TERMS AND CONDITIONS 3.

1. Definitions

1.1. In this document the following words shall have the following meanings:

"Agreement" means the Conditions, a written acceptance of a Purchase Order and the relative Purchase Order for Goods and/or Services and if there shall be any inconsistency between the documents comprising an Agreement, they shall have precedence in the order herein listed.

"Alteration Notice" has the meaning set out in clause 9.2;

"Conditions" means these terms and conditions;

"Customer" means the organisation or person with whom an Agreement is made by the Supplier, whether directly or indirectly through an agent or factor who is acting for or instructed by or whose actions are ratified by such organisation or person;

"Customer Default" has the meaning set out in clause 8.4.

"Goods" means the goods (or any part of them) supplied by the Supplier to the Customer.

"Intellectual Property Rights" means patents, registered designs, trade marks and service marks (whether registered or not), domain names, copyright, database rights, moral rights, design rights and all similar property rights including those subsisting (in any part of the world) in inventions, designs, drawings, computer programs, confidential information, business names, goodwill and in applications for protection of the above rights.

"Parties" means the Customer and the Supplier.

"Purchase Order" means an order for Goods and/or Services submitted to the Supplier by the Customer.

"Services" means the landscaping services supplied by the Supplier to the Customer.

"Supplier" means JHPS Gardens Limited registered in England & Wales with company number 08395207.

"Supplier Materials" means all materials, equipment, documents and other property of the Supplier.

2. General

2.1. The Conditions shall apply to all contracts for the supply of Goods and/or Services by the Supplier to the Customer to the exclusion of all other terms and conditions referred to, offered or relied on by the Customer, whether in the negotiation or at any stage in the dealings between the Parties, including any standard or printed terms tendered by the Customer, unless the Customer specifically states in writing, separately from such terms, that it wishes such terms to apply and this has been agreed by the Supplier in writing.

2.2. Any variation to the Conditions (including any special terms and conditions agreed between the Parties) shall be inapplicable unless agreed in writing by and signed by a director on behalf of the Supplier.

2.3. We reserve the right for the purpose of promotional activity, training or for other business purpose, to mention that you are a client and use photos or videos of your property and grounds. As stated above we will not disclose any confidential information to a third party.

Orders

3.1 A Purchase Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.

3.2. A Purchase Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Purchase Order at which point and on which date the Agreement shall come into existence.

3.3. Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 14 days from its date of issue.

3.4. Unless verbal or telephone Purchase Orders and any variations to Purchase Orders are confirmed in writing by the Customer the Supplier shall not be responsible for errors or subsequent misunderstandings.

3.5. Notwithstanding that the Supplier may have given a detailed quotation no Purchase Order shall be binding on the Supplier unless and until it has been accepted in writing by the Supplier.

4. Price and Payment

4.1. All prices estimated, quoted or invoiced are in Sterling (UK Pounds).

4.2. The price of the Goods and/or Services will be the price stated in the Order, being, unless otherwise stated by the Supplier, the list prices of the Company current at the date of the Order. The Supplier's prices are subject to adjustment to take account of any variation in the Supplier's costs including (but not limited to) variations in wages, the cost of materials, exchange rate fluctuations, alterations of duties and other costs since the date of the Supplier's quotation or (if no quotation is issued) the Purchase Order. The Supplier accordingly reserves the right to adjust the invoice price by the amount of any increase or decrease in such costs after the price is quoted or the Purchase Order is submitted (as applicable). The invoice so adjusted shall be payable as if the price set out therein were the original Agreement price.

4.3. The price is exclusive of VAT, which will be charged at the appropriate rate.

4.4. All invoices of the Supplier shall unless the invoice states otherwise, unless otherwise agreed in writing by the Supplier or in the case of monthly retainer arrangements, be paid by the Customer immediately upon completion of the supply of the Good and/or Services without deduction or withholding and free of set off or counterclaim. The Supplier shall be entitled to render an invoice for the Goods and/or Services supplied under an Agreement as soon as the Supplier has provided written acceptance of a Purchase Order.

4.5. If the Goods and/or Services are to be paid for in accordance with monthly retainer arrangements agreed in writing by the Supplier, each monthly retainer payment shall be paid by the Customer to the Supplier on the first day of each month by direct debit to the bank account nominated by the Supplier without deduction or withholding and free of set off or counterclaim.

4.6. Time for payment by the Customer shall be of the essence of an Agreement.

4.7. The Supplier shall be entitled to charge interest on overdue invoices and monthly retainer payments from the date when payment becomes due until the date of payment at the rate of 5.00% per annum above the base rate of National Westminster Bank plc.

4.8. If the payment of the price or any part thereof is not made by the due date, the Supplier shall be entitled to:

4.8.1. require payment in advance of supply in relation to any Goods and/or Services not previously supplied;

4.8.2. refuse to supply any Goods and/or Services whether ordered under the Agreement or not and without incurring any liability whatever to the Customer for non-supply or any delay in supply;

4.8.3. terminate the Agreement.

4.9. Deposits are none refundable.

4.10. If you pay by card (whether credit or debit card) you authorise us to utilise that same payment method to collect payment of any and all future invoices raised in connection with any and all future purchase orders and/or services whatsoever or howsoever supplied (Continuous Payment Authority).

4.10.1. Cancellation of CPA can be carried out by writing to our head office or emailing info@jhps-gardens.co.uk

4.11. If paying by finance, the payment process is to be authorised on: a) commencement of services or b) between commencement and completion of services.

4.11.1. Works will be deemed complete once an invoice is issued.

4.11.2. Payment will be made without deduction or withholding and free of set of or counterclaim.

4.11.3. If a Purchase Order has been issued by a customer and the customers agrees in writing then: a) the customer, or supplier on the customer's behalf, may release, draw down or borrow the finance, and b) the customer, or supplier, may apply the finance in satisfaction of or on account of any invoices connected with the services.

5. Specification of Goods

5.1. No description, specification or illustration contained in any product pamphlet or other sales or marketing literature of the Supplier and no representation written or oral, correspondence or statement shall form part of any Agreement.

5.2. Goods described in the Supplier's literature or elsewhere are subject to a continuing process of technical change and development and the Supplier therefore reserves the right to alter specifications without notice at any time before delivery. All descriptions, illustrations, specifications and dimensions are approximate and are only intended to present a general guideline as to the type of Goods represented thereby. It is therefore agreed by the Customer that Goods supplied may not comply in all respects with the description in the Supplier's literature or elsewhere.

6. Delivery of Goods and/or Supply of Services

6.1. The date of delivery specified by the Supplier is an estimate only given in good faith. All risk in the Goods shall pass to the Customer on delivery, such that the Customer shall be liable for any subsequent loss or damage to Goods however caused. Time of delivery shall not be the essence of the Agreement, unless expressly agreed in writing by the Supplier. Goods may be delivered by carriers over whom the Supplier has no control and therefore the Supplier shall not be liable for any loss, damage or expense suffered by the Customer or any other party by reason of any alleged delay in delivery by such carriers.

6.2. Goods transported by the Supplier shall be deemed to be delivered when they are ready to be unloaded at the site specified by the Customer.

6.3. When delivery is refused by the Customer or is delayed, suspended or made by instalments at the request of the Customer, risk in the Goods (or any of them not delivered in these circumstances) shall pass to the Customer immediately upon such refusal or request by the Customer and (without prejudice to the generality of the foregoing) the Supplier shall place such Goods into store and the cost of storage and insurance of such Goods and of any attempted delivery of such Goods shall be for the Customer's account.

6.4. No liability for non-delivery, loss of or damage to the Goods occurring prior to delivery or for any claim that the Goods are not in accordance with the Agreement will attach to the Supplier unless claims to that effect are notified in writing by the Customer to the Supplier: (a) within 7 days of delivery for loss damage or non-compliance with the Agreement or (b) for non-delivery within 10 days of the delivery date specified by the Supplier. If the Customer fails to give such notice the Goods shall be deemed to be in all respects in accordance with the Agreement and, without prejudice to earlier acceptance by the Customer, the Customer shall be bound to accept and pay for the same accordingly.

6.5. In the event of a valid claim for non-delivery, loss, damage or non-compliance with the Agreement the Supplier undertakes at its option either to repair or replace the Services at its expense but shall not be under any further or other liability to any person in connection with such non-delivery loss damage or non-compliance.

6.6. The Supplier shall provide the Services to the Customer in accordance with the Purchase Order in all material respects.

6.7. The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Purchase Order but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

7. Title and Risk

7.1. In spite of delivery having been made, property in the Goods shall not pass from the Supplier until the Customer has paid the price of all the Goods under the Agreement and no other sums are due from the Customer to the Supplier.

7.2. Until the property in the Goods passes to the Customer, the Customer shall hold the Goods and each of them on a fiduciary basis as a custodier/bailee for the Supplier. The Customer shall store the Services separately from all other Goods in its possession and marked in such a way that they are clearly identified as the property of the Supplier. The Customer shall not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods. The Customer shall maintain the Goods in satisfactory condition.

7.3. Until such time as property in the Goods passes from the Supplier to the Customer, the Customer shall, upon request, deliver up such Goods to the Supplier. If the Customer fails to do so, the Supplier may enter upon any premises owned or occupied or controlled by the Customer where the Goods are situated and repossess the Goods.

7.4. The Supplier shall have the right to maintain an action for the price of the Goods notwithstanding that title may not have passed to the Customer.

8. Customer's Obligations

8.1. The Customer shall provide the Supplier with any information reasonably required by the Supplier as well as obtain all necessary

permissions and consents including (without prejudice to the generality of the foregoing) promptly obtaining all necessary licences, clearances and other consents necessary for the supply of the Goods and/or Services.

8.2. The Customer shall provide the Supplier, its employees, agents, consultants and subcontractors with access to the Customer's premises as reasonably required by the Supplier to supply the Goods and/or Services.

8.3. The Customer shall keep and maintain the Supplier Materials at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorization.

8.4. If the Supplier's performance of any of its obligations in respect of the Goods and/or Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**"Customer Default"**):

8.4.1. the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;

8.4.2. the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations; and

8.4.3. the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

8.5. Without prejudice to any other rights to which the Supplier may be entitled, in the event that the Customer unlawfully terminates or cancels the Agreement, the Customer shall be required to pay to the Supplier, as agreed damages and not as a penalty, the full amount of any third party costs to which the Supplier has committed and in respect of cancellations on less than 30 days' written notice the full price of the Goods and Services as set out in the Agreement, and the Customer agrees this is a genuine pre-estimate of the Supplier's losses in such a case.

9. Alterations to the Agreement

9.1. The Parties may, at any time, mutually agree upon variations to the Agreement. Any alterations in the scope of Goods and/or Services to be provided under the Agreement shall be set out in a revised written acceptance of a Purchase Order, which shall reflect the changed Goods and/or Services and price and all other terms agreed between the Parties.

9.2. The Customer may at any time within 7 days of the Supplier's written acceptance of a Purchase Order request in writing alterations to the Agreement. On receipt of the request for alterations, the Supplier shall, within 7 days, or such other period as may be agreed between the Parties, advise the Customer by notice in writing whether it is prepared to alter the Agreement in accordance with the Customer's request and, if it is, the basis upon which it is prepared to do so having regard to the changes which the Supplier would require to the price and any other terms previously agreed between the Parties (**"Alteration Notice"**).

9.3. The Customer shall, within 7 days of receipt of an Alteration Notice, or such other period as may be agreed between the Parties, advise the Supplier by notice in writing whether or not it wishes the Agreement to be altered on the basis set out in the Alteration Notice. If such a notice is given by the Customer, the terms of the altered Agreement shall be set out in a revised written acceptance of a Purchase Order.

9.4. The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

10. Warranty

10.1. The Agreement shall not constitute a supply by description or sample

10.2. The Supplier warrants that it has the right to sell the Goods, but otherwise the Goods are provided on an "as-is" basis without warranty of any kind, express or implied, oral or written including, without limitation, any implied term as to quality, fitness for purpose or description, all of which are specifically and unreservedly excluded. In particular, but without limitation, no warranty is given that the Goods are suitable for any specific purpose intended by the Customer.

10.3. Where the Goods have been manufactured by the Supplier and are found under proper use (fair wear and tear excepted) to be defective, the Supplier shall repair, or in its sole discretion, replace such defective Goods free of charge within 90 days from the date of delivery, subject to the following conditions:

10.3.1. the Customer notifying the Supplier in writing immediately upon the defect becoming apparent;

10.3.2. the defect being solely due to faulty design, materials or workmanship.

10.4. Any Goods to be so repaired or replaced shall be returned to the Supplier at the Customer's expense.

10.5. Where the Goods have been manufactured and supplied to the Supplier by a third party, any warranty granted to the Supplier shall be passed on to the Customer to the extent that the Supplier is able and subject to the Goods having been accepted and paid for by the Customer.

10.6. The Supplier shall be entitled in its absolute discretion to refund the price of defective Goods in the event that such price has already been paid.

11. Indemnity

11.1. The Customer shall indemnify the Supplier against all claims, costs and expenses which the Supplier may incur and which arise, directly or indirectly, from the Customer's breach of any of its obligations under the Agreement.

12. Limitation of Liability

12.1. The following provisions set out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

12.1.1. any breach of the Agreement;

12.1.2. any use made or resupply by the Customer of any of the Goods, or of any product incorporating any of the Goods; and

12.1.3. any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.

12.2. No liability of any nature shall be incurred or accepted by the Supplier in respect of any representation made by the Supplier, or on its behalf, to the Customer, or to any party acting on its behalf, prior to the making of the Agreement, where such representations were made or given in relation to:

12.2.1. the correspondence of the Goods with any description;

12.2.2. the quality of the Goods; or

12.2.3. the fitness of the Goods for any purpose whatsoever.

12.3. No liability of any nature shall be accepted by the Supplier to the Customer in respect of any express term of the Agreement where such term relates in any way to:

12.3.1. the correspondence of the Goods with any description;

12.1.2. the quality of the Goods; or

12.3.3. the fitness of the Goods for any purpose whatsoever.

12.4. Save as expressly provided in the Agreement, all conditions, warranties and other terms implied by statute or common law are to the fullest extent permitted by law excluded from the Agreement.

12.5. The Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall be limited to the Agreement price.

12.6. In no event shall the Supplier be liable to the Customer for any loss of business, loss of opportunity, loss of profits, depletion of goodwill and/or similar losses, loss of anticipated savings, loss of contract, loss of use, loss or corruption of data or information or for any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses whatsoever (howsoever caused) which arise out of or in connection with the Agreement. This shall apply even where such a loss was reasonably foreseeable or the Supplier had been made aware of the possibility of the Customer incurring such a loss.

12.7. Nothing in the Agreement shall exclude or limit the Supplier's liability for death or personal injury resulting from the Supplier's negligence or that of its employees, agents or sub-contractors.

13. Termination

13.1. The Supplier may, by written notice, terminate the Agreement immediately if the Customer is in breach of any of the terms of the Agreement, which, if capable of remedy, is not remedied within 14 days of a notice served by the Supplier requiring such breach to be remedied. Failure to pay any sums due is a breach of the terms of the Agreement which is not capable of remedy.

13.2. The Agreement shall be terminated if an order is made for bankruptcy of the Customer or an effective resolution is passed for the winding-up of the Customer or the Customer makes a composition with creditors or if a supervisor, receiver, administrator, administrative receiver or other encumbrancer takes possession of or is appointed over the whole or any part of the assets of the Customer.

13.3. The Agreement shall be terminated if either party ceases to carry on its business or substantially the whole of its business or where either party is declared insolvent.

13.4. Termination of the Agreement shall not affect any rights or obligations of the Parties arising prior to such termination.

14. Intellectual Property Rights

14.1. The specification and design of the Goods and/or Services and all Intellectual Property Rights therein shall as between the Parties be the property of the Supplier. Where any designs or specifications have been supplied by the Customer for manufacture by the Supplier or to the order of the Customer then the Customer warrants that the use of those designs or specifications for the manufacture, processing, assembly or supply of the Goods and/or Services shall not infringe the rights of any third party and the Customer shall indemnify the Supplier against all claims, costs, damages and expenses which the Supplier may incur and which arise, directly or indirectly, from the Customer's breach of such warranty.

15. Force Majeure

15.1. The Supplier shall not be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and the Supplier shall be entitled in these circumstances to delay or cancel delivery or to reduce the amount of Goods delivered and/or Services supplied.

16. Assignment

16.1. The Customer shall not be entitled to assign an Agreement or any part of it without the prior written consent of the Supplier.

16.2. The Supplier may assign an Agreement or any part of it to any person, firm or company.

17. Waiver

17.1. The failure by either party to enforce, at any time or for any period, any one or more of the terms and conditions of the Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of the Agreement.

18. Severability

18.1. If any term or provision of the Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

19. Rights of Third Parties

19.1. The Parties do not intend any part of the Agreement to be enforceable by any person not a party to it, by virtue of the Contracts (Rights of Third Parties) Act 1999.

20. Governing Law

The Agreement shall be governed by and construed in accordance with the law of England and Wales and the Courts of England and Wales shall have exclusive jurisdiction to hear all disputes arising in connection with the Agreement.