

GOODMAN FIELDER NEW ZEALAND LIMITED - STANDARD TERMS OF PURCHASE

1. **TERMS APPLYING**
 - 1.1 These terms apply to the purchase of goods and services by us regardless of any other terms on any invoice or other document provided by you unless we agree in writing.
2. **YOUR OBLIGATIONS**
 - 2.1 You must provide each service or supply each good at the place, time, by the standards and method and for the price specified by us in the purchase order.
 - 2.2 While on our sites you must at all time comply with:
 - (a) site access or security requirements;
 - (b) the provision of any relevant legislation including the Health and Safety in Employment Act 1992 and the Resource Management Act 1991;
 - (c) any site rules;
 - (d) any directions given to you by us.
 - 2.3 You will at all times comply with any laws, codes and standards relevant to the goods or services and you will:
 - (a) promptly notify us of any hazard or accident you become aware of in relation to any goods or services that you have supplied us;
 - (b) hold all consents, permits and licences needed to provide the goods or perform the services;
 - (c) have an appropriate Health and Safety plan;
 - (d) complete the appropriate site induction procedures.
 - 2.4 Where the order includes provision of training services or support/maintenance services you will ensure that such services and any applicable spares or parts are supplied promptly and in accordance with best industry practice.
3. **DELIVERY, INSTALLATION AND ACCEPTANCE**
 - 3.1 Unless otherwise directed you must deliver the goods, or services, to the address shown on the relevant order, complete with an itemised delivery docket.
 - 3.2 Where the order includes any installation by you, you must promptly complete (and certify completion of) installation in the manner required by us and during times approved by us with minimum disruption.
 - 3.3 We may inspect, test and observe at all reasonable times the supply of the good or service.
 - 3.4 We may carry out any reasonable acceptance tests of any goods or services or any part thereof. If any good or service fails any acceptance test you will at your cost immediately remedy any problem. You will assist us with testing as requested.
 - 3.5 Goods you supply in excess of the quantities quoted on the relevant order will not be accepted. Excess quantities will be held for 10 working days following notification to you. If you fail to uplift excess goods we will return goods to you at your cost. Removal of all excess goods is at your cost.
 - 3.6 If you make part deliveries and fail to deliver the total quantities as stipulated on the relevant order we may cancel the entire order at no cost to ourselves.
4. **TITLE AND RISK**
 - 4.1 Title to any goods (including anything supplied as part of a service) passes to us on delivery, but where any payment of the price is earlier title passes when those goods (or any component) are appropriated to the order.
 - 4.2 Risk remains with you until completion of delivery and acceptance.
5. **PRICING**
 - 5.1 The price, excluding GST is as set out in the purchase order (unless otherwise agreed in writing) and is the only amount, we must pay and is inclusive of every other relevant tax and duty.
 - 5.2 We will pay for any goods delivered or services provided, 45 days after the end of the calendar month in which we receive receipt of a correct tax invoice. Invoices must be sent to the address specified on the relevant order.
- 5.3 You agree that we may set off against any amount we owe you, any sum you owe us for any reason.
- 5.4 The unit of measure detailed on the relevant order must be the unit of measure you invoice us in.
6. **INTELLECTUAL PROPERTY**
 - 6.1 Where:
 - (a) any licence or other authorisation from any person is required to own, possess, use or resell any good or any component or use any service you will within the price procure an irrevocable and unrestricted licence on a non-exclusive and transferable basis for us to own, possess, use and resell the good or benefit of the service; and
 - (b) any new information (including any design, data, specification know-how or any other form of intellectual property) is specifically developed for us:
 - (i) during, or as the purpose of, the provision of a service; or
 - (ii) in respect of any good or any component when designing or producing it;that information and all proprietary rights will belong to us.
 - 6.2 All confidential information and any intellectual property provided by us in connection with an order remain our confidential property and shall be used solely to complete the relevant order and for no other purpose and then returned to us.
7. **WARRANTIES**
 - 7.1 You warrant to us that:
 - (a) each service will be performed promptly, with due diligence, care and skill, by appropriately trained, experienced and supervised persons and to the best industry standards and be fit for the expected purpose;
 - (b) each good (and its components) will:
 - (i) be fit for the expected use and purpose;
 - (ii) conform to the specification, design, quality, quantity, configuration, description and samples (if any) provided to us; and
 - (iii) be new and unused on delivery, and if a shelf/calendar life or utilisation life is applicable, at least 95% of such life remains on delivery;
 - (c) no good will be subject to any mortgage, charge, lien, encumbrance or retention of title;
 - (d) each good supplied by you will be free from any defect (including any latent defect) in design, materials and workmanship; and not emit any contaminant or hazardous substance;
 - (e) ownership, possession, use or resale of any good or the use or result of a service supplied by you will not infringe any proprietary or other intellectual property right or interest of any person.
 - 7.2 These warranties are additional to any other warranties given by you or implied by custom or law, whether statutory or otherwise. You will to the extent possible, pass on to us the benefit of any warranty received from any other person to the intent that we may have recourse against those persons either directly or through you.
 - 7.3 You will promptly remedy each warranty claim to our satisfaction. Warranties start again for the full period on completion of remedying each defect.
8. **OUR RIGHTS AND LIABILITIES**
 - 8.1 If you fail to comply with any obligation in these terms, and fail to properly remedy the situation to our satisfaction within 5 working days after we notify you of the breach or failure, or if you are or become insolvent or bankrupt, go into receivership or liquidation, or amalgamate with any other person(s), then we may:
 - (a) withhold any payment otherwise due to you;
 - (b) return any good or cease any service at your risk and expense without obligation to pay any further sum and/or, if paid for, we shall receive a refund;
 - (c) recover from you any direct or indirect damage, loss or cost (including legal costs) suffered by us.
 - 8.2 To the extent that your act or omission causes or contributes to any damage or loss (whether physical, direct, indirect/consequential or otherwise) or cost (including legal costs) you will indemnify us against such damage, loss or cost, and you will protect us from any claim or proceedings.
 - 8.3 Except to the extent required by law, we have no liability (in contract or tort, including negligence) to you or any other person for any loss of profits, income or savings, or for indirect or consequential damage, loss, cost or expense suffered by you or any other person.
9. **MISCELLANEOUS**
 - 9.1 These terms may only be amended in writing signed by an authorised representative of each party.
 - 9.2 Any dispute will be promptly referred to mediation before a single mediator chosen by the President of the New Zealand Law Society.
 - 9.3 Neither of us is liable for any failure or delay in performing an obligation if it is due to a cause reasonably beyond our control and reasonable endeavours have been used to perform despite the cause. A party whose performance is affected by such a cause will notify the other party of the cause and likely delay as soon as practicable.
 - 9.4 You may not assign any of your rights and obligations in respect of an order or these standard terms.
 - 9.5 Notices are to be in writing addressed to the other party's contact point address and delivered by hand, prepaid post or sent by fax (with the original following by post).
 - 9.6 Nothing in these terms evidences any partnership, joint venture, agency or employer/employee relationship between the parties.
 - 9.7 To the extent practicable, any unlawful provision in these standard terms will be severed and the remaining provisions will be enforceable.
 - 9.8 No delay or failure to act is a waiver. No waiver is effective unless it is in writing. A waiver of a breach is not a waiver of any other breach.
 - 9.9 These standard terms are governed by New Zealand law.
10. **INTERPRETATION**
 - 10.1 "Associate" means any person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of, Goodman Fielder New Zealand Limited and for this purpose Goodman Fielder is deemed to control another person if Goodman Fielder possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of that person, whether through the ownership of voting securities, by contract or otherwise;
 - 10.2 "You" and "your" means the supplier of the goods or services to us. Where the supplier is more than one person, these terms and conditions will bind those persons jointly and severally.
 - 10.3 "We", "our" and "us" means Goodman Fielder New Zealand Limited or its Associate who purchases the goods or services.