

Telarc SAI Limited Terms and Conditions

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

Services

We assess management systems and products to determine their conformity to the requirements of Standards for which Telarc is accredited to certify compliance. A Certificate of Registration will be issued to those clients found to comply with the Standards.

We also assess management systems for conformity to stated criteria published by us, a regulatory body, or other party.

The Process

You agree to allow authorised Telarc personnel access, during normal working hours, to premises, operations, facilities, procedures, records and staff to enable them to perform assessments. You must provide such assistance as may be reasonably required by us to supply the services outlined in this Agreement.

You warrant and represent that all information provided to us pursuant to this Agreement is accurate and complete.

You agree to take all reasonably practicable steps to ensure that no hazard or identified risks that is at, or arises at, your premises harms our staff or assessors whilst they are on your premises and you agree to ensure that they are properly briefed about your health, safety and emergency evacuation procedures and any potential health and safety hazards or risks they may encounter during their visit. You also agree to be responsible for making available to our staff and assessors appropriate safety equipment and/or protective clothing for use at your premises.

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 fees and expenses may lead to suspension of service with attendant risk of withdrawal of Certificates. 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. We are entitled to collect any information we reasonably regard as necessary for our credit enquiries and control purposes from any third party we consider appropriate.

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 or such lesser sum as agreed.

To ensure the continuing validity of Certificates of Registration we carry out scheduled Review Assessments/Inspections at intervals set by the appropriate criteria, regulatory agency or ourselves, but normally no more than 12 monthly. Such a period may be shortened at our discretion. Regular reviews may be partial audits or full Revalidation Assessments. Any Conditions of Registration arising from Review and Revalidation Assessments must be cleared within the time frame specified by us.

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 Registration has been granted or for which Certificates have been issued. Any changes to your circumstances (systems, staffing, organisation, equipment, products, etc.) and (for safety system Registration significant notifiable safety events that result in serious harm and/or significant property damage or legal action.), which may invalidate your Registration to the stated Criteria, must be notified to us immediately.

The Assessment process is a sampling process. We will accordingly not be liable to you for any loss, damage or injury, caused directly or indirectly by our failure to establish that your Management System does or does not comply with Standards or other stated Criteria.

We will not be liable for any indirect or consequential loss in relation to this Agreement. To the extent legally permitted our liability in relation to this Agreement will be limited to the re-supply of the services giving rise to the liability and 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.

Additional Fees

If in our opinion there are significant changes to the scope of your Certificate of Registration and/or the size and/or the structure of your organisation, the required time for our Assessments will change (increase or decrease depending on the change).

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

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/when the Certificate of Registration is suspended, terminated or withdrawn.

Certificates of Registration are valid for a specified period from the date of issue unless suspended, terminated or withdrawn. Certificates are not automatically 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 and Marks

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. 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.

Confidentiality and Access to Information

You agree to permit Accreditation bodies, a New Zealand Regulatory Body or its agent access to information relating to your assessments for the purpose of assessing Telarc SAI Limited's performance against Accreditation requirements, 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).

We will securely retain any manuals, documents or records provided by you 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.

We will return to you, on written request, all manuals and other records or documents supplied by you for the purpose of Assessment.

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 / reinstatement has occurred.

We will require all our staff, assessors, Board and Committee members to enter into formal confidentiality agreements with us with regard 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.

We, as distinct from our staff, assessors and Board members will not be liable to you for any loss, damage or injury, caused directly or indirectly, by any such person failing to comply with that person's confidentiality agreements. We will not be liable for the confidentiality of information about you which was known to our staff, assessors, committee or Board member prior to your application for Registration or which is publicly known without the fault of us or our agents, or which is disclosed with your approval.

Suspensions and Withdrawals

You may request a temporary suspension of your Certificate of Registration if you feel that for any reason your system or product does not conform to requirements. During such suspension a Registration Maintenance Fee will be payable. Reinstatement of a Certificate will normally require a full Revalidation Assessment.

We may suspend or withdraw your Certificate of Registration if your system or product fails to comply with the requirements of the 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. During such suspension a Registration Maintenance Fee will be payable. Reinstatement of a Certificate will normally require a full Revalidation Assessment.

We, where applicable, may require that no certified product is placed on the market and that potentially defective certified product is subject to corrective action including product recall where appropriate.

The use of Telarc logos, Certificates and the Telarc name is prohibited when your Certificate of Registration is suspended, terminated or withdrawn.

Complaints and Appeals

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 Appeal Board. The Board's decision will be relayed to you in writing and must be accepted as final.

Complaints by second parties about you will be reported to you. The Chief Executive will instigate an independent investigation which will determine whether your Management System has been followed. A report will be relayed to the complainant. Any further complaint arising from the original complaint process will be referred to our Appeal Board, whose report will be accepted as final. We will not adjudicate on any complaint of financial loss.

Fixed term agreements

This Agreement may be terminated by you or us at the end of the Agreement Period or at any time thereafter by giving three months' notice in writing. In the event of termination there will be no refund of any fees paid by you. Termination of this Agreement by you prior to the Expiry Date will incur a Termination Fee. The Termination Fee will not exceed the total amount of payments received from you under this Agreement during the prior 12 month period.

Electronic Communications

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.

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

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.

These 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.

These 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.

Notices under these Terms and Conditions shall be served on either party in writing, either personally or by posting to the last known address of the other party.

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.

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.

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.

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.

In relation to our Services should a third party who is not party to this Agreement, make any claim against Telarc SAI Limited or its assessors (each an Indemnified Person) or should any regulatory body undertake an investigation, you agree, to the extent permitted by law, to indemnify that Indemnified Person for any costs, damages or other losses incurred and the time spent in defending or responding to any such claim or investigation, except to the extent that such amounts are finally judicially determined to have been caused primarily from that Indemnified Person's fraud. We will ensure our best endeavours to agree with you the quantum of such costs.

Disputes arising from these Terms and Conditions that cannot be resolved between you and us shall be submitted to an independent arbitrator who is mutually acceptable to both parties.

These Terms and Conditions shall be governed by and interpreted in accordance with the Laws of New Zealand.

Short-Notice and Unannounced Audits

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 scheme.

In the case of short notice audits:

- We will make known in advance the conditions under which these short notice visits are to be conducted, and
- We shall exercise additional care in the assignment of the audit team because of the lack of opportunity to object to audit team members.