

We/us/our refers to Telarc Limited, trading as Telarc Limited or Telarc. You/yours refers to your organisation in your capacity as our client which has requested or receives our services.

Our Agreement with you comprises the Proposal, these General Terms and Conditions and any Specific Terms and Conditions specified in the Proposal.

Services

1. We assess management systems and products to determine their conformity to the requirements of standards or of stated criteria published by us, a regulatory body, or other party. A certificate of registration will be issued to those clients found to comply with the standards or the stated criteria following our assessment.
2. We do not give advice on how to change your managements systems and products to ensure compliance with standards or stated criteria. We may make suggestions referred to as 'Opportunities for Improvement' but these are not to be construed as constituting advice that may be relied upon and you must make your own decision as to whether to adopt the suggestions. We do not accept any liability for such suggestions.

The Process

3. You agree to allow authorised Telarc personnel access, during normal working hours to your premises, operations, facilities, procedures, records and staff to enable Telarc to perform assessments. You must provide, at your cost, such assistance as may be reasonably required by us to supply the services outlined in this Agreement.
4. You warrant and represent that all information provided to us pursuant to this Agreement is accurate and complete.
5. You must comply with the Health and Safety at Work Act 2015 including without limitation:
 - (a) ensuring, so far as is reasonably practicable, the provision and maintenance of a work environment that is without risks to the health and safety of any person;
 - (b) ensuring that all significant risks and hazards are identified and eliminated where reasonably practicable or minimised where elimination is not reasonably practicable;
 - (c) the provision of any information, training, instruction, or supervision that is necessary to protect persons from risks to their health and safety at the work place.
6. You must make available to our staff and assessors appropriate safety equipment and/or protective clothing for use at your premises.
7. Unless prevented from doing so by the requirements of our standards or accreditation criteria, we will give you advance notice of our need to carry out assessments and we will negotiate an agreed date and time for these activities with you. If you cancel an agreed assessment within fifteen working days of the assessment and our staff and assessors cannot be redeployed, or costs incurred on your behalf cannot be recovered, a cancellation fee will apply. The cancellation fee will be equal to the estimated cost of the assessment concerned.
8. To ensure the continued validity of certifications, we carry out scheduled review assessments/inspections at intervals set by the appropriate criteria, regulatory agency or ourselves, but normally annually. Such a period may be varied at our discretion. Regular reviews may be partial audits or full revalidation assessments. Any instances of non-conformance and/or non-compliance arising from assessments must be resolved by you within the time frame specified by us.
9. You agree to maintain your management systems and procedures and to produce all certified products in full compliance with the requirements of the relevant standards or criteria for which certification has been granted. You must immediately notify us of any changes to your circumstances or events that may invalidate your certification to the relevant standards or criteria. For example any changes to your systems, staffing, organisation, equipment or products and for safety management system registrations, any significant notifiable safety events that result in serious harm and/or significant property damage or legal action.

10. You must inform us, without delay, of the occurrence of a serious incident or breach of regulation or non-conformance necessitating the involvement of the competent regulatory authority.
11. The assessment process is a sampling process. Accordingly we will not be liable to you for any loss, damage or injury, caused directly or indirectly by our assessment that your management system or product does or does not comply with standards or other stated criteria.

Short-Notice and Unannounced Audits

12. We may conduct audits at short notice or unannounced to investigate complaints, or in response to changes, or as follow up on suspended certifications or follow up on non-conformance issues, or as required by the relevant standard or criteria.
13. In the case of short notice audits:
 - (a) we will make known in advance the conditions under which these short notice visits are to be conducted; and
 - (b) we shall exercise additional care in the assignment of the audit team because of the lack of opportunity to object to audit team members.

Payments to Telarc

14. You agree to pay all invoices for services and disbursements associated with assessments by the 20th of the month following the month of invoice. You must pay interest at the rate of 2% per month compounding monthly on any amount overdue. Failure to pay such amounts may lead to suspension of service and withdrawal of certification. If payment is not received on the due date we reserve the right to use the services of a debt collection agency and collection costs and legal costs on a solicitor-client basis incurred by us are payable by you.
15. You authorise us to collect any information we reasonably regard as necessary for our credit enquiries and control purposes from any third party we consider appropriate.
16. If, in our opinion, there are significant changes to the scope of your assessment and/or the size and/or the structure of your organisation then the required time for our assessments will change and may lead to a change in our fees.
17. We reserve the right to charge additional fees for special assessments or other work outside the normal review and revalidation assessments. e.g. condition clearance, changes to product schedules, standards, or programme rules. Any such charges will be agreed with you first.

Certificates and Schedules

18. Certificates of registration and schedules to certificates of registration issued by us are controlled documents, remain our property and must be returned to us if or when the certification is suspended, terminated or withdrawn. If certification is suspended, terminated, or withdrawn all copies of the certificate and schedule must also be removed from use or display and if possible destroyed.
19. Certificates of registration are valid for a specified period from the date of issue unless suspended, terminated or withdrawn. Certificates are not transferable when your organisation changes ownership, structure or location. Requests for transfer must be made in writing and will be reviewed on a case-by-case basis to determine what action we will take.

Use of Logos, Marks and Certificates

20. The use of the Telarc certification logo is subject to specific restrictions. You agree to only use Telarc certification logos or marks associated with a Telarc certification programme for which you have registration and in accordance with the specified rules and restrictions for use (available on the Telarc website). The rules governing the use of logos and marks are under the jurisdiction of our accreditation agency and are subject to change at their or our discretion. You will receive notice of any changes to the rules at least 30 days before they become operative and will be bound by any changes.
21. The use of Telarc logos, certificates and the Telarc name is prohibited when your certification is suspended, terminated or withdrawn.

Liability and Indemnity

22. We will not be liable for any indirect or consequential loss arising from or in relation to this Agreement. To the extent legally permitted, our liability arising from or in relation to this Agreement will be limited to either the re-supply of the services giving rise to the liability or to an amount that will not exceed the total amount of payments received from you under this Agreement during the 12 month period preceding the event giving rise to the liability.
23. We are not responsible to anyone (apart from you) who is provided with or obtains a copy of our report(s) and/or certificates without our written agreement and you agree to indemnify us against any third party claim arising from any release by you of our report(s) and/or certificates.
24. You agree to indemnify and keep indemnified Telarc and its assessors (each an "Indemnified Person") from and against any costs, damages or other losses incurred and the time spent in defending or responding to any claim or investigation arising from:
 - (a) any claim by a third party in relation to an assessment or certification;
 - (b) any investigation by any regulatory body, relating to any act or omission by you except to the extent that such amounts are judicially determined to have been caused primarily by that Indemnified Person's fraud.

Confidentiality and Access to Information

25. You agree to permit accreditation bodies, New Zealand regulatory bodies or their agents access to information relating to your assessments for the purpose of assessing accreditation requirements, compliance with Acts of the New Zealand Parliament and their Regulations. Where we are required by law or authorised by contractual arrangements to release confidential information we will notify you in advance that we will supply the information (unless notification is precluded by law).
26. We will securely retain any data, documented information or records provided by you or collected by us for the purposes of assessment and will provide access in our offices, during normal working hours, for you to review any information held relating to your request for service, assessments and registration.
27. We will return to you, on written request, all documented information and other records supplied by you for the purpose of assessment.
28. We will treat as confidential the fact that you have applied for registration but, once Registration has been granted, we will publish the nature and scope of your registration. We also have the right to publish the fact that suspension, termination, withdrawal or reinstatement has occurred.
29. We will require all our staff, assessors, Board and Committee members to enter into confidentiality undertakings with us in relation to information held or acquired about you, and to declare any conflict of interest that may arise through their involvement with a particular assessment process.

Suspensions and Withdrawals

30. You may request a temporary suspension of your certification if you feel that for any reason your system or product does not conform to requirements.
31. We may suspend or withdraw your certification if your system or product fails to comply with the requirements of the relevant standard or criteria, if fees or expenses remain unpaid, if a liquidator, receiver or administrator is appointed in relation to any of your assets, or if in our opinion you fail to comply with these terms and conditions.
32. During a suspension (whether under clause 30 or 31) a registration maintenance fee will be payable. Reinstatement of certification will normally require a full revalidation assessment; and

Complaints and Appeals

33. You may complain about any act or omission by us and may appeal against any assessment finding or registration decision. Such appeals must be made in writing to our Chief Executive who will instigate an investigation into the appeal independent of the assessor. His findings will be relayed to you in writing. If you are still dissatisfied the complaint will be referred to our Board. The Board's decision will be relayed to you in writing.

34. Complaints by second parties about you will be reported to you. The Chief Executive will instigate an independent investigation which will determine whether your inspection body work and management systems have been followed. A report will be relayed to the complainant. Any further complaint arising from the original complaint process will be referred to our Board, Our Board's decision will be relayed in writing. We will not adjudicate on any complaint relating to financial matters.

Period of Agreement

35. This Agreement will continue until terminated unless there is a fixed term specified in the proposal. This Agreement may be terminated by you or us at any time by giving three months' notice in writing. In the event of termination there will be no refund of any fees paid by you.

Electronic Communications

36. You agree that we may capture, collect and hold information for the purposes of an assessment in different media forms. You will ensure that you obtain all necessary consents to enable us to capture, collect and hold such information.
37. Each of us agrees that we may communicate with each other electronically. You acknowledge that electronic transmissions are inherently insecure, can be corrupted or intercepted, may not be delivered, and may contain viruses. Neither of us is responsible to the other for any loss suffered in connection with the use of e-mail as a form of communication between us.
38. We can inform you of other products and services or send you other electronic communication that may be commercial electronic messages. You consent to receiving such messages until such time as you notify us in writing that you no longer wish to receive them.

Miscellaneous Provisions

39. You agree that, on occasions the assessor can be accompanied by an observer for accreditation or training purposes. You will be notified in advance if this is required.
40. These General Terms and Conditions and any applicable Specific Terms and Conditions prevail over any other terms and may only be modified or varied in writing signed by an authorised signatory of each party.
41. These General Terms and Conditions may be revised from time to time. The most current version will be accessible on the Telarc web site. Significant changes will be communicated in writing.
42. Notices shall be served on either party in writing, either personally, by email or by posting to the last known address of the other party.
43. You are not entitled to assign any of your rights or obligations under this Agreement. We may use subcontractors to carry out our obligations under this Agreement. We may assign all or any of our rights and obligations under this Agreement with your prior consent which is not to be unreasonably withheld.
44. If any provision of this Agreement is held to be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions are not affected or prejudiced.
45. Nothing in this Agreement shall create a partnership or joint venture between you and us or make one an agent for the other.
46. Neither party to this Agreement is liable for any failure to perform their obligations if such failure is due to fire, earthquake, Acts of God or other circumstances beyond that party's reasonable control. If such failure continues for more than 60 days the other party may terminate this Agreement by written notice.
47. Disputes arising from this Agreement that cannot be resolved between you and us shall be submitted to an independent arbitrator who is mutually acceptable to both parties.
48. This Agreement shall be governed by and interpreted in accordance with the laws of New Zealand.