

This document is a legally binding agreement between you, the Client, and Richard Gracia trading as Mister Mo (ABN 23 627 814 982) (**Mister Mo**) (**Agreement**) which outlines the terms and conditions of service, responsibilities, benefits, restrictions and liabilities that you, the Client, agree to by entering into this Services Agreement with Mister Mo.

By accepting our quotation, making a booking for Mowing Services with us online through our website, or otherwise engaging our services, you agree to be bound by these terms and conditions.

Definitions and interpretation

- 1 In this Agreement unless the context indicates otherwise, the following words shall have the following meanings:
 - 1.1 Claims means all demands, claims, proceedings, penalties, fines and liability (whether criminal or civil, in contract, tort or otherwise);
 - 1.2 GST means Goods and Services Tax.
 - 1.3 GST Act means A New Tax System (Goods & Services Tax) Act 1999 (Cth).
 - 1.4 Losses means all losses including financial losses, damages, legal costs and other expenses of any nature whatsoever;
 - 1.5 Parties means Mister Mo and you, the Client, and Party shall mean either one of them;
 - 1.6 Person means any individual, company or entity not being a Party and not being an employee of a Party.
 - 1.7 Quotation means Mister Mo's quote for the Mowing Services which is sent to you electronically describing the Mowing Services and setting out the fees to be charged.
 - 1.8 Tax Invoice means a tax invoice that complies with the GST Act.
 - 1.9 Mowing Services means the services the subject of this Agreement, including mowing, lawn edging, leaf raking and collection, soil fertilization, low branch trimming (below 2.4 meters), weed spraying and associated services as requested and agreed and described in the Quotation.
- 2 In this Agreement unless the context otherwise requires:
 - 2.1 words importing the singular number include the plural number and vice versa;
 - 2.2 words importing persons include firms, companies and corporations and vice versa;
 - 2.3 references to numbered clauses, paragraphs and schedules are references to the relevant clause or paragraph in or schedule to this Agreement;
 - 2.4 any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
 - 2.5 the headings to the clauses and schedules of this Agreement are not to affect the interpretation;
 - 2.6 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or bylaw made under that enactment; and
 - 2.7 the word "including" (and related forms including "includes") shall be understood as meaning "including without limitation".

Basis of fees

- 3 Fees are charged on an hourly basis.

- 4 The fees you will be charged for the Mowing Services (**Fees**) are outlined in the Quotation supplied with this document.
- 5 Unless otherwise stated on the Quotation, the quotation will be open for acceptance for 30 days.
- 6 The Fees are calculated by reference to the Mowing Services requested by the Client prior to the Quotation being supplied by Mister Mo.
- 7 A deposit, or the provision of your credit card details, may be required prior to the Mowing Services.
- 8 Generally, a tax invoice will be issued on completion of the Mowing Services. For Clients receiving Mowing Services on a repeating basis, a tax invoice will be issued on a weekly or monthly basis.
- 9 From time to time a discount or rebate may be offered and this will be specified on the Quotation.
- 10 Mister Mo reserves the right to amend a Quotation in respect of Mowing Services not yet performed.
- 11 Where the Mowing Services includes goods that Mister Mo needs to order from a third party (**Ordered Goods**), (for example, consumables like fertiliser) Mister Mo may seek upfront payment of the value of those Ordered Goods as well as a service fee for obtaining the Ordered Goods. If you seek to terminate this agreement, the payment for the Ordered Goods is non refundable.

Materials

- 12 Generally, Mister Mo will use Mister Mo's own equipment and materials.
- 13 Where any materials and/or equipment is supplied by the Client, it will be stored, handled and used at the risk of the Client. Mister Mo is not liable for any Losses arising out of failure in materials or equipment supplied by the Client.

Access to site and Occupational Health and Safety

- 14 The Client must ensure that Mister Mo has safe, clear and unrestricted access to the site of the Mowing Services at all relevant times to enable it to perform and complete the Mowing Services.
- 15 The Client must ensure that pets and people are clear of the area while mowing services are being performed.
- 16 If access to the site is impeded and the Mowing Services cannot be completed for this reason, a Cancellation Fee will be payable.
- 17 A fee will apply for the removal of animal droppings or other hazardous debris from the mowing area.
- 18 Mister Mo will not be liable for any loss or damage to the site of the Mowing Services in relation to access to the site, unless due to Mister Mo's own negligence.
- 19 Mister Mo reserves the right to suspend the Mowing Services where it is deemed necessary to ensure the safety of Mister Mo's personnel.

Irrigation systems and Underground Services

- 20 Mowing Services do not include excavation of any kind. If planting services are included in the Mowing Services, any digging in the ground will not exceed 30cm below the surface. The Client warrants that in respect of any underground services that could be affected by the provision of any Mowing Services, the Client will, prior to the commencement of the Mowing Services:
 - 20.1 Notify Mister Mo of the existence of any underground services that could potentially be affected by the performance of the Mowing Services;

- 20.2 Conduct all necessary and relevant Dial Before You Dig (DBYD) searches to identify underground services including but not limited to electrical, gas, water, sewerage, irrigation, telephone, or fibre optic services;
- 20.3 Clearly mark the precise location of all identified underground services at the site; and
- 20.4 Provide all DBYD plans and reports to Mister Mo.
- 21 If the services of an underground services locator are required in order to provide additional information regarding the location of underground services, this is to be obtained by the Client prior to the commencement of the Mowing Services.
- 22 It is the responsibility of the Client to notify Mister Mo, prior to the commencement of Mowing Services, of the location of all irrigation systems and garden lighting systems at the premises where the Mowing Services are to be performed.
- 23 Mister Mo will take all reasonable precautions to avoid damage to any underground services and irrigation systems. The Client agrees to indemnify Mister Mo in respect of any and all liability, claims, loss, damage, costs and fines incurred as a result of damage to services not precisely located by the Client or its representatives.
- 24 Unless otherwise agreed in writing, Mister Mo will not be responsible or liable for the reinstatement of any driveways, pathways or other repairs which may be required due to performance of the Mowing Services.

Invoicing and Payment terms

- 25 All tax invoices issued by Mister Mo are due for payment seven (7) days after the date of invoice unless alternative terms are agreed in writing at the time of engagement. The Client must contact Mister Mo within seven days of the tax invoice being issued to raise any concerns with any aspect of a tax invoice.
- 26 Where payment remains outstanding for more than 30 days:
- 26.1 Mister Mo reserves the right to apply interest at the General Interest Charge applied by the ATO (which is currently a rate of 9.15% per annum) to all tax invoices that are more than 30 days overdue;
- 26.2 Mister Mo reserves the right to assign any debts payable to it to a third party without consultation with the Client;
- 26.3 The Client agrees to indemnify Mister Mo from and against all costs and disbursements incurred by Mister Mo in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and client basis, Mister Mo's collection agency costs, and bank dishonour fees; and
- 26.4 Mister Mo may report the default on payment to a credit reporting agency.

Warranties

- 27 Mister Mo will perform all Mowing Services in a professional manner, with reasonable care and in accordance with Occupational Health and Safety legislation.
- 28 Mister Mo will not be liable for any damage caused by any defects in, or the unsuitability of material or equipment supplied by the client.
- 29 Ordered Goods supplied by Mister Mo are subject to the respective manufacturer's warranty conditions, as provided by the manufacturer. Mister Mo will supply all the available documentation with any products or goods supplied. Mister Mo does not accept liability for faulty products or Ordered Goods.

Timing, Delay and Cancellation

- 30 Mister Mo will take all reasonable commercial endeavours to ensure that the Mowing Services are performed on the agreed date(s) for completion.
- 31 Where there is a schedule of times referred to in the quotation then Mister Mo will take all reasonable commercial endeavours to ensure that the Mowing Services are performed on the agreed scheduled dates.

- 32 If Mister Mo is unable to perform the Mowing Services to the Client by the date or dates set out in the Quotation, then Mister Mo will promptly notify the Client to that effect with estimates of the revised time for completion.
- 33 If heavy rain is predicted or has recently occurred at the location of the Mowing Services, or if poor drainage or water leaks are apparent Mister Mo may need to reschedule the Mowing Services, to avoid damage to the lawn. The Client will be notified of any such rescheduling as soon as reasonably practicable.
- 34 Provided Mister Mo has used all reasonable commercial endeavours to perform the Mowing Services to the Client in accordance with the date or dates specified in the Quotation, Mister Mo will not be liable to the Client for any delay in completion of the Mowing Services or any part thereof.
- 35 If the Client requests that the Mowing Services not be performed within a 48 hour period before the Mowing Services are scheduled to be performed, Mister Mo reserves the right to charge the full amount for those Mowing Services as a cancellation fee. If the cancelled Mowing Services are rescheduled to be performed within seven (7) days of the original time the Mowing Services were scheduled, the cancellation fee may be waived at Mister Mo's discretion.

Limit of Liability

- 36 Mister Mo will use all reasonable care and skill in providing its services. Mister Mo's liability in connection with the supply of those services to you is, to the maximum extent permitted by law, limited to supplying of the services again, or a refund of the payments received from you. If you have an issue with regard to the performance of the Mowing Services, notification must be made within 1 month of the completion of the Mowing Services.
- 37 Subject to the express terms of this Agreement and to any statute or regulations (State or Federal) which cannot be excluded contractually, the Parties expressly agree that:
- 37.1 Mister Mo does not accept any liability whatsoever in respect of any loss or damage (including injury, death, loss of profits or repudiation, economic loss and consequential loss or other damage) however caused (including Mister Mo's negligence) which may be suffered or incurred or which may arise either directly or indirectly in respect of the Mowing Services;
- 37.2 all Warranties implied by any Statute that can be excluded are hereby expressly excluded.
- 38 The client shall indemnify and hold harmless Mister Mo from and against all Claims and Losses arising from loss, damage, liability, injury to Mister Mo, employees and third parties, infringement of third party intellectual property, or third party losses by reason of or arising out of any negligence of the Client within or without the scope of this Agreement.

Termination

- 39 If this agreement is terminated before payment is made, the Client agrees that it is liable to reimburse Mister Mo for any costs, expenses or losses incurred by it in the event of termination. These costs and expenses include, but are not limited to, Mowing Services completed up to the date of notice of termination Ordered Goods, and any associated service costs.

Dispute resolution

- 40 If you have an issue with any aspect of the Mowing Services, you must notify Mister Mo in writing giving details of the issue and grounds for complaint. Mister Mo will respond within 7 days to any notice of complaint, proposing a method of solution, which may include an inspection of the premises. If an inspection is required, the Client must allow the inspection to take place.
- 41 If the Client does not agree with Mister Mo's proposed solution, the agreement and the Mowing Services shall be terminated.

Privacy

- 42 You authorise Mister Mo to collect, retain, use and disclose consumer and/or commercial information about you, in accordance with Privacy legislation to persons and/or legal entities who are from time to time engaged as professional consultants to Mister Mo, a debt collector, credit reporting agency and/or any other individual or organisation which maintains credit references and/or default listings.
- 43 Mister Mo may give information about the Client to a credit reporting agency for the purpose of obtaining consumer and commercial credit reports and/or lodging defaults on the Client's credit file. This information may be given before, during or after the provision of credit to the Client and will be in accordance with Privacy legislation.
- 44 You authorise Mister Mo to collect, retain, use and publish images of the work site for use in publicising the services offered by Mister Mo. These images shall not disclose the address of the site beyond identifying the suburb and the first name of the client if the images are accompanied by a testimonial

Subcontracting

- 45 Mister Mo may license or subcontract all or any part of Mister Mo's rights and obligations without the Client's consent.

General

- 46 This Agreement may only be amended in writing signed by duly authorised representatives of the Parties.
- 47 This Agreement and, if applicable, the attached quotation, contains the whole agreement between the Parties in respect of the subject matter of Agreement and supersedes and replaces any prior written or oral agreements, representations or understandings between them relating to such subject matter.
- 48 The Parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement.
- 49 No failure or delay by Mister Mo in exercising any right, power or privilege under this Agreement will impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege.
- 50 The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.
- 51 This Agreement will not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Client and Mister Mo other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 52 If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.
- 53 A notice or other communication connected with this Agreement has no legal effect unless it is in writing. In addition to any other method of service provided by law, the notice may be sent by pre-paid post to the address of the addressee as set out in this Agreement, or sent by email to the email address of the addressee.