

Terms and Conditions of Engagement NZ 20160809

1. For the purposes of this document, Clearsafe means Clearsafe Environmental Solutions Pty Ltd or Clearsafe Environmental Solutions (NZ) Pty Limited.
2. If any part of these Terms and Conditions is declared unenforceable or invalid, the remainder of the Terms and Conditions will continue to be valid and enforceable.
3. These Terms and Conditions of Engagement supercede and replace all prior terms / conditions / representations / negotiations, and will endure solely in effect unless a superseding contract or updated terms have been agreed in writing by Clearsafe.
4. If a superseding contract or updated terms have been agreed in writing by Clearsafe, all parts of these Terms and Conditions not expressly superseded by the superseding contract or updated terms will continue to be valid and enforceable.
5. No claim or liability will arise against Clearsafe under any circumstances to the extent that Clearsafe's failure or omission arises by reason of Force Majeure.
6. Any instruction for Clearsafe to conduct work, and any allowance for Clearsafe to continue work, made by or on behalf of a particular Client means that the Client has agreed to be bound by these Terms and Conditions of Engagement, whether they have expressly agreed to them or not.
7. Any fee estimate / quotation is valid for 30 DAYS from the date of the submission of the offer.
8. To ensure inspections proceed quickly, with minimum disruption, and that all relevant areas are inspected, the consultant will require that access be available to all areas.
9. The timing of the delivery of the proposed Services assumes that all noted inputs required to Clearsafe are provided in a timely manner and according to the Clearsafe program requirements or as conveyed to the Client by the Clearsafe representative.
10. The fee estimate allows for the issue of an electronic copy of reports (unless otherwise specified by the client). Hard copy reports may incur additional administration charges.
11. Our commissions are commonly limited in scope, consequently Clearsafe cannot guarantee that we will be able to identify any / all contamination / hazards / issues of concern, if present, on a site.
12. Clearsafe cannot guarantee that we will be able to make conclusive statements in relation to a site's condition, as the ability to make such statements depends on the outcome of the investigation(s) undertaken.

Clearsafe Environmental Solutions (NZ) Pty Ltd

NZBN: 9429042021742 IRD No.: 118 277 848

NATA Accredited Laboratory Number 18542

PO Box 11510, Ellerslie, Auckland 1542

W: www.clearsafe.co.nz E: info@clearsafe.co.nz T: 0800 102 922



ISO9001:2008 Certified

13. Quoted analysis prices are for standard (5 day Turnaround Time following receipt by the laboratory) unless specified otherwise. A shorter TAT (e.g. next day TAT) may be achieved with the payment of a surcharge (normally up to 100% surcharge).
14. All work is conducted in a conscientious and professional manner. The nature of the task and the likely disproportion between any damage or loss which might arise from the work or reports prepared, and the cost of our services, is such that Clearsafe cannot guarantee that all contamination/issues of concern have been identified or addressed.
15. Asbestos / Hazardous Materials Survey Reports (AS / HS) will be limited to identifying hazards within visible and accessible areas and will describe some general actions required to minimise anticipated asbestos / hazardous material related risks based on the identified state of the material / site. The AS / HS will not address all WHS and / or environmental issues associated with the identified asbestos / hazardous materials as all issues which may arise during the course of a works program or the future state of the asbestos / hazardous materials cannot be anticipated. As such these issues are the responsibility of the contractor performing works and / or the Principal Contractor / controller of the site.
16. The Client and / or their representative may from time to time, specifically request by verbal and / or written instruction that an aspect of the program / scope deviate from the originally agreed program / scope. In such cases the scope, cost, limitations and / or deliverables of the services will change to correspond to the actual services requested and performed.
17. Should additional services beyond the offer allowed for in the fee estimate be required by the Client, additional fees would be charged at the rates listed in the Clearsafe Fee Schedules. No such additional services would be carried out without the prior consent of the Client as to the extent of services and associated fees.
18. Fee estimates / quotations are based on the delivery of Services as per the Clearsafe's program. Delays, suspension of works and extensions to the program have not been allowed for in the Offer of Services and may incur additional costs. Clearsafe reserves the right to claim additional fees as a result of any of these events.
19. A surcharge of \$1000 + GST applies when a Client requests Clearsafe to open the Laboratory for urgent testing and analysis after hours (being 6pm – 6am weekdays and anytime on weekends or Public Holidays).
20. The client agrees that the fees and charges detailed within Clearsafe's Fee Schedule(s), including surcharges proposed for out of hours work, are fair and reasonable, and generally in line with industry expectations.
21. Should an extension in services or additional services be required due to significant adverse weather conditions, interference with instrumentation, equipment failure due to excessive loadings or vandalism or any situation beyond Clearsafe's control, additional fees may apply in accordance with the Schedule of Fees and for the cost of equipment if damaged.
22. All Fee Schedules and Fee Estimates assume that site access (where relevant) is arranged for Clearsafe and there is no significant waiting time for keys or access. If significant extra time in gaining site access is involved, this may be charged accordance with the Schedule of Fees.

23. Fee estimates do not allow for additional time / costs related to site access / project completion such as inductions, site specific training, escort fees or other similar items. These additional costs may be charged in accordance with the Schedule of Fees.
24. A fee equivalent to the costs associated with time incurred on the job as well as any subcontractor time or any other incurred costs (based on the rates and charges contained in the Schedule of Fees) will apply if the Services are confirmed then delayed or cancelled after Clearsafe have already started preparation for the Services, have allocated time, or have purchased equipment or supplies for the Services.
25. Payment terms are strictly upfront payment for all Non Account Customers. Reports will not be disbursed until payment has been received.
26. Payment terms are strictly 30 days from invoice date (Unless other terms are approved by management). Where outstanding fees remain unpaid beyond the 30 day period Clearsafe reserves the right to suspend all Services pending resolution of payment. Clearsafe also reserves the right to withdraw Clearsafe's intellectual property including reports, where fees remain outstanding beyond the 30 day period.
27. If payment in full is not made within 30 days of invoice then any amount outstanding will be subject to interest at the rate of 5% per annum calculated daily from the day after the date of the invoice until the date of payment in full.
28. In the event that fees remain outstanding, and Clearsafe withdraws our intellectual property (reports and the like) and we reserve the right to contact any party that we believe may be in receipt of our intellectual property and request for it to be returned. In this event the Client permits Clearsafe Environmental Solutions to make direct contact with any parties which Clearsafe believes may be in possession of our intellectual property in order to request for its continued use to cease and for it to be returned.
29. All Services performed and reports produced by Clearsafe are prepared for a particular Client's objective and are based on a specific scope, conditions and limitations, as agreed upon between Clearsafe and the Client. Information and / or report(s) prepared by Clearsafe therefore may not be suitable for any other particular use or objective.
30. No explicit or implicit guarantee or warranty relating to any of Clearsafe's services or products is provided.
31. Clearsafe's liability to the client or any other party resulting from the performance or non-performance of the service or from negligence, whether under contract law, tort law or otherwise, is limited to a maximum of up to five (5) times the total fee excluding expenses.
32. In the event of an issue of concern being identified subsequent and related to services provided by Clearsafe, Clearsafe is to be provided with a written first right of repair in respect of the identified issue(s) of concern.
33. Clearsafe's limitation of liability (being five times the total fee excluding expenses) may in certain circumstances be increased by negotiation with Clearsafe. An increase in Clearsafe's limitation of liability would normally be associated with an increase in the fee payable to Clearsafe for the services conducted. Any party wishing to pursue this option are encouraged to contact Clearsafe in writing for further information.

34. Any parties that use and / or rely on reports / advice prepared by Clearsafe and that wish to seek further cover or indemnity in excess of Clearsafe's limitation of liability (being five times the total fee excluding expenses), are advised to seek their own insurance cover to protect themselves to the extent that they wish to be protected.
35. Any parties that use and / or rely on reports / advice provided by Clearsafe agree to firstly check the validity of the reports / advice as provided and to confirm, on behalf of the entity for which they are acting, that the reports / advice are accurate and / or reasonable. If any discrepancies or inaccuracies are identified, no further work should be conducted, access should be restricted to any identified area(s) of concern, and Clearsafe is to be contacted for further advice and first right of repair.
36. If any issue(s) of concern are identified subsequent to services provided by Clearsafe, the Client agrees to stop work immediately, restrict access to the impacted area and contact Clearsafe for further advice and first right of repair.
37. Any parties that use and / or rely on reports / advice provided by Clearsafe agree in the event that Clearsafe is not directly provided with a written first right of repair, in doing so agrees to entirely waive all rights to pursue Clearsafe or hold Clearsafe accountable for any costs / damages associated with the identified issue(s) of concern.
38. No action arising out of the supply of services, regardless of form, may be brought more than six months after the entity becomes aware, or reasonably ought to have become aware, of the circumstances giving rise to the action.
39. No parties other than the Client are permitted to use or rely upon any information and / or report(s) provided by Clearsafe.
40. It is the responsibility of any / all third parties to investigate fully to their satisfaction if any information and / or report(s) prepared by Clearsafe are suitable for their specific objective, particularly considering that they are expressly not permitted to use / rely on such information / reports.
41. Before passing on to a third party any information and / or report(s) prepared by Clearsafe, the Client is to fully inform the third party of the objective and scope, and all limitations and conditions, including any other relevant information which applies to the information and / or report(s). The information and / or report(s) prepared by Clearsafe should not be reproduced and / or presented / reviewed except in full.
42. All copyright and moral rights in relation to reports or documentation prepared by Clearsafe will remain in its absolute ownership.
43. The fee estimate has no allowance for liaison with third parties on issues arising from or associated with the Clearsafe services except as defined in the Offer of Services. It is sometimes the case that different people have different interpretations of how detailed an investigation should be. Not all assessors of reports have the same experience or skill in making assessments, and further, Clearsafe have found that even two experienced, qualified assessors can view the same circumstance very differently. Clearsafe therefore cannot guarantee that Clearsafe report(s) prepared on the basis of the agreed scope will satisfy independent acceptance from any third parties.
44. Clearsafe Consultants are instructed not to enter and / or inspect any area which in the opinion of the Consultant is unsafe. If there are high areas, roofs, ceilings and / or awnings and access is required to perform the services, safe

- access will need to be provided by the Client. Should Clearsafe be required to provide the access via scissor lifts or similar, this will be charged to the Client. Clearsafe will not access electrical components unless a licensed electrician is present to make the component and area safe.
45. Ground penetration work will be conducted in a conscientious and professional manner, with due diligence and appropriate care. Clearsafe accepts no liability for damages to any underground services, or subsequent losses.
46. Clearsafe will not enter into any arrangement which, in Clearsafe's opinion, involves coercion or undue pressure to bias Clearsafe independent professional findings / opinion. Clearsafe reserves the right in such circumstances to terminate the Services and to recover the costs of the Services up to that point.
47. Clearsafe has not allowed for any moneys to be held in retention or any bank guarantees or performance guarantees as security.
48. Clearsafe reserves the right to engage sub-consultants and specialised laboratories to perform the tasks outlined in the offer of services without disclosing details of the sub-consultant or their contribution to the delivery of the service. We cannot guarantee the confidentiality of information forwarded to any sub-consultant. Your acceptance of this proposal is taken to be approval to use such organisations/specialist laboratories where Clearsafe deems necessary.
49. If Clearsafe is required to complete works in accordance with any contract or professional services agreement other than our proposal, review of the contract or professional services agreement and any associated liaison will incur additional charges based in accordance with the Schedule of Fees. Clearsafe reserves the right to vary the prices quoted based on the terms and conditions of any such contract or professional services agreement.
50. By using or relying upon report(s) and / or advice prepared by Clearsafe, all entities agree to be bound by Clearsafe's Terms and Conditions of Engagement (as edited and updated from time to time, available from www.clearsafe.com.au or www.clearsafe.co.nz), else the report(s) and / or advice should not be used or relied upon.

**PAYMENT TERMS: STRICTLY 30 DAYS FROM INVOICE DATE
UNLESS OTHERWISE AGREED**