALSL when ALSL sends an email to the Customer, so ALSL may collect and review that information (“collectively Personal Information”)
2.3	(a) the parties have read and understood the terms and conditions contained in this Contract; and			If the Customer consents to ALSL’s use of Cookies on ALSL’s website and later wishes to withdraw that consent, the Customer may manage and control ALSL’s privacy controls via the Customer’s web browser, including removing Cookies by deleting them from the browser history when exiting the site.			
2.4	(b) the parties have read and understood the terms and conditions contained in this Contract; and			The Customer authorises ALSL to use ALSL’s agent to:			
2.5	the parties have read and understood the terms and conditions contained in this Contract; and			(a) access, collect, retain and use any information about the Customer;			
2.6	the parties have read and understood the terms and conditions contained in this Contract; and			(i) including, name, address, D.O.B, occupation, driver’s license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information held by the Ministry of Justice for the purpose of assessing the Customer’s creditworthiness; or			
3.1	<b>3. Errors and Omissions</b>			(b) the purpose of marketing products and services to the Customer;			
3.2	The Customer acknowledges and accepts that ALSL shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):			(c) disclose information about the Customer, whether collected by ALSL from the Customer or from another source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer;			
3.3	(a) resulting from an inadvertent mistake made by ALSL in the formation and/or administration of this Contract; and/or			(d) Where the Customer is an individual, the authorities under clause 17.3 are authorities or consents for the purposes of the Privacy Act 2020.			
3.4	(b) contained in/omitted from any literature (hard copy and/or electronic) supplied by ALSL in respect of the Services.			The Customer shall have the right to request (by e-mail) from ALSL a copy of the Personal Information about the Customer retained by ALSL and the right to request that ALSL correct any incorrect Personal Information.			
3.5	If such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or willful misconduct of ALSL, the Customer:			ALSL will destroy Personal Information upon the Customer’s request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.			
3.6	(a) shall not be entitled to treat this Contract as repudiated nor render it invalid; but			The Customer can make a privacy complaint by contacting ALSL via e-mail. ALSL will respond to that complaint within seven (7) days of receipt and take all reasonable steps to make a decision as to the complaint within twenty (20) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Privacy Commissioner at <a href="http://www.privacy.org.nz">http://www.privacy.org.nz</a> .			
4.1	<b>4. Change in Control</b>						
4.2	The Customer shall give ALSL not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer’s details (including but not limited to, changes in the Customer’s name, address and contact phone or fax numbers, change of trustees or business practice). The Customer shall be liable for any loss incurred by ALSL as a result of the Customer’s failure to comply with this clause.						
5.1	<b>5. Price and Payment</b>						
5.2	5.1.1. At ALSL’s sole discretion the Price shall be either:			<b>Service of Notice</b>			
5.3	(a) as indicated on any invoice provided by ALSL to the Customer; or			Any written notice given under this Contract shall be deemed to have been given and received:			
5.4	(b) the Price as at the date of Delivery of the Goods according to ALSL’s current price list; or			(a) by handing the notice to the other party, in person;			
5.5	(c) ALSL’s quoted Price (subject to clause 5.2) which will be valid for the period stated in the quotation or for a period of up to thirty (30) days.			(b) by leaving it at the address of the other party as stated in this Contract;			
5.6	5.2. ALSL reserves the right to change the Price:			(c) by sending it by registered post to the address of the other party as stated in this Contract; or			
5.7	(a) if a variation to the Goods which are to be supplied is requested; or			(d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;			
5.8	(b) in the event of increases to ALSL in the cost of labour or materials, or fluctuations in currency exchange rates, which are beyond ALSL’s control.			(e) if sent by email to the other party’s last known email address.			
5.9	Variations will be charged on the basis of ALSL’s quotation, and will be detailed in writing, and shown as variations on ALSL’s invoice. The Customer shall be required to respond to any variation submitted by ALSL within ten (10) working days. Failure to do so will entitle ALSL to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of variation.			Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when the ordinary course of post, the notice would have been delivered.			
5.10	5.3. Time for payment for the Goods being of the essence, the Price will be payable by the Customer on the date determined by ALSL, which may be:						
5.11	(a) on order placement;			<b>Trusts</b>			
5.12	(b) for credit account holders, twenty (20) days following the end of the month of the date of any invoice’s and/or statement furnished to the Customer by ALSL; or			If the Customer at any time upon or subsequent to entering into the Contract is acting in the capacity of trustee of any trust or as an agent for a trust (“Trust”) then whether or not ALSL may have notice of the Trust, the Customer covenants with ALSL as follows:			
5.13	(c) the date specified on any invoice or other form as being the date for payment; or			(a) the Contract extends to all rights of indemnity which the Customer now or subsequently may have against the Trust, the trustees and the trust fund;			
5.14	(d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by ALSL.			(b) the Customer has full and complete power and authority under the Trust or from the Trustees of the Trust as the case maybe to enter into the Contract and the provisions of the Trust do no purport to exclude or take away the right of indemnity of the Customer against the Trust, the trustees and the trust fund. The Customer will not release the right of indemnity or consent to any breach of trust or be a party to any other action which might prejudice the right of indemnity;			
5.15	5.4. Payment may be made by cash, electronic/online banking, credit card (a surcharge per transaction may apply), or by any other method as agreed to between the Customer and ALSL, and in its discretion allocate any payment received from the Customer towards any amounts owing by the Customer to ALSL and not paid at the time of receipt or at any time afterwards. On any default by the Customer, ALSL may re-allocate any payments previously received and allocated, in the absence of any payment allocation by ALSL, the amount will be deemed to be allocated in such manner as preserves the maximum value of ALSL’s Purchase Money Security Interest (as defined in the PPSA) in the Goods.			(c) the Customer is not during the term of the Contract without consent in writing of ALSL (ALSL will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:			
5.16	5.5. The Customer shall not be entitled to set off against, or deduct from, the Price, any sums owed or claimed to be owed to the Customer by ALSL nor to withhold payment of any invoice because part of that invoice is in dispute.			(i) the removal, replacement or retirement of the Customer as trustee of the Trust;			
5.17	Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to ALSL an amount equal to any GST must pay for any supply by ALSL under this or any other contract for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition, the Customer must pay any other taxes and duties that are applicable in addition to the Price except where they are expressly included in the Price.			(ii) any alteration or variation of the terms of the Trust;			
6.1	<b>6. Description of the Goods</b>			(iii) any advancement or distribution of capital of the Trust; or			
6.2	The description, illustration and performances contained in catalogues, price lists and other advertising material are approximately only and used by way of general description. The Goods are supplied in accordance with normal industry standards of manufacture and ALSL will be liable to the Customer in respect of Goods which comply with these standards.			(iv) any resettlement of the trust fund or trust property.			
7.1	<b>7. Delivery</b>						
7.2	7.1.1. Delivery (“Delivery”) of the Goods is taken to occur at the time that:			<b>General</b>			
7.3	(a) the Customer or the Customer’s nominated carrier takes possession of the Goods at ALSL’s premises or at the Customer’s nominated carrier’s premises;			The failure by either party to enforce any provision of these terms and conditions shall not be deemed as a waiver of that provision, nor shall it affect that party’s right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.			
7.4	(b) ALSL or ALSL’s nominated carrier delivers the Goods to the Customer’s nominated carrier at the address where the Customer is not present at the address.			20.1.2. These terms and conditions and any Contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of New Zealand, Subject to the CGA, the liability of ALSL and the Customer under this Contract shall be limited to the Price.			
7.5	The cost of Delivery is either included in the Price or is in addition to the Price as agreed between the parties.			ALSL may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Customer’s consent provided the assignment does not cause detriment to the Customer.			
7.6	The Customer must take Delivery by receipt or collection of the Goods whenever they are tendered for Delivery. In the event that the Customer is unable to take Delivery of the Goods as arranged then ALSL shall be entitled to charge a reasonable fee for redelivery and/or storage.			The Customer cannot licence or assign without the written approval of ALSL.			
7.7	15.1.2. ALSL may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.			ALSL may not subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Customer agrees and understands that they have no authority to give any instruction to any of ALSL’s sub-contractors without the authority of ALSL.			
7.8	15.2. ALSL’s estimated time for Delivery is between three (3) to seven (7) days from confirmed receipt of the Customer’s order and/or payment, which may be increased by one (1) or two (2) days for Delivery to rural areas. However, any time or date given by ALSL to the Customer is an estimate only. The Customer must accept any delay in delivery even if it is, and ALSL will not be liable for any loss or damage incurred by the Customer as a result of Delivery being late.			The Customer agrees that ALSL may amend their general terms and conditions for subsequent future Contracts with the Customer by disclosing such to the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for ALSL to provide Goods and/or Services to the Customer.			
7.9	8.1. Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.			Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, national or global pandemics and/or the implementation of regulation, directions, rules or measures being enforced by Government or embargo, including but not limited to, an “Act of God”, “Force Majeure”, “Proposed border lockdowns (including, worldwide lockdown parts), etc. (“Force Majeure”) or other event beyond the reasonable control of either party. This clause does not apply to a failure by the Customer to make any payment due to ALSL following cessation of a Force Majeure.			
7.10	If any of the Goods are damaged or destroyed following Delivery but prior to ownership passing to the Customer, ALSL is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by ALSL is sufficient evidence of ALSL’s rights to receive the insurance proceeds without the need for any person dealing with ALSL to make further enquiries.			Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.			
7.11	If the Customer requests ALSL to leave Goods outside ALSL’s premises for collection or to store the Goods on an unattended location then such Goods shall be left at the Customer’s sole risk.						
7.12	8.2. ALSL is not responsible for any loss or damage to the Goods in transit. The Customer must, upon identifying the loss or damage on receipt of the Goods, lodge a claim with the carrier within twenty-four (24) hours of the date of receipt of the Goods. ALSL will render the Customer such assistance as may be necessary to press claims on carriers, provided the Customer has notified ALSL and the carrier in writing immediately.						

Please note that a larger print version of these terms and conditions is available from ALSL on request.