

Jasper Green Designs

Service Purchase Terms & Conditions

Site Diagnostic Service | Consultation Service

Thank you for choosing Jasper Green.

These terms and conditions govern your purchase of services through our Website (**Terms and Conditions**).

By clicking 'accept' you agree to be bound by these Terms and Conditions.

1. About Us

The Website, www.jaspergreen.com.au (**Website**) is operated by Verdant Enterprises Pty Ltd (ABN: 67 698 999 870) t/as Jasper Green Designs (**Jasper Green, we, us, our**).

Jasper Green is a landscape consultancy business providing professional landscape consultation and advisory services.

The Website provides you with an opportunity to browse and purchase either or both of the following services: Site Diagnostic Service and Consultation Service (collectively referred to as the **Services**).

These Terms and Conditions apply to both Services.

2. Definitions

In these Terms and Conditions, unless the context requires otherwise:

- **Agreement:** means these Terms and Conditions together with the Booking Confirmation.
- **ACL:** means the Australian Consumer Law as set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth).
- **Booking:** means a confirmed booking for a Service made and paid for through the Website.
- **Booking Confirmation:** means the written confirmation email issued by us following successful payment, specifying the Service booked, the date, time and, where applicable, the Site address.
- **Business Day:** means a day that is not a Saturday, Sunday or public holiday in New South Wales.
- **Confidential Information:** has the meaning given in clause 12.
- **Consultation Memo:** means the memorandum prepared and delivered by us following a Consultation Service.
- **Consultation Service:** means a single online, in person or telephone consultation session with our landscape consultant, as further described in clause 6.
- **GST:** means the goods and services tax as defined in A New Tax System (Goods and Services Tax) Act 1999 (Cth).

- **Intellectual Property Rights:** means all copyright, moral rights, rights in designs (whether registered or unregistered), trademarks, patents, know-how, trade secrets and all other intellectual and industrial property rights, anywhere in the world.
- **Purchase Price:** means the price for the relevant Service as listed on the Website at the time of Booking.
- **Report:** means the written site diagnostic report delivered by us following a Site Diagnostic Service.
- **Services:** has the meaning given in clause 1.
- **Site:** means the property address nominated by you in connection with a Site Diagnostic Service Booking or a Consultation Service.
- **Site Diagnostic Service:** means our site attendance, assessment and reporting service as further described in clause 5.
- **Works:** means any plans, reports, documents, drawings, designs, recommendations, specifications, notes or other materials created or produced by us in the course of providing the Services.
- **You / Your:** means the individual or entity making the Booking.

3. Acceptance of These Terms

You accept this Agreement by:

- clicking 'Accept', 'Confirm Purchase' or a similar button on the Website; or
- completing payment for a Booking.

If you do not agree with these Terms and Conditions, you must not proceed with a Booking.

These Terms and Conditions apply to each Booking you make, and a separate Agreement is formed for each Booking.

4. Personal Information

When making a Booking, you will be required to provide personal information, including your name, email address, contact number and, for a Site Diagnostic Service, the Site address, and for a consultation service, the location.

You warrant that all information you provide is true, accurate and current.

Your personal information is collected, held, used and disclosed in accordance with our Privacy Policy, which can be accessed on the Website.

5. Site Diagnostic Service

5.1 Description

The Site Diagnostic Service comprises:

- attendance by our landscape consultant at the Site on the date and time confirmed in your Booking Confirmation;

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- assessment of the Site having regard to the instructions, objectives and information provided by you in advance, and discussed at the time of attendance; and
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- preparation and delivery of a written Report summarising our observations, findings and general recommendations.
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5.2 Your Obligations

To enable us to provide the Site Diagnostic Service, you must:

- ensure the Site is accessible at the agreed date and time, including providing any necessary gate codes, keys or authority to enter;
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- provide accurate and complete information regarding the Site, including any known constraints, overlays, easements, covenants, service locations, neighbour notifications or planning restrictions;
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- ensure any relevant permits, consents or owner's authority are in place for access; and
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- notify us promptly if the Site access arrangements change.
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We are not responsible for any delay, additional cost or inability to provide the Site Diagnostic Service arising from your failure to comply with this clause.

5.3 Report Delivery

We will endeavour to deliver the Report within 14 Business Days of completing the site attendance, unless otherwise arranged.

The Report will be delivered by email to the address provided at the time of Booking.

5.4 Scope of Site Diagnostic Service

The Site Diagnostic Service and Report are provided on the basis of a single site attendance and the information you provide. The Report constitutes a general diagnostic assessment only. It does not constitute:

- detailed design or construction documentation;
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- a full planning or development assessment;
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- an engineering, arboriculture, geotechnical or environmental assessment; or
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- legal, detailed planning, heritage or regulatory advice.
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If further detailed investigation, specialist reports or formal design services are required following delivery of the Report, we will advise you accordingly. Additional fees will apply to any further engagement.

6. Consultation Service

6.1 Description

The Consultation Service comprises a single consultation session, via online video call, in person or telephone call, with our landscape consultant of the duration specified on the Website at the time of Booking (**Consultation Session**).

The Consultation Session is intended to:

- discuss your landscape project, objectives or brief;

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- provide general observations and indicative options; and
 - assist you in identifying potential next steps.
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6.2 Scheduling

You may book a suitable time for the Consultation Service at the time of making your booking, and make a payment at that time. Following payment, you will receive a Booking Confirmation confirming the Consultation Service.

Rescheduling requests for either the Consultation Service or the Site Diagnostic Service must be made at least 3 Business Days before the scheduled Service start time by emailing info@jaspergreen.com.au. We will accommodate one rescheduling request per Booking. Subsequent rescheduling requests may incur an administration fee of \$55.00 (GST inclusive).

6.3 Scope of Consultation Service

The Consultation Service is provided on the basis of the information you supply prior to and during the Consultation Session. Advice given during a Consultation Session is general in nature, based on the information available at the time, and does not constitute:

- detailed design, documentation or certification;
- site-specific engineering, planning, geotechnical, arboriculture or environmental advice;
- council development application preparation or lodgement;
- compliance advice specific to your locality; or
- legal advice.

We do not take responsibility for any outcomes arising from decisions you make in reliance on the Consultation Service where you have not obtained appropriate specialist or site-specific advice before acting on our recommendations.

A Consultation Memo will be provided following the Consultation Service and we will endeavour to deliver the Consultation Memo within 14 Business Days of completing the Consultation Service, unless otherwise arranged.

The Report will be delivered by email to the address provided at the time of Booking.

7. Booking and Payment

To make a Booking, you must:

- select the relevant Service on the Website;
- provide the required information on the booking form;
- review and accept these Terms and Conditions; and
- pay the Purchase Price in full through the Website.

Your Booking is not confirmed until we issue a Booking Confirmation to you by email.

Payment of the Purchase Price may be made via the payment methods available on the Website, which may include credit card, debit card and other options facilitated through our payment gateway provider (**Payment Gateway Provider**). By completing payment, you agree to be bound by the terms and conditions of the Payment Gateway Provider, which are available on their website.

All amounts are quoted and charged in Australian Dollars (AUD). Unless expressly stated otherwise, all amounts are GST inclusive.

Following confirmation of payment, you will be issued with a tax invoice and receipt.

You acknowledge that where a payment is returned, dishonoured or reversed for any reason, you remain liable for the Purchase Price and any associated bank or gateway fees.

8. Cancellations and Refunds

8.1 Cancellations by You

If you wish to cancel a Booking, you must notify us in writing to info@jaspergreen.com.au and comply with the requirements below.

The following cancellation terms apply, subject always to your rights under the ACL:

8.2 Site Diagnostic Service – Cancellation

- If you cancel more than 7 Business Days before the scheduled site attendance date: you will receive a full refund of the Purchase Price.
- If you cancel within 7 Business Days of the scheduled site attendance date but before attendance has occurred: a cancellation fee of 50% of the Purchase Price will apply, with the balance refunded to you.
- If you cancel on the day of or after the site attendance has commenced, or you fail to provide access to the Site at the scheduled date and time without prior notice: no refund is payable.

8.3 Consultation Service – Cancellation

- If you cancel more than 7 Business Days before the scheduled Consultation Service: you will receive a full refund of the Purchase Price.
- If you cancel within 7 Business Days of the scheduled Consultation Service but before attendance has occurred: a cancellation fee of 50% of the Purchase Price will apply, with the balance refunded to you.
- If you cancel on the day of or after the scheduled Consultation Service has commenced: no refund is payable.

8.4 Cancellation by Us

We reserve the right to cancel a Booking where:

- we become aware of a conflict of interest that prevents us from acting for you;
- access to the Site cannot be arranged (for a Site Diagnostic Service);
- you have provided materially inaccurate or incomplete information; or
- circumstances beyond our reasonable control prevent us from performing the Service.

Where we cancel a Booking as a result of your default, no refund is payable, and you will remain liable for any costs or expenses we have reasonably incurred in connection with the Booking up to the date of cancellation. Where we cancel a Booking other than as a result of your default, we will provide you with a full refund of the Purchase Price, which will be your sole and exclusive remedy in respect of that cancellation, subject to your rights under the ACL.

8.5 ACL Rights

Our Services come with guarantees that cannot be excluded under the ACL. For major failures with a service, you are entitled to cancel your Agreement with us and receive a refund for the unused portion, or to compensation for the reduced value of the service. A major failure with a service is defined by the ACL. Nothing in these Terms and Conditions excludes or limits your rights under the ACL.

9. Disclaimer – Nature of Advice

Important: Please read this section carefully. It describes the nature and limitations of the services and advice we provide.

The following disclaimer applies to both the Site Diagnostic Service and the Consultation Service:

9.1 General Nature of Advice

All observations, findings, recommendations and advice provided by us through the Services (whether in a Report, verbally during a Consultation Session or otherwise) are of a general nature only, based on the information available to us at the time of providing the Service.

Our Services and associated Works are not a substitute for:

- specialist engineering, structural, geotechnical or soil testing reports;
- arboriculture assessments;
- environmental impact assessments;
- heritage impact assessments;
- formal planning, development or building approvals;
- legal advice on your rights, covenants, easements or title; or
- any other specialist assessment relevant to your project.

9.2 Site and Project Specific Limitations

Our assessments and recommendations are limited to pre-work that we can undertake, what is observable at the time of a site attendance or reasonably determinable from information you provide. We are not responsible for conditions, constraints or matters:

- that are not visible, accessible or disclosed at the time of the Service;
- identified after the Service is completed;
- arising from inaccurate or incomplete information provided by you; or
- relating to subsurface conditions, structural integrity, utilities or services.

9.3 No Guarantee of Outcomes

You acknowledge that landscape design and planning outcomes depend on numerous factors outside our control, including council decisions, contractor performance, weather, soil conditions, plant availability and your own implementation decisions. We make no warranty or guarantee that any particular outcome, result or approval will be achieved by implementing any recommendation or advice provided through the Services.

9.4 Reliance on Advice

You are solely responsible for your decisions and actions arising from or in reliance on our advice or the Works. We strongly recommend that you obtain all specialist reports, legal advice, council approvals and other professional input necessary before proceeding with any landscape project.

To the maximum extent permitted by law, we are not liable for any loss or damage arising from or in connection with your reliance on our advice, the Report or the outcomes of a Consultation Session where you have not obtained appropriate independent specialist or regulatory input prior to acting on that advice.

9.5 Currency of Advice

Advice provided in the course of a Service is current as at the date of the Service only. We are not obliged to update the Report or any advice given in a Consultation Session following changes in planning requirements, legislation, material costs, site conditions or other relevant factors.

10. Liability

10.1 Limitation of Liability

To the maximum extent permitted by law, our total aggregate liability to you arising out of or in connection with any Service or these Terms and Conditions, however arising (including under contract, tort, statute or otherwise), will not exceed:

- for a Site Diagnostic Service: the Purchase Price paid by you for the relevant Site Diagnostic Service Booking; and
- for a Consultation Service: the Purchase Price paid by you for the relevant Consultation Session Booking.

10.2 Exclusion of Consequential Loss

To the maximum extent permitted by law, we exclude all liability for:

- loss of profits, revenue or business;
- loss of opportunity;
- loss of data;
- indirect or consequential loss; and
- any loss arising from your reliance on the Services for a purpose for which they were not intended.

10.3 Indemnity

You indemnify and agree to keep us indemnified against all claims, loss, liability, damages, costs and expenses (including reasonable legal costs) arising out of or in connection with:

- your breach of these Terms and Conditions;
- your provision of inaccurate or incomplete information in connection with a Booking; or
- any use of the Works or advice in a manner not contemplated or authorised by us.

10.4 ACL Savings

Nothing in clause 10 limits or excludes any guarantee, warranty, condition, right or remedy that cannot be excluded or limited under the ACL.

11. Intellectual Property

11.1 Ownership of Works

All Intellectual Property Rights in the Works created or produced by us in the course of providing the Services, including the Report and any other materials, notes, sketches or documentation, vest in and remain the sole and exclusive property of Jasper Green whether such property is tangible or intangible.

For the avoidance of doubt, nothing in this Agreement assigns or transfers any Intellectual Property Rights in the Works to you.

11.2 Licence to Use Works

Subject to full payment of the Purchase Price and your compliance with these Terms and Conditions, we grant you a limited, non-exclusive, non-transferable, non-sublicensable licence to use the Works solely for your own personal, non-commercial use in connection with the Site or project described in your Booking (**Licence**).

The Licence does not permit you to:

- reproduce, publish or share the Works with any third party, other than your builder, contractor or other consultant engaged directly in connection with your own project at the Site;
- use the Works for any purpose other than in connection with the Site or project described in your Booking;
- use the Works in connection with any site or project other than the one described in your Booking;
- alter, adapt or modify the Works without our prior written consent; or
- represent the Works as your own or remove our authorship attribution.

11.3 Moral Rights

Nothing in this Agreement affects our moral rights in the Works, including the right of attribution and the right of integrity, as recognised under the *Copyright Act 1968* (Cth).

11.4 Indemnity for Infringement

You agree to indemnify and keep us indemnified against all liability, loss, damages and expenses we incur as a result of any breach of intellectual property rights arising from your unauthorised use of the Works.

12. Confidentiality

Neither party will disclose to any third party any information provided by the other party that is identified as confidential or that a reasonable person would understand to be confidential (**Confidential Information**), without the prior written consent of the other party, except:

- to the extent required by law or a regulatory body;
- to legal or financial advisers bound by professional obligations of confidence; or

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- where the information is in the public domain through no fault of the receiving party.

This obligation survives termination or expiry of this Agreement.

13. Mailing List

At the time of Booking, you may be given the option to subscribe to our mailing list (**Mailing List**). By subscribing, you consent to receiving promotional material, updates, project inspiration and other content from us.

You may unsubscribe at any time by clicking the unsubscribe link in any of our emails or by contacting us at info@jaspergreen.com.au.

You agree that any testimonials you provide to us from time to time may be used, edited, reproduced and published by us on a perpetual, irrevocable, royalty-free basis for marketing and promotional purposes, including on our Website, social media, print materials and any other marketing channels.

14. Privacy

We are committed to protecting your personal information and complying with the *Privacy Act 1988* (Cth) and the Australian Privacy Principles. Your personal information is collected, held, used and disclosed in accordance with our Privacy Policy, available on the Website.

15. Governing Law and Jurisdiction

This Agreement is governed by the laws of New South Wales, Australia.

Any dispute arising out of or in relation to this Agreement or the Services will be subject to the exclusive jurisdiction of the courts of New South Wales, Australia, and you submit to that jurisdiction.

16. Severance

If any provision of this Agreement is found to be void, invalid or unenforceable in any jurisdiction, that provision will be severed from this Agreement to the extent of the invalidity or unenforceability, and the remaining provisions will continue in full force and effect.

17. Entire Agreement

This Agreement (comprising these Terms and Conditions and the Booking Confirmation) constitutes the entire agreement between you and us with respect to the subject matter and supersedes all prior communications, representations and agreements, whether oral or written.