

**ELITE TREE SERVICES (EAST ANGLIA) LTD - STANDARD TERMS & CONDITIONS OF BUSINESS**  
**(the "Terms and Conditions")**

Interpretation:-

"Contract" shall mean a contract for the purchase and supply of the Services made between the Company and Customer on these Terms and Conditions.

"Company" shall mean Elite Tree Services (East Anglia) Ltd (Company number: 04654922) whose registered office is at 306 Main Road, Kesgrave, Ipswich, Suffolk, IP5 2PS;

"Customer" shall mean the person, firm or company who purchases Services from the Company.

"Services" shall mean the services to be provided by the Company as set out in the Contract.

A person includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality).

1. These Terms and Conditions apply to and will be incorporated into any Contract entered into between a Customer and the Company and will prevail over any inconsistent terms or conditions contained or referred to in the Company's quotation, confirmation of work to be carried out or any other document supplied by the Company or implied by law, trade, custom, practice or course of dealing.
2. No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, acceptance of quotation, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
3. The Company's quotation for Services constitutes an offer by the Company to supply the Services to the Customer on these Terms and Conditions.
4. All prices given either verbally or in writing are exclusive of VAT. These will be charged in addition to the given price at the appropriate current rate.
5. Verbal and written estimates and quotations will remain valid for a period of 28 days only.
6. Where specified, written confirmation may be required from the Customer prior to dates being booked for work to be carried out.
7. Once your written or verbal confirmation for the purchase of the Services has been received by the Company, a contract for the supply and purchase of the Services on these Terms and Conditions will be established.
8. The Company reserves the right from the date the Contract is entered into (as set out in clause 7 above), to purchase any required materials in advance of the work being carried out. If the Contract is cancelled by the Customer (for any reason) and the Company has purchased materials in advance, then the Customer will be responsible for paying the full price for these materials to the Company.
9. If the Contract is cancelled by the Customer (for any reason) within 5 - 10 days of the date of the scheduled work, then the Company reserves the right to charge the Customer a cancellation fee representing the reasonable costs incurred by the Company resulting from the cancellation and shall in any event be no more than 25% of the total labour charge quoted to the Customer. In addition the Customer shall be liable for payment of any materials purchased. In the event that the Company secures a replacement booking from a new Customer for the cancelled date, the Company will reimburse the Customer for any cancellation fee paid provided the fee received from the new customer is equal to or greater than this amount. Any cancellation fee owing will become due immediately and will be payable within 7 days to the Company, subject to clause 31.
10. If the Contract is cancelled by the Customer (for any reason) up to 5 days before the date of the scheduled work, then the Company reserves the right to charge the Customer a cancellation fee representing the reasonable costs incurred by the Company resulting from the cancellation and shall in any event be no more than 50% of the total labour charge quoted to the Customer. In addition the Customer shall be liable for payment of any materials purchased. In the event that the Company secures a replacement booking from a new Customer for the cancelled date, the Company will reimburse the Customer for any cancellation fee paid provided the fee received from the new customer is equal to or greater than this amount. Any cancellation fee owing will become due immediately and will be payable within 7 days to the Company, subject to clause 31.
11. For Health & Safety reasons no access is permitted by any person other than the Company within the working area whilst work is in progress. The working area may affect neighbouring properties.
12. All quoted prices do not include the removal of debris from the site unless otherwise stated to the contrary on the quotation or estimate.
13. Hourly & daily rates are to include the time required for all travelling, loading/unloading of equipment and for the disposal of debris if required.
14. Major deadwood is defined as dead branches which are over 2½" in diameter and over 24" in length.
15. Payment for material costs may be requested in advance. All materials used on site will remain the property of the Company until full payment for the contracted work is received (including both labour and material costs).
16. Should payment not be received by the Company for the contracted work, the Company reserves the right to enter the Customer's premises for the recovery of all materials used by the Company at the site.
17. The Company accepts no responsibility for any faults, defects or problems found with any materials used either during or after work has been completed and these must be dealt with directly with the supplier, whose details can be obtained from the Company.
18. If whilst on site the Site Supervisor considers behaviour of the Customer or any of its employees to be unreasonable, abusive or threatening towards the Company's staff, the Company reserves the right to require its staff to leave the site, in which case payment will become immediately due in full, whether or not the contracted work has been completed.
19. If the Customer instructs and time allows for extra work to be carried out on site at the time contracted work is being carried out, this will be charged at an additional price as quoted to and accepted by the Customer before any additional work commences.
20. If the Customer wishes to reschedule work this must be done in writing at least 10 days prior to the original work commencement date. Rescheduled work must be re booked within one month of the original date booked and an admin charge of £25 plus VAT will apply. If less than 10 days notice is given, the Company reserves the right to charge an admin fee of £25 plus VAT and a fee of up to 10% of the total labour charge quoted. In the event that the Company is successful in securing a replacement booking from a new customer, then it will reimburse the Customer for any amount received from the new customer of up to the 10% fee paid by the Customer. If the Customer's Contract is subsequently cancelled, clauses 9 and 10 will apply.
21. If work is booked in with less than 10 days notice, the Company will inform the Customer at the point of sale that the work cannot be rescheduled and any cancelled work will be charged under the terms of clause 9 and 10.
22. If the Customer's work requirements change leading to less than 50% of the initial contracted work being required, notification of this must be made to the Company in writing at least 10 days prior to the agreed commencement date. In all other cases where the Customer's work requirements change leading to a small reduction in the amount of work previously contracted notification must be received not less than 5 days of the commencement date, otherwise the Company reserves the right to charge the Customer the full price for the initial work contracted.
23. If the Company's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Company shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.
24. If the property or trees are covered by a Tree Preservation Order, Conservation Area or Planning Consent Conditions we must be advised at the quotation stage. It is the Customer's responsibility to ensure any applications required are made and approval for work is granted prior to work commencing.
25. Where access to neighbouring properties is required it is the Customer's responsibility to make such arrangements prior to work commencing for access to be available. If extra work is incurred as a result of arrangements not being made the Company reserves the right to charge an additional sum for the extra work incurred. If work cannot be completed as a result of arrangements not being made then payment will still be due in full.
26. If work is required to land, trees, hedges or shrubs etc which the Customer is not the legal owner of, then it is the Customer's responsibility to ensure that prior written permission from the legal owner has been obtained prior to the Customer entering into a Contract for Services with the Company. The Company shall not be liable to any legal owner where Services have been instructed by the Customer and carried out by the Company when such prior permission has not been obtained. Such liability will remain solely that of the Customer.

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27. If access is not available on the arranged date(s) and work cannot be carried out in full as a result of this, or debris cannot be removed then payment will still be due in full to the Company.
28. If vehicular access is obstructed on the day(s) work is to be carried out an additional charge will be made for any extra work incurred, for example additional time required for the removal of debris.
29. This clause 29 sets out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents, consultants and subcontractors) to the Customer in respect of; (a) Breach of Contract; (b) Any use made by the Customer of the Services; (c) Any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 29.1 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 29.2 Nothing in these Conditions limits or excludes the liability of the Company: (a) For death or personal injury resulting from negligence; or (b) For any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Company.
- 29.3 Where the Customer is dealing as a consumer, nothing in the Contract shall affect the Customer's statutory rights.
- 29.4 Subject to conditions 29.1 to 29.3, whilst utmost care will be taken by the Company, the Company shall not be liable for any damage caused by and / or to any:
- flying debris from stump grinders, shimmers, mowers and like equipment (including damage to 3<sup>rd</sup> party property).
  - BT phone lines where they obstruct access or are adjacent to or through trees being worked on.
  - any vehicles and equipment to drives, paths, lawns and other surfaces, unless the Company is specifically requested in writing, prior to a quotation being given by the Company, not use these areas. This includes fluid leaks.
  - surrounding trees, shrubs and plants, etc., whilst working on neighbouring trees and hedges directly over or adjacent to same.
  - marking of walls, gate posts, door frames, fences, etc., during the removal of debris in restricted areas.
  - marking of walls, gate posts, drain pipes, door frames, fences, etc., when vehicular/ equipment access is being made to a site with a restricted accessway.
  - any underground services unless the Company has been informed prior to the commencement of work where they are located and maps have been provided which clearly mark these services on the site.
  - any vehicles located at the property where the work is being carried out.
  - any loss of profits by the Customer as a result of the work being undertaken.
- 29.5 The Company'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 Contract shall be limited to £5 million.
30. Payment is due by cheque to one of our staff before they leave site on the day of completion of work unless alternative payment details are provided on the Company's written quotation.
31. If the Customer fails to pay any amount payable by it under the Contract in accordance with the payment terms under clause 30 and any other payment clause under these Terms and Conditions, then the Company may charge the Customer interest on the overdue amount from the due date up to the date of actual payment, at the rate of 4% per annum above the base rate for the time being of HSBC plc. Such interest shall accrue on a daily basis and be compounded quarterly until payment is made, whether before or after any judgment and the Customer shall pay the interest immediately on demand. The Company may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 and the Customer shall pay the interest immediately on demand.
32. The Customer shall make all payments due under the Contract in full without any deduction by way of set off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Customer.
33. In the event of a grievance and / or the reporting of damages following / during the completion of work, this must be raised and where able settled with the Site Supervisor before he leaves the site. If any grievance cannot be settled on site with the Site Supervisor, then the Company must be notified of any grievance or damages in writing within 7 days of the completion of work.
34. Payment cannot be withheld or reduced on a grievance or damages basis. Payment must be made in full by the due date and any grievance/damage will be settled separately thereafter.
35. If sighting of our CIS card is required prior to payment of our invoice it is the Customers responsibility to arrange viewing of the card at our offices to ensure that payment is made by the due date.
36. For quotations valued below £3,000, if additional paperwork is required prior to work commencing, i.e. copy of certificates, method statements, etc., an admin charge of £25.00 + VAT will be made in addition to the quoted cost unless these were notified in writing prior to a quotation being given.
37. The Supplier shall have no liability to the Customer under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
38. A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.
39. If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.
40. A person who is not a party to the Contract shall not have any rights under or in connection with it.
41. The Contract and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with the law of England and Wales. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Contract of its subject matter