Mowbuddy Pty Ltd - Terms and Conditions

Last updated: January 14, 2021

1. About the Website

1.1. Welcome to www.mowbuddy.com.au (the '**Website**'). The Website Lawn maintenance & garden care (the '**Services**').

1.2. The Website is operated by mowbuddy PTY. LTD. (ACN 628 658 417) . Access to and use of the Website, or any of its associated Products or Services, is provided by mowbuddy. Please read these terms and conditions (the '**Terms**') carefully. By using, browsing and/or reading the Website, this signifies that you have read, understood and agree to be bound by the Terms. If you do not agree with the Terms, you must cease usage of the Website, or any of Services, immediately.

1.3. mowbuddy reserves the right to review and change any of the Terms by updating this page at its sole discretion. When mowbuddy updates the Terms, it will use reasonable endeavours to provide you with notice of updates to the Terms. Any changes to the Terms take immediate effect from the date of their publication. Before you continue, we recommend you keep a copy of the Terms for your records.

2. Acceptance of the Terms

You accept the Terms by remaining on the Website. You may also accept the Terms by clicking to accept or agree to the Terms where this option is made available to you by mowbuddy in the user interface.

3. Registration to use the Services

1.1. In order to access the Services, you must first register for an account through the Website (the '**Account**').

1.2. As part of the registration process, or as part of your continued use of the Services, you may be required to provide personal information about yourself (such as identification or contact details), including:

(a) Email address

(b) Home address or addresses

(c) Telephone number

(d) Password

1.3. You warrant that any information you give to mowbuddy in the course of completing the registration process will always be accurate, correct and up to date.

1.4. Once you have completed the registration process, you will be a registered member of the Website ('**Member**') and agree to be bound by the Terms.

1.5. You may not use the Services and may not accept the Terms if:

(a) you are not of legal age to form a binding contract with mowbuddy; or

(b) you are a person barred from receiving the Services under the laws of Australia or other countries including the country in which you are resident or from which you use the Services.

4. Your obligations as a Member

1.1. As a Member, you agree to comply with the following:

(a) you will use the Services only for purposes that are permitted by:

i. the Terms; and

ii. any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions;

(b) you have the sole responsibility for protecting the confidentiality of your password and/or email address. Use of your password by any other person may result in the immediate cancellation of the Services;

(c) any use of your registration information by any other person, or third parties, is strictly prohibited. You agree to immediately notify mowbuddy of any unauthorised use of your password or email address or any breach of security of which you have become aware;

(d) access and use of the Website is limited, non-transferable and allows for the sole use of the Website by you for the purposes of mowbuddy providing the Services;

(e) you will not use the Services or the Website in connection with any commercial endeavours except those that are specifically endorsed or approved by the management of mowbuddy;

(f) you will not use the Services or Website for any illegal and/or unauthorised use which includes collecting email addresses of Members by electronic or other means for the purpose of sending unsolicited email or unauthorised framing of or linking to the Website;

(g) you agree that commercial advertisements, affiliate links, and other forms of solicitation may be removed from the Website without notice and may result in termination of the Services. Appropriate legal action will be taken by mowbuddy for any illegal or unauthorised use of the Website; and

(h) you acknowledge and agree that any automated use of the Website or its Services is prohibited.

5. Payment

1.1. Where the option is given to you, you may make payment for the Services (the '**Services Fee**') by way of: Credit card or debit card.

1.2. All payments made in the course of your use of the Services are made using Stripe and/or ezidebit. In using the Website, the Services or when making any payment in relation to your use of the Services, you warrant that you have read, understood and agree to be bound by the Stripe and/or ezidebit terms and conditions which are available on their website.

1.3. You acknowledge and agree that where a request for the payment of the Services Fee is returned or denied, for whatever reason, by your financial institution or is unpaid by you for any other reason, then you are liable for any costs, including banking fees and charges, associated with the Services Fee.

1.4. You agree and acknowledge that mowbuddy can vary the Services Fee at any time.

1.5. Payment must be made within 3 days of receiving the tax invoice associated with the Services provided. Late payment reminders may be sent to your account email address and/or mobile number. Mowbuddy reserves the right to suspend further Services while an amount remains overdue.

1.6. Where an amount remains unpaid for 30 days or more after the due date, Mowbuddy may refer the outstanding amount to a third-party debt collection agency. You may be liable for the reasonable costs actually incurred by Mowbuddy in recovering the overdue amount, including debt collection agency fees, to the extent permitted by law.

6. Mowbuddy Partner

A mowbuddy partner is the person providing the service. You acknowledge that they are an independent third party contractor and not an employee of mowbuddy. This means that they are in control of their schedule and have the right to change your preferred date or cancel your booking for reasons they will provide in communication to you.

A mowbuddy partner will have access to the booking details you entered in order to fulfill the service requirements plus the following registration details: Telephone number, Email address and Home address only. You acknowledge that a mowbuddy partner can contact you via a phone call, sms or email for booking arrangements and confirmation.

7. Quote Changes

Upon visit to your nominated address, our mowbuddy partners reserve the right to adjust original quote (Services Fee) if:

7.1. The original booking information added by you was deemed inaccurate or incorrect.

7.2. If you request additional services that are outside the standard booking requirements. Eg: you may require hedging, pruning or fertilizing etc. These will be quoted freely by the mowbuddy partner and is not part of our fixed price.

7.3. If (in general) a mowbuddy partner finds that there are hazards/obstacles/conditions that would require more effort to complete the work, which in turn was either not communicated, unforeseen, or unable to be detailed within your original booking.

8. Refund Policy

mowbuddy will only provide you with a refund of the Services Fee in the event they are unable to continue to provide the Services or if the manager of mowbuddy makes a decision, at its absolute discretion, that it is reasonable to do so under the circumstances (the '**Refund**').

9. Copyright and Intellectual Property

1.1. The Website, the Services and all of the related products of mowbuddy are subject to copyright. The material on the Website is protected by copyright under the laws of Australia and through international treaties. Unless otherwise indicated, all rights (including copyright) in the Services and compilation of the Website (including but not limited to text, graphics, logos, button icons, video images, audio clips, Website, code, scripts, design elements and interactive features) or the Services are owned or controlled for these purposes, and are reserved by mowbuddy or its contributors.

1.2. All trademarks, service marks and trade names are owned, registered and/or licensed by mowbuddy, who grants to you a worldwide, non-exclusive, royalty-free, revocable license whilst you are a Member to:

(a) use the Website pursuant to the Terms;

(b) copy and store the Website and the material contained in the Website in your device's cache memory; and

(c) print pages from the Website for your own personal and non-commercial use.

1.3. mowbuddy does not grant you any other rights whatsoever in relation to the Website or the Services. All other rights are expressly reserved by mowbuddy.

1.4. mowbuddy retains all rights, title and interest in and to the Website and all related Services. Nothing you do on or in relation to the Website will transfer any:

(a) business name, trading name, domain name, trade mark, industrial design, patent, registered design or copyright, or

(b) a right to use or exploit a business name, trading name, domain name, trade mark or industrial design, or

(c) a thing, system or process that is the subject of a patent, registered design or copyright (or an adaptation or modification of such a thing, system or process),

to you.

1.5. You may not, without the prior written permission of mowbuddy and the permission of any other relevant rights owners: broadcast, republish, up-load to a third party, transmit, post, distribute, show or play in public, adapt or change in any way the Services or third party Services for any purpose, unless otherwise provided by these Terms. This prohibition does not extend to materials on the Website, which are freely available for re-use or are in the public domain.

10. Privacy

1.1. mowbuddy takes your privacy seriously and any information provided through your use of the Website and/or Services are subject to mowbuddy's Privacy Policy, which is available on the Website.

11. General Disclaimer

1.1. Nothing in the Terms limits or excludes any guarantees, warranties, representations or conditions implied or imposed by law, including the Australian Consumer Law (or any liability under them) which by law may not be limited or excluded.

1.2. Subject to this clause, and to the extent permitted by law:

(a) all terms, guarantees, warranties, representations or conditions which are not expressly stated in the Terms are excluded; and

(b) mowbuddy will not be liable for any special, indirect or consequential loss or damage (unless such loss or damage is reasonably foreseeable resulting from our failure to meet an applicable Consumer Guarantee), loss of profit or opportunity, or damage to goodwill arising out of or in connection with the Services or these Terms (including as a result of not being able to use the Services or the late supply of the Services), whether at common law, under contract, tort (including negligence), in equity, pursuant to statute or otherwise.

1.3. Use of the Website and the Services is at your own risk. Everything on the Website and the Services is provided to you "as is" and "as available" without warranty or condition of any kind. None of the affiliates, directors, officers, employees, agents, contributors and licensors of mowbuddy make any express or implied representation or warranty about the Services or any products or Services (including the products or Services of mowbuddy) referred to on the Website. includes (but is not restricted to) loss or damage you might suffer as a result of any of the following:

(a) failure of performance, error, omission, interruption, deletion, defect, failure to correct defects, delay in operation or transmission, computer virus or other harmful component, loss of data, communication line failure, unlawful third party conduct, or theft, destruction, alteration or unauthorised access to records;

(b) the accuracy, suitability or currency of any information on the Website, the Services, or any of its Services related products (including third party material and advertisements on the Website);

(c) costs incurred as a result of you using the Website, the Services or any of the products of mowbuddy; and

(d) the Services or operation in respect to links which are provided for your convenience.

12. Limitation of liability

1.1. mowbuddy's total liability arising out of or in connection with the Services or these Terms, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the resupply of the Services to you.

1.2. You expressly understand and agree that mowbuddy, its affiliates, mowbuddy partners, employees, agents, contributors and licensors shall not be liable to you for any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you, however caused and under any theory of liability. This shall include, but is not limited to, any loss of profit (whether incurred directly or indirectly), any loss of goodwill or business reputation and any other intangible loss.

13. Termination of Contract

1.1. The Terms will continue to apply until terminated by either you or by mowbuddy as set out below.

1.2. If you want to terminate the Terms, you may do so by:

(a) providing mowbuddy with 30 days' notice of your intention to terminate; and

(b) closing your accounts for all of the services which you use, where mowbuddy has made this option available to you.

Your notice should be sent, in writing, to mowbuddy via the 'Contact Us' link on our homepage.

1.3. mowbuddy may at any time, terminate the Terms with you if:

(a) you have breached any provision of the Terms or intend to breach any provision;

(b) mowbuddy is required to do so by law;

(c) the provision of the Services to you by mowbuddy is, in the opinion of mowbuddy, no longer commercially viable.

1.4. Subject to local applicable laws, mowbuddy reserves the right to discontinue or cancel your membership at any time and may suspend or deny, in its sole discretion, your access to all or any portion of the Website or the Services without notice if you breach any provision of the Terms or any applicable law or if your conduct impacts mowbuddy's name or reputation or violates the rights of those of another party.

14. Indemnity

1.1. You agree to indemnify mowbuddy, its affiliates, employees, agents, contributors, third party content providers and licensors from and against:

(a) all actions, suits, claims, demands, liabilities, costs, expenses, loss and damage (including legal fees on a full indemnity basis) incurred, suffered or arising out of or in connection with Your Content;

(b) any direct or indirect consequences of you accessing, using or transacting on the Website or attempts to do so; and/or

(c) any breach of the Terms.

15. Dispute Resolution

13.1. Compulsory:

If a dispute arises out of or relates to the Terms, either party may not commence any Tribunal or Court proceedings in relation to the dispute, unless the following clauses have been complied with (except where urgent interlocutory relief is sought).

13.2. Notice:

A party to the Terms claiming a dispute ('**Dispute**') has arisen under the Terms, must give written notice to the other party detailing the nature of the dispute, the desired outcome and the action required to settle the Dispute.

13.3. Resolution:

On receipt of that notice ('**Notice**') by that other party, the parties to the Terms ('**Parties**') must:

1.1. Within 30 days of the Notice endeavour in good faith to resolve the Dispute expeditiously by negotiation or such other means upon which they may mutually agree;

1.2. If for any reason whatsoever, 14 days after the date of the Notice, the Dispute has not been resolved, the Parties must either agree upon selection of a mediator or request that an appropriate mediator be appointed by the President of the Australian Mediation Association or his or her nominee;

1.3. The Parties are equally liable for the fees and reasonable expenses of a mediator and the cost of the venue of the mediation and without limiting the foregoing undertake to pay any amounts requested by the mediator as a pre-condition to the mediation commencing. The Parties must each pay their own costs associated with the mediation;

1.4. The mediation will be held in Melbourne, Australia.

13.4. Confidential:

All communications concerning negotiations made by the Parties arising out of and in connection with this dispute resolution clause are confidential and to the extent possible, must be treated as "without prejudice" negotiations for the purpose of applicable laws of evidence.

13.5. Termination of Mediation:

If 30 have elapsed after the start of a mediation of the Dispute and the Dispute has not been resolved, either Party may ask the mediator to terminate the mediation and the mediator must do so.

16. Venue and Jurisdiction

The Services offered by mowbuddy is intended to be viewed by residents of Australia. In the event of any dispute arising out of or in relation to the Website, you agree that the exclusive venue for resolving any dispute shall be in the courts of Victoria, Australia.

17. Governing Law

The Terms are governed by the laws of Victoria, Australia. Any dispute, controversy, proceeding or claim of whatever nature arising out of or in any way relating to the Terms and the rights created hereby shall be governed, interpreted and construed by, under and pursuant to the laws of Victoria, Australia, without reference to conflict of law principles, notwithstanding mandatory rules. The validity of this governing law clause is not contested. The Terms shall be binding to the benefit of the parties hereto and their successors and assigns.

18. Independent Legal Advice

Both parties confirm and declare that the provisions of the Terms are fair and reasonable and both parties having taken the opportunity to obtain independent legal advice and declare the Terms are not against public policy on the grounds of inequality or bargaining power or general grounds of restraint of trade.

19. Severance

If any part of these Terms is found to be void or unenforceable by a Court of competent jurisdiction, that part shall be severed and the rest of the Terms shall remain in force.