



## CES TERMS & CONDITIONS OF TRADE

### 1. **DEFINITIONS**

- 1.1. "The Company" and "CES" shall mean Capital Environmental Services (2005) Ltd, or any agents or employees thereof.
- 1.2. "Client" shall mean the Client, any person acting on behalf of and with the authority of the Client, or any person purchasing products and services from CES.
- 1.3. "Products and Services" shall mean all products, goods, services and advice provided by CES to the Customer, and means the provision by the Company to the Client of details in respect of asbestos or gravimetric particulate analytical laboratory services, or the hire of Company equipment on a temporary or interim basis by the Client or a third party of or through the Client.
- 1.4. "Price" shall mean the cost of the Products and Services as agreed between CES and the Client.
- 1.5. "Agreement" means the terms and conditions contained herein, those specified in the 'Terms and Conditions of Trade' and any other terms agreed upon by both parties.
- 1.6. "Acceptance" means acceptance of a quote or estimate provided or any instructions received by CES from the Client for the supply of Products and Services shall constitute a binding contract and acceptance of the terms and conditions contained herein.

### 2. **COLLECTION AND USE OF INFORMATION**

- 2.1. The Client authorises CES to collect, retain and use any information about the Customer, for the purpose of assessing the Client's credit worthiness, enforcing any rights under this contract, or marketing any Products and Services provided by CES to any other party.
- 2.2. The Client authorises CES to disclose any information obtained to any person for the purposes set out in clause 4.1.
- 2.3. These terms may not be varied without the written consent of a Director of the Company
- 2.4. The Company accepts no responsibility or liability for the misuse of any information provided to the Client
- 2.5. Where the Client is a natural person the authorities under clauses 4.1 and 4.2 are authorities or consents for the purposes of the Privacy Act 1993.

### 3. **PRICE**

- 3.1. Where no price is stated in writing or agreed to orally the Products and Services shall be deemed to be provided at the current amount as such Products and Services are sold or provided by CES at the time of service being carried out.

### 4. **PAYMENT**

- 4.1. Payment for Products and Services shall be made immediately upon receipt of the Products and Services ("the due date").
- 4.2. Where agreed by CES payment for Products and Services shall be made in full on or before the 20th day of the month ("the due date").
- 4.3. Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 4.4. Any expenses, disbursements and legal costs incurred by CES in the enforcement of any rights contained in this contract shall be paid by the Client, including any reasonable solicitor's fees or debt collection agency fees.
- 4.5. Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- 4.6. Any disputes over price need to be raised within 7 days of receipt of invoice, otherwise the client is deemed to have accepted the price

### 5. **SERVICES & QUOTES**

- 5.1. Any written services, including quotes, estimates and pricing issued by CES for Products and Services:
  - 5.1.1. Unless otherwise agreed the quotation shall be valid for thirty days from the date of issue or for period otherwise agreed by both parties; and
  - 5.1.2. The quotation shall be exclusive of goods and services tax unless specifically stated to the contrary;
- 5.2. Where Products and Services are required in addition to the quotation the Client agrees to pay for the additional cost of such Products and Services.
- 5.3. The Client will set out in writing (unless otherwise agreed by the Company) the service which it requires the Company to provide. The Company will then confirm (either in writing or otherwise) that it accepts those instructions or alternatively what services it will perform in connection with the Client's instructions, and where requested provide a quote. Engagement occurs upon the Company and the Client agreeing to what services are to be performed and acceptance of the estimate or quote. The receipt of a purchase order confirms acceptance. Any subsequent changes or additions must be made out in writing and agreed to by both parties.
- 5.4. The client acknowledges, approves and accepts analysis and testing will be carried out at CES Accredited Laboratory location Seaview and field sites including mobile facilities when appropriate.
- 5.5. The Client cannot cancel the request for services without the consent of the Company and in such cases the Client will be liable to pay all costs and expenses incurred by the Company in fulfilling the order or request for services to the date of cancellation; and if the request for services cannot be cancelled the Client will be held liable for the costs incurred by the Company in relation to the order or request for services.

### 6. **LIABILITY**

- 6.1. CES shall not be liable for any loss or damage of any kind whatsoever including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Products and Services provided by CES to the Customer; and
- 6.2. CES cannot be held responsible for sample errors or validity of results where samples have been submitted by external clients.
- 6.3. The Client shall indemnify CES against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of CES or otherwise, brought by any person in connection with any matter, act, omission, or error by CES its agents or employees in connection with the Products and Services.
- 6.4. Asbestos Sampling and Surveying – CES previously offered services related to the taking and/or analysis of samples which could contain asbestos fibres. The Company and its employees and agents shall not be liable to the Customer and the Customer's agents for any claim for breach of duty in Tort (including negligence) or for any claim in Equity or otherwise at law for any losses or damages whether general, exemplary, punitive, direct, indirect or consequential in respect of any claim, arising out of or loss or damage as a result of reliance upon the asbestos sampling and/or analysis services provided under this Agreement and any instruction received. The Customers sole remedy against the Company will be limited to breach of contract and the Company's liability for such claim shall be limited to the Fee for the services provided.

### 7. **MISCELLANEOUS**

- 7.1. If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 7.2. Every effort will be made by the Company to carry out the assignment, however the Company will not liable to the Client or be deemed to be in breach of the agreement by reason of any delay in performing or any failure to perform any obligations in relation to the provision of services if the delay or failure was due to any event of force majeure.
- 7.3. The Client agrees that should they be taken over, amalgamated or cease trading, then any outstanding debts owed to the Company will be honoured by the Client's parent company or associated companies or liquidators

Initials \_\_\_\_\_