

<b>PLANTScape</b>	6. <b>PERIOD OF HIRE (Hire Contracts only)</b>	the Owner.	12. <b>EXCEPTIONS AND ACKNOWLEDGMENT</b>
<b>TERMS AND CONDITIONS OF BUSINESS.</b>	6.1 The Goods shall be supplied and the Customer will hire the Goods for each Hire Season during the Contract Period.	10.3 The Owner does not hire the Goods or provide any maintenance services subject to any condition or warranty express implied or statutory in connection with the fitness for purpose or satisfactory quality of the Goods or provision of the maintenance services and any such warranties or conditions are expressly excluded to the maximum extent permissible in law.	12.1 Notwithstanding the provisions of Condition 10 and Condition 11 the Owner does not exclude its liability (if any) to the Customer:
1. <b>DEFINITIONS</b>	6.2 At the end of each Hire Season the Customer will empty any planters pots and hanging baskets which are supplied as part of the Goods and make these available for collection by the Owner.	10.4 The Owner will during each Hire Season of the Contract Period at its option repair or replace any Goods which are proved to the reasonable satisfaction of the Owner to be damaged or defective either due to defects in material workmanship or design of the planters hanging baskets or other plant furniture or due to defects or omissions in any maintenance services provided by the Owner. This obligation will not apply:	12.1.1 for breach of the Owner's obligations arising under section 12 Sale of Goods Act 1979 or section 2 Sale and Supply of Goods and Services Act 1982;
In these Conditions the following expressions shall have the following meanings:	7. <b>TITLE</b>	10.4.1 to any plants supplied as part of the Goods other than where the Owner is providing maintenance and none of the remaining provisions of this Condition 10.4 are applicable;	12.1.2 for personal injury or death resulting from the Owner's negligence;
"the Contract" the contract or order entered into between the Owner and the Customer which incorporates these Conditions under which the Goods are hired or sold to the Customer	7.1 Where Goods are hired to the Customer title shall at all times remain the absolute property of the Owner and no interest shall pass to the Customer. Accordingly the Customer will be a mere bailee of the Goods, will not sell hire out lend or otherwise part with possession of the Goods and will take every step necessary to ensure that the Owner's rights of ownership remain fully protected.	10.4.2 where the Goods have been improperly altered in any way whatsoever or have been subject to misuse or unauthorised repair;	12.1.3 under section 2(3) Consumer Protection Act 1987;
"the Goods" the planters hanging baskets or other plant furniture whether potted or unpotted as detailed in the Schedule of Information	7.2 Where Goods are purchased by the Customer, all Goods will remain the property of the Owner until the price of such Goods has been paid in full but risk in the Goods will pass to the Customer from the date of delivery. The Customer grants the Owner, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them or recover them.	10.4.3 where any maintenance requirements of the Customer have not been complied with;	12.1.4 for any matter which it would be illegal for the Owner to exclude (or attempt to exclude) its liability; or
"the Owner" Plantscape Limited as detailed in the Schedule of Information	8. <b>CUSTOMER OBLIGATIONS (Hire Contracts only)</b>	10.4.4 where any instructions as to storage and use of the Goods have not been complied with;	12.1.5 for fraud.
"the Customer" the person firm authority or organisation detailed in the Schedule of Information who are to hire or buy the Goods from the Owner under the Contract	8.1 The Customer shall:	10.4.5 where the Customer has failed to notify the Owner of any defect within 14 days of the defect becoming apparent.	12.2 The Customer acknowledges that the provisions of Condition 10 and Condition 11 are reasonable and reflected in the Charges or price which would be higher without those provisions, and the Customer will accept such risk and/or insure accordingly.
"Conditions" these terms and conditions of business.	8.1.1 keep the Goods at the Location and not attempt to re-site or reposition the Goods;	10.5 Except as provided in Condition 10.4 and Condition 12, the Owner will be under no liability to the Customer (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any direct, indirect or consequential loss (to include without limit pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused arising out of or in connection with:	13. <b>FORCE MAJEURE</b>
Expressions used in these Conditions not otherwise defined shall have the meanings detailed in the Schedule of Information.	8.1.2 ensure that the planters pots and hanging baskets supplied as part of the Goods are kept clean and properly maintained;	10.5.1 the supply of the Goods; or	13.1 Whilst every effort will be made by the Owner to carry out its obligations under the Contract the Owner will not be deemed to be in breach of the Contract or otherwise liable to the Customer in any manner whatsoever for any failure or delay in performing its obligations under the Contract due to an event of force majeure which includes acts of God, inclement weather, war, strikes, riots, civil commotion, fire, flood, drought, water shortage, malicious damage, compliance with any law or governmental order rule regulation or direction, accident, breakdown of plant and machinery, disease or epidemic, default of suppliers or any other cause beyond the reasonable control of the Owner.
2. <b>FORMATION</b>	8.1.3 comply with all instructions provided by the Owner as to the storage, use, operation or maintenance (where the Owner is not providing maintenance) of the Goods including instructions on watering and general plant care and maintenance;	10.5.2 the provision by the Owner of any maintenance services; or	14. <b>TERMINATION</b>
2.1 Subject to any agreed variation the Contract will be upon these Conditions to the exclusion of all other terms and conditions including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order or similar document, whether or not such document is referred to in the Contract.	8.1.4 not alter modify or add to the Goods;	10.5.3 any breach by the Owner of any of the express or implied terms of the Contract; or	14.1 If the Customer shall:
2.2 Each order or acceptance of a quotation for Goods will be deemed to be an offer by the Customer to hire or purchase the Goods upon these Conditions. The Contract is formed when signed by both the Owner and the Customer.	8.1.5 not remove or interfere with any identification marks or plates affixed to the Goods;	10.5.4 any use made by the Customer of the Goods.	14.1.1 fail to pay any Charges or the price under the Contract within 14 days of the expiry of the payment terms referred to in Condition 4.3; or
2.3 These Conditions may only be modified by a variation in writing signed by a duly authorised signatory of each of the Owner and the Customer and no other action on the part of the Owner (whether delivery of the Goods or otherwise) shall be construed as an acceptance of any other conditions.	8.1.6 ensure that the Owner has access at all times to the Location upon reasonable notice for the purposes of inspecting and where applicable maintaining the Goods;	10.6 Subject to the other provisions of this Condition 10, the Owner's total liability in contract tort (including negligence), breach of statutory duty, restitution or otherwise) arising in connection with the performance or contemplated performance of a Contract for the hire of Goods shall be limited to the Charges as detailed in the Schedule of Information.	14.1.2 fails to observe any other obligation under the Contract; or
2.4 Any quotation is valid for a period of 30 days only from its date, provided the Owner has not previously withdrawn it.	8.1.7 (where the Owner is not providing maintenance) take all reasonable steps to maintain the Goods;	11. <b>LIABILITY OF OWNER (Sale Contracts only)</b>	14.1.3 do or permit to be done any act whereby the Owner's rights in the Goods may be prejudiced or put in jeopardy or parts with possession of the Goods
3. <b>THE GOODS</b>	8.1.8 be responsible for and pay any charges for repairs or replacements necessary to the Goods due to damage caused by the Customer or third parties during the Hire Season;	11.1 The Owner will, free of charge, within a period of 6 months from the date of delivery of Goods which are proved to the reasonable satisfaction of the Owner to be damaged or defective due to defects in materials, or workmanship, repair, or at its option replace, such Goods. This obligation will not apply where:	then in each and every case the Customer shall be deemed to have repudiated the Contract and the Owner may thereupon or at any time within 3 months of such occurrence by written notice to the Customer forthwith terminate the Contract.
3.1 All samples, drawings, descriptive matter, specifications and advertising issued by the Owner and any descriptions or illustrations contained in the Owner's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods but will not form part of the Contract.	8.1.9 be responsible for ensuring compliance with any requirement, statutory or otherwise concerning health and safety or welfare of the Goods following delivery and for the duration of the Hire Season;	11.1.1 the Goods have been improperly altered in any way whatsoever, or have been subject to misuse or unauthorised repair;	14.2 If at any time:
3.2 Every effort will be made to supply Goods exactly as ordered but the Owner reserves the right to substitute the nearest available items which are an adequate substitute should the necessity arise.	8.1.10 be responsible for any damage loss or accidents directly or indirectly arising from any unsafe or unsatisfactory use of the Goods by the Customer;	11.1.2 the Goods have been improperly installed or connected;	14.2.1 any distress execution or other legal process shall be levied on or against the Goods or any part of them or against any premises where the same may be or against any of the Customer's goods or other property or the Customer shall permit any judgement against it to remain unsatisfied for 7 days; or
4. <b>CHARGES AND PAYMENT</b>	8.1.11 be liable to the Owner for and keep the Owner fully indemnified against loss of the Goods or any part of them from whatever cause whether due to the Customer's negligence or otherwise;	11.1.3 any maintenance requirements relating to the Goods have not been complied with;	14.2.2 the Customer becomes subject to any voluntary arrangement, is unable to pay its debts, has a receiver, manager, administrator or administrative receiver appointed over its assets undertaking or income, has passed a resolution or has a petition presented for its winding up (save for the purpose of a voluntary reconstruction or amalgamation) or has a provisional liquidator appointed or has a proposal made for a scheme of arrangement or is subject to a notice to strike off the register at Companies House or for an administration order, then in each and every case the hire constituted by the Contract shall without notice terminate and no payment subsequently accepted by the Owner without knowledge of such termination shall in any way prejudice or affect the operation of this Condition.
4.1 Where the Customer wishes to hire the Goods the Charges shall be as detailed in the Schedule of Information. Where the Customer wishes to purchase the Goods the price for the Goods will be the price set out in the Owner's published price list current at the date of delivery and is exclusive of any costs of packaging and carriage which shall be charged in addition.	8.1.12 indemnify the Owner from and against all claims by any person whatsoever for injury to person or property and in respect of all costs expenses liabilities including negligence (other than death or personal injury arising out of the negligence of the Owner) injuries losses damages proceedings or legal costs (on a full indemnity basis) and judgments which the Owner incurs or suffers and which arise in connection with or out of the use of the Goods (including any accidents involving the Goods) whether due to the Customer's negligence or otherwise and whether arising under statute common law or otherwise.	11.1.4 any instructions as to storage or use of the Goods have not been complied with in all respects; or	15. <b>CONSEQUENCES OF TERMINATION</b>
4.2 The Owner shall at the end of each month invoice the Customer for the Charges for the hire of Goods which have accrued in the month elapsed. The Owner may invoice the Customer the price for the Goods which are sold on or at any time after delivery.	9. <b>MAINTENANCE (Hire Contracts only)</b>	11.1.5 the Customer has failed to notify the Owner of any defect or suspected defect within 14 days of delivery where the defect should be apparent on reasonable inspection, or within 14 days of the same coming to the knowledge of the Customer where the defect is not one which should be apparent on reasonable inspection, and in any event no later than 6 months from the date of delivery.	15.1 In the event that the Contract is terminated under Condition 14 or (in the case of Hire Contracts only) expires at the end of the Contract Period:
4.3 The Customer shall pay all invoices received from the Owner within 30 days of the date of invoice.	9.1 Where the Customer has elected to receive and pay for maintenance as detailed in the Schedule of Information then in such case only the provisions of this condition shall apply.	11.2 The Owner will refund to the Customer the cost of carriage on the return of any such defective or damaged Goods, and will deliver any repaired or replacement Goods to the Customer at the Owner's expense.	15.1.1 (hire contracts only) the Owner's consent to the Customer's possession of the Goods shall be deemed to have been revoked and if the Customer shall not already have done so the Customer will make the Goods available for collection by the Owner and the Owner shall be entitled for this purpose to enter upon the Customer's premises;
4.4 If the Customer defaults in the payment of any sums due to the Owner then it shall pay the Owner interest on the amount outstanding from the date of the invoice until payment is made in full (as well before and after expiry of any judgment) at the rate of 4% per annum over Barclays Bank plc based rate from time to time calculated on a daily basis and compounded monthly.	9.2 Subject to Condition 9.6, the Owner shall use reasonable endeavours to perform the maintenance as described in the Schedule of Information.	11.3 Any Goods which have been replaced will belong to the Owner. Any repaired or replacement Goods will be liable to repair or replacement under the terms specified in Condition 11.1 for the unexpired portion of the 6 month period from the original date of delivery of the replaced Goods.	15.1.2 the Customer shall pay to the Owner all arrears of the Charges or any outstanding amounts of the price then due and any other sums due;
4.5 All sums payable to the Owner are exclusive of value added tax which will be payable by the Customer to the Owner at the appropriate rate.	9.3 Subject to Condition 9.6, the Customer shall pay the Owner for the maintenance as detailed in the Schedule of Information.	11.4 In the event of any breach of the Owner's express obligations under Conditions 11.2 and 11.3 above, the remedies of the Customer will be limited to damages.	15.1.3 (hire contracts only) the Customer shall pay any further Charges which would but for a termination under Condition 14 have fallen due to the end of the Contract Period less a discount for any accelerated payment at the rate of 5% per annum.
4.6 At any time prior to the date of delivery the Owner may vary any charges the Owner may have quoted for carriage and packaging if the costs incurred or to be incurred by the Owner for carriage and/or packaging vary.	9.4 All maintenance except repairs and maintenance which are the Customer's responsibility under Condition 8 must be carried out by the Owner or under its direction and will be in accordance with the Owner's standard maintenance programme.	11.5 Except as provided in Conditions 11.1 to 11.4, and Condition 12 the Owner will be under no liability to the Customer whatsoever (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any injury, death, damage or direct, indirect or consequential loss (to include, without limit, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused arising out of or in connection with:	15.2 The Owner shall be entitled to exercise any one or more of the rights and remedies provided for in these Conditions and the termination of the Owner's consent to the Customer's possession of the Goods shall not affect or prejudice such rights and remedies. The Customer shall be and remain liable to perform all outstanding liabilities under these Conditions notwithstanding that the Owner may have taken possession of the Goods or exercised one or more of the rights and remedies of the Owner.
5. <b>DELIVERY</b>	9.5 Maintenance will usually be carried out at the Location but if maintenance cannot be performed at the Location the Owner shall replace the Goods with similar goods whilst maintenance is being carried out.	11.5.1 any of the Goods, or the manufacture or sale or supply, or failure or delay in supply, of the Goods by the Owner or on the part of the Owner's employees, agents or sub-contractors;	16. <b>MISCELLANEOUS</b>
5.1 For hired Goods the Owner will use reasonable endeavours to deliver each of the Customer's orders for the Goods by the date and to the delivery point agreed when the Customer places an order but if no date is agreed then within a reasonable time before the start of the Hire Season. For purchased Goods the Owner will use reasonable endeavours to deliver the Goods within the time agreed when the Customer places an order, but if no time is agreed when within a reasonable time. Time of delivery will not be of the essence. If despite those endeavours the Owner is unable for any reason to fulfil any delivery by the relevant date the Owner will not be deemed to be in breach of the Contract nor will the Owner have any liability to the Customer for direct indirect or consequential loss (to include, without limit, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused (including as a result of negligence) by any delay or failure in delivery. Any delay in delivery will not entitle the Customer to cancel the Contract.	9.6 When performance of the maintenance set out in the Schedule of Information would not be in compliance with any law or government order, rule, regulation or direction and/or when there is any water shortage, hose pipe ban, restriction on the use of water or similar event:	11.5.2 any breach by the Owner of any of the express or implied terms of the Contract;	16.1 No person who is not a party to the Contract will have any right to receive the benefit of or enforce any of its terms.
5.2 If the Customer fails to accept delivery of any of the Goods when they are ready for delivery or to provide any instructions, documents, licences or authorisations required to enable the Goods to be delivered on time the Goods will be deemed to have been delivered on the due date and (without prejudice to its other rights) the Owner may store or arrange for storage of the Goods until actual delivery and charge the Customer for all related costs and expenses.	9.6.1 The Owner shall not be required to perform the maintenance as set out in the Schedule of Information; and	11.5.3 any use made or resale by the Customer of any of the Goods, or of any product incorporating any of the Goods; or	16.2 The Customer may not assign the benefit or delegate the burden of the Contract.
5.3 The Customer shall within 24 hours of the arrival of the Goods at either the Customer's premises or to the Location notify the Owner in writing of any short delivery or defect by reason of which the Customer alleges that the Goods delivered are not in accordance with those detailed in the Schedule of Information and which should be apparent on reasonable inspection.	9.6.2 The Customer shall continue to be required to pay for the maintenance as set out in the Schedule of Information as if the Owner had actually performed such maintenance.	11.5.4 any statement made or not made, or advice given or not given, by or on behalf of the Owner.	16.3 Any notice given under these Conditions shall be in writing and shall be sent by registered or recorded delivery post addressed to the recipient at its registered office or principal place of business. Any notice shall be deemed to have been served on the day following the date on which it shall have been posted and proof of posting shall be sufficient evidence of service.
	9.7 The Owner may at any time adjust the amount to be paid for maintenance to reflect any variation in the costs incurred by the Owner in respect of fuel in providing maintenance.	11.6 Subject to the other provisions of this Condition 11, the Owner's total liability in contract tort (including negligence), breach of statutory duty, restitution or otherwise) arising in connection with the performance or contemplated performance of a Contract for the sale of Goods shall be limited to the price payable by the Customer.	16.4 These Conditions and the Contract shall be construed in accordance with the laws of England and the English courts will have exclusive jurisdiction in relation to any dispute arising from or in connection with them.
	10. <b>LIABILITY OF OWNER (Hire Contracts only)</b>	11.7 Except as set out in Condition 11.1 to 11.4 and Condition 12, the Owner excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Contract) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Customer.	
	10.1 The Owner shall not be liable for any loss or damage whether direct or indirect suffered by the Customer from any cause beyond the Owner's control in the Contract Period nor for any loss or damage resulting from any hidden defect in the Goods not discoverable by the exercise of reasonable care and skill on the part of the Owner (other than for death or personal injury arising from the Owner's negligence.)		
	10.2 The Owner shall not be liable to the Customer for the death or injury to any personnel of the Customer or loss or damage to its property caused by or arising out of the use of the Goods unless due to the negligence of		