

Smythe Contractors Limited Terms and Conditions of Contract

This Agreement does not oblige Smythe Contractors Ltd to supply any goods or services, but these terms apply to any goods or services supplied to the Customer by Smythe Contractors Ltd. Prior to the commencement of work the Customer must supply Smythe Contractors Ltd with copies of all necessary consents. If there is any conflict, this Agreement takes priority over any other terms of trade and applies to all goods and services supplied by Smythe Contractors Ltd.

Contract Works

1. The general conditions of contract shall be those included in NZS 3910 (2013)
2. Acceptance of the estimate/quotation also includes acceptance of these Conditions of Contract.
3. The estimate/quotation is confined to the work, materials and service specified in the estimate/quotation (the "work").
4. If any additional work is required or there are changes to the work, that additional work or those changes may be charged for by Smythe Contractors Ltd. as a variation.
5. If a quotation is given that quotation is a fixed price which will not be altered during its currency, unless:
 - a) the Client requests changes to the work
 - b) material costs alter significantly
 - c) there are changes in the taxation system
 - d) there are delays in the work being undertaken which are not directly attributable to Smythe Contractors Ltd.
 - e) ground conditions are dissimilar to those described in the geotechnical information on which the quotation was based.
6. The Client will obtain all necessary consents unless otherwise agreed to enable the work to proceed which may include:
 - a) Council Consent
 - b) Kiwi Rail Consent
 - c) Environmental and Resource Consent
 - d) Service Plans
 - e) Traffic Management
7. Where the Unit Rates are quoted, the work completed is subject to an "As-built" measure;
8. Where we have priced this work without viewing the site or specifications, we reserve the right to alter our quoted price should details differ from our expectation when quoting. Notification of differences shall be made and agreed upon PRIOR to commencement of works.
9. A commencement date and programme for the work will be as agreed by both Parties subject to the availability of resources and consents.
10. If for any unforeseen reason(s), the crew members and/or equipment allotted for a project during the

tendering period is not able to perform at any time of the project then Smythe Contractors Ltd has the right to substitute or replace the crew member or equipment with another.

11. Smythe Contractors will not be held responsible for the repair of unconfirmed or unidentified underground services.
12. We have allowed for a 30 minutes induction to site for all staff.
13. Camera inspection of pipelines has not been allowed for in the quotation, unless otherwise mentioned.
14. Pipe supply is a provisional sum – should it be required; these prices vary due to the fluctuation in resin prices.
15. Smythe Contractors Ltd will comply with all aspects of Health and Safety requirements.
16. Control of groundwater has been allowed for using petrol powered pump only. Dewatering and controlling high water table has not been allowed for.
17. The main contractors/clients' site facilities shall be freely available to the staff of Smythe Contractors.
18. The site is to be free of contaminants (as defined in Section 2 of the resource Management Act).
19. Smythe Contractors and our subcontractors require indemnity against breach by the main contractor of any environmental, safety or health legislation relating to the site or its uses.
20. All materials supplied by Smythe Contractors remain the property of Smythe Contractors until full payment for the works is received.
21. Payment claims will be made in accordance with the Construction Contracts Act 2002.
22. No retentions to be applied or no bond will be provided unless previously arranged and authorised.
23. Quotation valid for 8 weeks from date on the quote.
24. This quotation is based on the specifications and quantities provided by the client and Smythe Contractors Ltd cannot accept responsibility if any item or quantity is incorrect.
25. Responsibility cannot be accepted for errors, omissions or misinterpretations from tender documents, drawings or specifications.
26. The Client shall be responsible for the correctness of all measurements for products. Where these

measurements are not correct and accordingly materials, products or services are ordered or are provided by Smythe Contractors Ltd, the client shall reimburse on invoices provided by Smythe Contractors Ltd.

27. Although Smythe Contractors Ltd has the equipment, personnel and experience for drilling fine grades less than 1%, we cannot control the variables which may cause underverticals or pooling in the installed pipeline.
28. Smythe Contractors Ltd reserves the right to photograph or video tape all areas associated with the quoted works.
29. Welding has been based on lengths of pipe as specified in this quotation.
30. All prices quoted are calculated on the basis of free access and unimpeded working during our normal working hours, unless otherwise agreed.
31. All client information is retained in accordance with the Data Protection Act 1988 and all personal and other client details will remain confidential.
32. The know how design and construction information and methodology ("the protected information") supplied in this tender is the intellectual property and copyright of the tenderer Smythe Contractors Limited. The protected information is made available in terms of the strictest confidentiality purely for the purposes of this tender. By receiving the protected information, you agree that you will preserve at all times its security and confidentiality and you will take steps to ensure that this obligation is communicated to and observed by all of your employees. Any breach of this obligation may result in you being liable for damages.

Ground Conditions

33. If we encounter underground obstructions or ground conditions unforeseen at time of quoting, this will be treated as a variation as per NZS 3910.
34. The installation of pipes and cables is expected to pass through different materials – Topsoil, sand and clay. Unforeseen soil types such as shingle, rock, tree stumps or boulders will be treated as unforeseen.
35. Smythe Contractors has machinery and ability to directional drill through soil up to 170mpa. Pricing provided do not include the use of this equipment.

Environmental

36. Environmental controls by Smythe Contractors is limited to controlling Drill fluid at Rig site, Spill kits for machinery, Normal control of fluid during HDD operations, special attention or input for sensitive areas has not been allowed for.

37. This quotation does not include contaminated drill slurry disposal.

Payments

38. All quoted amounts exclude GST and is payable in addition.
39. A deposit of 50% of the contract price may be required before the work commences, unless otherwise specified.
40. Payments must be made before the 20th of each month following the date of invoice.
41. Penalty interest at a rate of 5% above the rate charged to Smythe Contractors Ltd for overdraft facilities by its bank and administration from time-to-time will be charged by Smythe Contractors Ltd on any overdue accounts from due date until actual payment.
42. All costs incurred by Smythe Contractors Ltd in the recovery of overdue accounts (including costs on a solicitor/client basis) will be paid by the Customer.
43. These conditions of quote predominate over any other contract documents.
44. After full payment the client takes ownership of the materials used to carry out the work only. Unless otherwise agreed in a quotation (or other document), surplus materials, waste materials and off cuts etc should be charged at 50% and remain the property of Smythe Contractors Ltd.