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# **TERMS & CONDITIONS CONTRACTOR SERVICES**

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Utility Scan Taranaki Ltd



# Utility Scan Taranaki Ltd

## (The Contractor)

### STANDARD TERMS AND CONDITIONS

These are the Contractor (“we” or “our”) standard Terms and Conditions which will apply to every contract when you as the Customer engage the Contractor to perform its services.

The Contractor reserves the right to amend these Terms and Conditions from time to time at their discretion. Any changes made in such revision take immediate effect once the Customer is notified of such a change.

### ENGAGEMENT

1. The Contractor represents and warrants that the Contractor has all the necessary skills, knowledge, experience and expertise to perform the services and will perform the service in a proper and competent manner.
2. The Contractor holds all necessary licences and permits required in order to allow the Contractor to perform the services. Where there are any applicable industry standards and codes, they will at all times be complied with by the Contractor. The Contractor and all the Contractor’s employees and permitted sub-contractors are properly qualified, experienced, licensed (where applicable) and competent to properly perform and will perform the service to the required standards and codes.
3. If an event occurs that is beyond the reasonable control of the Contractor which prevents the Contractor from performing the service on or by the date agreed, the Contractor will immediately notify the Customer and give an estimate of the time for completion of the service.
4. The Contractor will provide all equipment and all materials as may be necessary to properly and efficiently perform the service. All Contractor equipment will be safe for use, be properly maintained and capable of being used to carry out the service.
5. If the Customer requires a variation to the service, the Contractor will provide a quotation for performing the service as varied which additional sum will be added to the price if accepted by the Customer. If the Customer does not accept the quotation, the Contractor is not obliged to carry out the variation.
6. The Contractor may use sub-contractors to provide any of the service. In such circumstances, the Contractor will ensure that:
  - (a) the sub-contractors so engaged are suitably qualified, hold all necessary licences and are otherwise able to perform the service in a proper and workman-like manner;

- (b) the sub-contractors so engaged do not by act or omission do or not do anything that would if done or not done by the Contractor be a breach any of these terms;
- (c) the sub-contractors so engaged have current or necessary insurances.

7. The Contractor is solely responsible for all fees payable to sub-contractors.

## **ACCEPTANCE OF THESE TERMS**

- 8. Any act by the Customer or those legally acting on behalf of the Customer which requests the Contractor to begin performing any services or providing any materials will be deemed as acceptance to these Terms and Conditions.
- 9. Once these Terms and Conditions are accepted they are irrevocable and cannot be amended without the written consent of the Contractor.
- 10. In the event there is more than one party as a Customer to these Terms and Conditions, all Customers will be jointly liable for these Terms and Conditions.
- 11. Should the Customer cancel the engagement of the Contractor after it has been accepted, the Customer agrees they may be held liable for any costs incurred by the Contractor in relation to the provision of the services and/or provision of products up to the point of cancellation.

## **QUOTES, INVOICES AND PAYMENT**

- 12. A quote provided by the Contractor will remain valid for one month. On expiry of that period, if the Customer wishes to proceed a new quote will need to be provided prior to the Contractor undertaking the service.
- 13. The Customer will pay the Contractor's fee by the 20th day of the month following the services. The price includes GST and is the full amount which the Customer will pay for the service.
- 14. The Contractor will issue a tax invoice for the service setting out the service performed, including any variation. The tax invoice will also separately identify all expenses and any GST payable. This tax invoice will include the final price for the services performed and any goods provided, this price may vary from the quoted price at the discretion of the Contractor.
- 15. Payment of the Contractor's tax invoice should be made in the following manner: electronic transfer to the Contractor's bank account.
- 16. Where the Customer fails to pay any tax invoice on or before the due date, the Customer agrees that the Contractor will add interest to the total outstanding amount at the rate of 3% interest per calendar month and that the Customer will be liable to pay an accrued interest in addition to the outstanding amount.

17. In the event the Customer defaults in payment of an invoice, the customer shall indemnify the Contractor from any costs incurred by the Contractor in recovering the outstanding amount, including but not limited to solicitors' fees.
18. The Customer is not entitled to deduct any invoiced amount from any amounts owing to the Customer by the Contractor.

## **HEALTH AND SAFETY**

19. The Customer will ensure that, if the service is to be performed on the Customer's property, the Customer is authorised to occupy those premises and obtain the service.
20. The Customer will ensure that if the service is to be performed on the Customer's property, that, at all times the property is safe and that all facilities provided by the Customer for the purpose of enabling the service to be performed are also safe.
21. The Contractor will ensure, that, at all times in performing the service it uses safe and proper procedures and practices and that all its employees are properly trained and supervised and observe all proper safety practices. Where protective equipment, materials or clothing are required these will be provided by the Contractor and the Contractor will ensure that these are used at all relevant times.

## **DISCLAIMER**

22. The Customer acknowledges that the services are acquired for business purposes only and, to the extent permitted by law, all warranties, guarantees and representations implied by law, trade or custom are expressly excluded.
23. The Customer acknowledges that the services are intended to assist in indicating underground services shown on plans provided by service companies or councils. The procedures and equipment used cannot be relied upon to detect all underground services and cannot be relied on for that purpose.
24. Plans provided by the service companies and councils are an indication only of the location of their underground services at the time of installation and may not have been updated.
25. The accuracy of the procedure and equipment used by Utility Scan Taranaki Limited can vary. The Customer may not assume that any underground service lies in the position indicated. In addition, the equipment and procedures used do not provide a reliable guide regarding as to any depths given.
26. The Customer must therefore confirm the position and depth of all underground services indicated by carefully digging with hand tools or hydro excavation prior to machine excavation.

27. Utility Scan Taranaki Limited is in no circumstances liable for any damage to or disturbance of any underground services, or for any injury, loss or other consequences of such damage or disturbance, which may be suffered by the customer, or by any other person or organisation including (without limitation) any operator, contractor, owner, customer, service company, city council, or subscriber. The Customer will always indemnify Utility Scan Taranaki Limited against any liability for such injury, loss or damage, and for all consequences thereof.
28. Without Prejudice to the above provision if Utility Scan Taranaki Limited should in any circumstances have any liability to the Customer in tort or contract or otherwise in connection with the services, its liability shall be confined to damages in a maximum sum not exceeding the moneys actually paid to Utility Scan Taranaki Limited by you for the services. Utility Scan Taranaki Limited will have no liability whatever for any loss of profits, business, income, revenue or contracts, or incidental or consequential loss or damage suffered by you.
29. The above protections and indemnities also apply for the benefit of all employees, officers, directors, agents and contractors of Utility Scan Taranaki Limited.

## **JURISDICTION**

30. It is agreed by the Parties that these Terms and Conditions will be construed in accordance with the Law of New Zealand and each Party covenants that it submits to the jurisdiction of the Courts of New Zealand for the resolution of any dispute under the Agreement.

## **FORCE MAJEURE**

31. Neither the Contractor nor the Customer shall be held liable for any breach of these terms where the breach arises from an act of God, war, natural disaster, terrorism or any other event beyond the reasonable control of either party.
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