

## Decontamination Specialists Ltd Terms of Trade

### 1.0 Definitions

In this agreement:

- i Agreement means this agreement and the Proposal.
- ii Client means the person, firm or company specified in the proposal.
- iii DSL means Decontamination Specialists Limited, its agents, subcontractors and assigns.
- iv Property means the clients property on which the services are to be performed.
- v Services means the decontamination services specified in the Proposal.

### 2.0 Introduction

- i These terms will apply to the relationship of DSL to you, the Client
- ii By signing the attached Proposal, you agree to these terms.
- iii Any variation to these terms must be recorded in writing to be effective.
- iv Any verbal representations made before or after the signing of this Agreement will be of no effect.

### 3.0 Services

- i DSL will undertake the testing or rehabilitation services which are specified in the Proposal or which are otherwise requested by the Client.
- ii DSL will use all reasonable care to perform the services to a high standard.
- iii The Client hereby authorises DSL to enter onto the Property for the purpose of performing the Services.
- iv The Client may cancel the performance of the Services on reasonable notice but the company will be entitled to be compensated for any losses it suffers as a result of the cancellation, including its loss of profit.

### 4.0 Payment

- i DSL will issue a valid tax invoice for the performance of the Services and the fees due to DSL.
- ii The Client must pay the fees specified for the Services in the Proposal promptly in accordance with the terms specified in the Proposal.
- iii The Fees will be quoted plus any applicable goods and services tax.
- iv DSL may at its option delay commencement or suspend provision of the Services until payment has been made in full.
- v In the event that payment is not made on the due date DSL may at its option charge interest on the overdue amount at the rate of 27% per annum from the date the amount fell due until the date of payment in full.
- vi In the event that the Client fails to make payment on the due date the Client indemnifies DSL against all costs and expenses of enforcing payment of the debt, including legal costs on a solicitor/client basis and any other costs of collection.

### 5.0 Construction Contracts Act 2002

The Client hereby expressly acknowledges that:

(a) DSL has the right to suspend work within five (5) working days of written notice of its intent to do so if a payment claim is served on the Client, and:

- . (i) the payment is not paid in full by the due date for payment and no payment schedule has been given by the Client; or
- . (ii) a scheduled amount stated in a payment schedule issued by the Client in relation to the payment claim is not paid in full by the due date for its payment; or
- . (iii) the Client has not complied with an adjudicator's notice that the Client must pay an amount to DSL by a particular date; and
- . (iv) DSL has given written notice to the Client of its intention to suspend the carrying out of construction work under the construction contract.

(b) if DSL suspends work, it:

- . (i) is not in breach of contract; and
  - . (ii) is not liable for any loss or damage whatsoever suffered, or alleged to be suffered, by the Client or by any person claiming through the Client; and
  - . (iii) is entitled to an extension of time to complete the contract; and
  - . (iv) keeps its rights under the contract including the right to terminate the contract; and may at any time lift the suspension, even if the amount has not been paid or an adjudicator's determination has not been complied with.
- (c) if DSL exercises the right to suspend work, the exercise of that right does not:
- . (i) affect any rights that would otherwise have been available to DSL under the Contractual Remedies Act 1979; or
  - . (ii) enable the Client to exercise any rights that may otherwise have been available to the Client under that Act as a direct consequence of DSL suspending work under this provision.

### 6.0 Limitations of Liability

- i To the maximum extent permitted by law DSL's maximum aggregate liability to the Client, whether in contract, negligence, tort, equity or otherwise will be limited to an amount equal to the fees which DSL has charged to the Client for the performance of the Services.
- ii DSL will have no liability for indirect or consequential losses.
- iii Any claim against DSL must be brought within 3 months of the provision of the Services.
- iv If the Client is contracting for the provision of the Services for business purposes then the Consumer Guarantees Act 1993 will not apply to the Services.
- v The employees and agents of DSL will have no liability to the Client. The Client hereby indemnifies DSL, its employees and other agents against all claims, losses and liabilities arising from any such claim by the Client.

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#### **7.0 Confidentiality**

- i DSL will keep confidential the terms of this Agreement and the fact that the Client has sought the Services.

#### **8.0 Site Security / Access**

- i It is the responsibility of the Client to ensure that clear access to and from the worksite and that access is suitable to accept DSL's vehicles or any other equipment as may be deemed necessary by DSL. The Client shall pay the cost of replacement, repair or rectification to any paths, driveways, and access routes to the property. The Client shall also be liable for all costs associated with any delays due to access unless otherwise specified at the time of quoting.
- ii Access within the property needs to be safe and unobstructed (including but not limited to, roof cavity and foundation spaces). If a minimum clearance is not available, the area of inspection must be within DSL's unobstructed line of vision.
- iii The Client acknowledges and agrees that DSL shall have uninterrupted full access to the worksite until such time as the Services have been completed and all DSL's equipment has been removed.
- iv The Client and/or any third party acting on behalf of the Client accepts that access to DSL's work area and machinery to inspect the Services during the process stage must be by appointment only and requested in writing with the person/s details together with the date and time of viewing, however, in such an event the Client and/or third party acting on behalf of the Client must at all times be accompanied by DSL.
- v It is the responsibility of the Client to ensure the property is secure between the completion of DSL's works and the re-testing of the property. If a third party without prior permission gains access, the Service will be deemed complete and invoice issued. DSL cannot be held responsible for any recontamination.

#### **9.0 Compliance with Laws**

- i The Client and DSL shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services.
- ii All subsequent lab testing required as part of the Services will be carried out by a registered IANZ (International Accreditation New Zealand) facility.
- iii The Client agrees that the site will comply with any occupational health and safety laws relating to the worksite and any other relevant safety standards or legislation, particularly those in relation to Asbestos/Hazardous Materials and the safe removal and disposal of the same.

#### **10.0 General**

- i Where the Client is comprised of more than one person the persons who are party to this Agreement will be jointly and severally liable to DSL but their rights against DSL will be held jointly.
- ii The Client may not set off against the fees payable to DSL any amount which the Client asserts is owing by DSL to the Client.
- iii DSL will not be liable for any delay or failure to perform the Services arising from an act of God, war terrorism, industrial action, fire, flood, storm or other event beyond DSL's reasonable control.
- iv The Client may not assign or transfer its rights under this Agreement.