

NANOTISE TERMS & CONDITIONS

The following terms and conditions (v26.11) apply to the supply of services and products by No Germs Pty Ltd (ABN 27 135 969 818) trading as Nanotise, including by all its licensees and sub-contractors (**Nanotise/we/us/our**).

These terms and conditions, together with the Quote (Terms) apply to the order by you and supply of services set out in the Scope of Work by us to you (Contract). To the extent permitted by law, no other terms are implied by trade, custom, practice or course of dealing.

The Contract is the entire agreement between you and us in relation to its subject matter. It supersedes all prior agreements, understandings, negotiations and discussions in respect of its subject matter.

1. Services

- 1.1. Where we provide an Inspection Report, we may charge you an Inspection Report Fee as agreed by you prior to the production of the Inspection Report.
- 1.2. You expressly acknowledge and warrant that:
 - a. You have made and rely on your own enquiries and judgment in relation to any descriptions, illustrations, views, recommendations set out in any Inspection Report or Quote, including in relation to impact on health and need for any Rectification Works; and
 - b. You have not relied on any descriptions, illustrations, views, recommendations set out in any Inspection Report or Quote, including in relation to impact on health and need for any Rectification Works, in making any decisions, including in relation to any rectification works, living arrangements or engaging of any service providers.
- 1.3. Any observations, findings, recommendations or remediation methodologies set out in an Inspection Report or Quote are based on conditions observed at the time of inspection and are provided solely for the purpose of defining the Scope of Work.
- 1.4. Unless expressly stated in the Scope of Work, Nanotise does not provide building design services, engineering services, certification services, building compliance advice or specialist trade advice
- 1.5. The Client acknowledges that:
 - a. hidden, inaccessible or concealed conditions may exist;
 - b. further defects, contamination, water ingress, structural issues or building non-compliances may be discovered during the performance of the Services; and
 - c. the Scope of Work and Fee may require adjustment if any such conditions are discovered.
- 1.6. Service delivery dates and times quoted are provided in good faith. However, we are not responsible for any delay arising from causes reasonably beyond our control, including but not limited to delays caused by:
 - a. Inclement weather, where our Services are affected by weather;
 - b. Our inability to access the premises for reasons beyond our control;
 - c. Sudden illness of key staff;
 - d. Unavailability, for any reason, of key equipment needed to undertake the works.

2. Quote

- 2.1. The Quote sets out:
 - a. Our inspection observations, findings and proposed Scope of Work;
 - b. The price of each item of work and/or materials supplied;
 - c. Proposed delivery dates and times;
 - d. Payment schedule; and
 - e. Cancellation and rescheduling fees.
- 2.2. Quotes are provided in good faith based on a mix of physical inspection, results from measurement equipment, and air and surface sample analysis. In some cases, we may be using equipment and information provided by you or your representatives.
- 2.3. Only the Services set out in the Scope of Work and agreed in an approved Quote will be completed and we do not accept responsibility or liability for non-performance of any services outside of the defined Scope of Works.
- 2.4. Unless communicated otherwise, any written Quote provided by us is valid for 30 days from the date of issue.
- 2.5. If:
 - a. latent conditions;
 - b. concealed damage;
 - c. mould contamination not reasonably identifiable during inspection;
 - d. defective building work;
 - e. non-compliant construction;
 - f. hazardous materials;
 - g. additional remedial works; or
 - h. changes requested by the Client,are identified before or during the Services, Nanotise may issue a Variation setting out any adjustment to the Scope of Work, Fee and time for completion.
- 2.6. Nanotise is not obliged to carry out the varied work until the Variation is accepted by the Client.

3. Cleaning and Preparation

- 3.1. Nanotise fogging treatments work optimally on clean surfaces and cleaning, remedial work and/or other forms of preparation may be required before the work can commence. Any cleaning, or structural remediation to be undertaken by the Client (or a third party engaged by the Client), before work commences will be indicated as such in the Scope of Work, and Nanotise accepts no responsibility or liability for any failure to complete such preparatory work.
- 3.2. Nanotise may propose to provide its own cleaning service (or sub-contracted cleaning service) as part of the Scope of Work, and this will be clearly indicated in the Scope of Work and costed in the Quote.
- 3.3. Nanotise is not responsible for the removal (and return) of household items or the moving (and replacement) of heavy furniture in preparation for the Services, and may charge an additional Fee if its staff are required (with your permission) to complete these tasks in order for the Services to be properly completed. Nanotise does not accept liability for any damage to the property, furniture or possessions as a result of such action.
- 3.4. Where an Inspection Report, Quote or Scope of Work identifies moisture ingress, leaks, structural issues, ventilation deficiencies, waterproofing defects or other defects requiring rectification, the Client is solely responsible for ensuring those matters are investigated and rectified.

- 3.5. Where the Services require the installation of containment systems, barriers, protective sheeting, tape adhesive products, support poles or similar materials, the Client acknowledges that:
- a. Nanotise may need to affix such materials to walls, ceilings, floors, joinery and other surfaces in order to safely and effectively perform the Services;
 - b. despite Nanotise taking reasonable care in selecting, applying and removing those materials, removal or tape, adhesive products or containment systems may cause minor damages to paint, coatings, finishes or other surface treatments;
 - c. the condition, adhesion and suitability of existing paint, coatings and finishes are outside Nanotise's control and cannot be assessed in all circumstances prior to the commencement of the Services; and
 - d. to the extent permitted by law, Nanotise is not liable for any damage to paint, coatings, finishes or other surface treatments arising from the reasonable installation, use, adjustment, removal or repositioning of containment systems, protective sheeting, tape, adhesive products or similar materials in connection with the Services.
- 3.6. Nanotise is not responsible for any recurrence of mould, contamination or building deterioration arising from a failure to implement recommended rectification works.

4. The Services & Warranty

- 4.1. Nanotise warrants that the Services will be provided in accordance with manufacturer and industry standards in respect of all treated surfaces (as per the Scope of Work).
- 4.2. Nanotise may engage subcontractors, consultants, licensed tradespersons and other service providers to perform all or part of the Services.
- 4.3. Subject to any rights that cannot be excluded at law, Nanotise is entitled to rely upon information, certifications, reports, advice and work provided by appropriately qualified subcontractors and consultants.
- 4.4. The duration of the long-term protection offered by a Nanotise application may vary, depending on, among other things, the type of hard or soft surface material being treated, the level of cleanliness of the surface pre- and post-treatment, and the degree to which conditions which encourage mould and/or bacterial growth remain present.
- 4.5. Given that bacteria, viruses, mould and other pathogens can be introduced via airborne transmission, and mould can return if the correct remedial action (such as addressing the primary causes of ongoing dampness, poor ventilation, etc) is not undertaken, Nanotise cannot guarantee that germs, viruses, mould and fungi will not return to the premises.
- 4.6. In addition to your rights that cannot be excluded under the Australian Consumer Law, Nanotise provides a 6 month guarantee to re-treat, free of charge, any previously treated surface which is showing signs of contamination specifically due to non-performance of the Nanotise barrier technology, if such barrier technology was applied as part of the original Scope of Works, and only if any Remediation Works required to address the identified causes of the mould contamination has been completed (and any new surfaces installed during such remediation were also subsequently treated with Nanotise's barrier technology).
- 4.7. Our Services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:
 - a. to cancel your service contract with us; and
 - b. to a refund for the unused portion, or to compensation for its reduced value.
- 4.8. You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract.

- 4.9. The conditions in clause 4.10 apply only to claims under this warranty and do not limit, exclude or modify any rights or remedies you may have under the Australian Consumer Law.
- 4.10. To make a claim under this warranty, you must show that:
- a. a surface treated by Nanotise barrier technology has shown signs of contamination with mould within 6 months of the application of Nanotise barrier technology due to non-performance of Nanotise barrier technology; and
 - b. any Remediation Work required to address the identified causes of the mould contamination (e.g. leaking, poor ventilation, condensation) as set out in our Quote or Inspection Report has been completed within 14 days of application of the Nanotise barrier technology.
- 4.11. In response to a valid claim, Nanotise must re-treat, free of charge, any previously treated surface which is showing signs of contamination.
- 4.12. In respect of a treated surface, the warranty period is 6 months from the date of application of the Nanotise barrier technology.
- 4.13. All claims with supporting documents, photographs and information must be sent to
Name: No Germs Pty Ltd (ABN 27 135 969 818) trading as Nanotise
Address: 6A Killeaton St, St Ives, NSW 2075]
Email address: admin@nanotise.com.au
- 4.14. You must bear all costs of making a claim under this warranty. Nanotise must bear all costs of work to honour this warranty.

5. Liability

- 5.1. Despite any other provision of this Contract to the contrary, and to the extent permitted by law, in no event will Nanotise or its employees, directors and agents be liable in respect of any claim for any loss or damage (including indirect loss or damages, loss of profits or anticipated profits, loss of revenue, loss of opportunity, loss of reputation, increased financing or insurance costs, failure to realise a saving, remote loss or damages, loss of use of capital or revenue, or for any punitive, exemplary, special, incidental or consequential loss or damage or the like) resulting from or related to the supply of the Services.
- 5.2. To the extent permitted by law, our liability for Services is limited to us supplying the Services again and you will accept the provision of Services in satisfaction of all claims.
- 5.3. To the full extent permitted by law and subject to the Australian Consumer Law, our total cumulative liability to you in relation to this Contract is limited to the value of the Scope of Works as quoted.
- 5.4. To the extent permitted by law, Nanotise will not be liable for:
- a. pre-existing defects in the property;
 - b. latent conditions;
 - c. hidden contamination;
 - d. water ingress or moisture sources outside the Scope of Work;
 - e. structural defects;
 - f. building code non-compliance;
 - g. acts or omissions of third party contractors;
 - h. recurrence of mould, fungi, bacteria or contamination caused by factors outside Nanotise's control; or
 - i. damage to paint, coatings, finishes or other surface treatments arising from the reasonable installation, use or removal of containment systems, protective barriers, tape, adhesive products or similar materials used in performing the Service.

- 5.5. Where the Services involve the removal, demolition, stripping out or remediation of contaminated, water-damaged, deteriorated or otherwise affected materials, the Client acknowledges that the removal of those materials may expose, disturb or cause damage to adjoining, underlying or connected building materials, finishes, coatings, linings, fixtures or surfaces.
- 5.6. The Client acknowledges that such damage may occur despite Nanotise exercising reasonable care and skill in performing the Services and may result from the condition of the affected materials, hidden defects, deterioration, water damage, mould contamination, moisture ingress or the manner in which the affected materials were originally installed or constructed.
- 5.7. To the extent permitted by law, Nanotise is not liable for any damage to adjoining, underlying or connected building materials, finishes, coatings, linings, fixtures or surfaces that reasonably occurs as a consequence of the removal or remediation of contaminated, water-damaged or defective materials in the course of performing the Services.
- 5.8. Nothing in this Contract excludes, restricts or modifies any remedies that cannot lawfully be excluded, restricted or modified under the law, including any rights or remedies available under the Australian Consumer Law.

6. Third party contractors and referrals

- 6.1. Nanotise may recommend, introduce or refer third party contractors, consultants or tradespersons to the Client.
- 6.2. Unless expressly stated otherwise in the Quote, any third party contractor engaged directly by the Client performs work under a separate contract with the Client.
- 6.3. Nanotise does not warrant the performance, quality, compliance or suitability of any work undertaken by a third party contractor engaged directly by the Client.
- 6.4. Where the Scope of Work is based wholly or partly on information, specifications, recommendations, reports or methodologies prepared by third parties, Nanotise is entitled to rely on that information and is not responsible for errors, omissions or inaccuracies in that information.
- 6.5. To the extent permitted by law, Nanotise is not liable for any act, omission, negligence, delay, defect or breach by a third party contractor engaged directly by the Client.
- 6.6. The Client must make its own enquiries regarding the suitability of any recommended contractor.

7. Project Coordination

- 7.1. Where Nanotise provides project coordination, scheduling, administration or contractor management services, Nanotise acts only as coordinator unless expressly stated otherwise in the Quote.
- 7.2. Project coordination services do not constitute a guarantee of the work performed by third party contractors.
- 7.3. The Client acknowledges that trades performing work remain responsible for their own workmanship, licensing compliance and statutory obligations.

8. Insurance

- 8.1. Nanotise maintains such insurance reasonably adequate having regard to the nature of the Services.

- 8.2. The Client acknowledges that Nanotise's insurance does not extend to losses arising from building defects, structural defects, latent conditions or work performed by third party contractors engaged directly by the Client.

9. Payment

- 9.1. You must pay our Fees in accordance with the payment schedule set out in the Quote or in other correspondence issued to you in relation to the Scope of Works.
- 9.2. Without limiting any other right or remedy we may have:
- a. if any amount payable under this Contract is not paid by the due date, you must pay interest on the overdue amount at a rate equal to the pre-judgment interest rate applicable in New South Wales under section 101 of the *Civil Procedure Act 2005*, as varied from time to time;
 - b. interest payable under this clause 9.2 accrues daily from the due date until the date of actual payment (inclusive);
 - c. interest payable under this clause 9.2 may be capitalised by us on a monthly basis; and
 - d. we may suspend part or all of the Scope of Works until all outstanding amounts have been paid in full.
- 9.3. Unless otherwise indicated, all amounts payable to us under this Contract are exclusive of GST. You pay any GST payable on a taxable supply made under this Contract at the same time and in the same manner as the consideration for that supply, on delivery of a tax invoice.
- 9.4. You must pay all amounts payable to us under this Contract in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 9.5. You indemnify us in full against any liabilities, costs, charges, or expenses, damages and losses and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses suffered or incurred by us arising out of or in connection with your breach of this Contract.

10. Client obligations

- 10.1. You must provide us with reasonable assistance in all matters relating to the performance of our Services.
- 10.2. You must provide us, our agents, contractors, subcontractors, consultants and employees, in a timely manner and at no charge, access to your premises reasonably required for the performance of our Services.
- 10.3. You must inform us of any health and safety and security requirements that apply at the premises where our Services will be performed, such as co-ordination with other subcontractors.
- 10.4. If Nanotise discovers any condition which appears to constitute defective, unsafe or non-compliant building work, Nanotise may:
- a. suspend the Services;
 - b. exclude the affected area from the Scope of Work;
 - c. issue a Variation; or
 - d. require a further investigation by an appropriately qualified consultant or licensed contractor.
- 10.5. Nanotise is not responsible for identifying all building defects, code breaches, latent defects or regulatory non-compliances present at the premises.

11. General provisions

- 11.1. No party may rely on the words or conduct of any other party as being a waiver of any right, power or remedy arising under or in connection with this Contract unless the other party or parties expressly grant a waiver of the right, power or remedy. Any waiver must be in writing, signed by the party granting the waiver and is only effective to the extent set out in that waiver.
- 11.2. Words or conduct referred to in clause 11.1 include any delay in exercising a right, any election between rights and remedies and any conduct that might otherwise give rise to an estoppel.
- 11.3. Except as provided in this Contract and permitted by law, the rights, powers and remedies provided in this Contract are cumulative with and not exclusive to the rights, powers or remedies provided by law independently of this Contract.
- 11.4. If the whole or any part of a provision of this Contract is or becomes invalid or unenforceable under the law of any jurisdiction, it is severed in that jurisdiction to the extent that it is invalid or unenforceable and whether it is in severable terms or not.
- 11.5. Nothing in this Contract gives a party authority to bind any other party in any way.
- 11.6. Nothing in this Contract imposes any fiduciary duties on a party in relation to any other party.
- 11.7. This Contract is governed by the law in force in New South Wales.

12. Definitions

The following definitions are used in this Contract:

Australian Consumer Law means the Australian Consumer Law, being Schedule 2 to the *Competition and Consumer Act 2010* (Cth).

Fee means the amount payable by the Client for the Services as set out in the Quote, Scope of Work, a Variation, or otherwise agreed in writing between the parties.

Inspection Report means a report prepared by Nanotise following an inspection of the site which may identify observed defects, damage, contamination, moisture ingress, mould growth, recommended investigations, recommended rectification measures, and any proposed Scope of Work.

Inspection Report Fee means the fee payable by the Client for the inspection of the site and preparation of an Inspection Report, as notified by Nanotise to the Client.

Quote means a written quotation issued by Nanotise to the Client describing the proposed Services, Scope of Work, Fee and any assumptions, exclusions or conditions applicable to the Services as further described in clause 2.

Rectification Works means any remedial, restoration, cleaning, treatment, repair, demolition, replacement, rebuilding, drying, mould remediation, make-safe works, or other works required to address, rectify or manage defects, damage, contamination, moisture ingress, mould growth or other conditions identified at the site.

Scope of Work means the description of the Services to be performed by Nanotise as set out in a Quote, Inspection Report, proposal, Variation or other document issued by Nanotise and accepted by the Client.

Services means the inspection, testing, reporting, consulting, project coordination, mould remediation, cleaning, treatment, rectification and other services provided by Nanotise, including any services described in an Inspection Report, Quote, Scope of Work or Variation.

Variation means any addition, omission, substitution, change in scope, change in methodology, change in materials, change in timing, or other amendment to the Services, Scope of Work, Fee or programme requested by the Client or required as a result of latent conditions, concealed damage, additional defects, non-compliant building work, hazardous materials, regulatory requirements or other circumstances identified before or during the performance of the Services.

Note: The above conditions apply to all Quotes provided by Nanotise. The acceptance of a Nanotise® or No Germs quote includes the acceptance of the above general Terms & Conditions.