



## TERMS AND CONDITIONS OF PURCHASE

### 1. APPLICATION OF TERMS

- 1.1 These terms and conditions of purchase (**Terms**) apply to all Purchase Orders that are issued by or on behalf of Sanford Limited or any of its subsidiaries (**us, we or our**) to suppliers of Goods and/or Services to us (with each such supplier referred to in these Terms as **you or your**).
- 1.2 Unless the context otherwise requires, capitalised words that are used in these Terms have the meanings given to them in the definitions listed in clause 13 below.
- 1.3 These Terms are paramount and, regardless of whether you have signed them (or have signed the most recent version of them), supersede and cancel any terms and conditions of supply on any invoice or other document that you provide to us (whether before or after the date of a Purchase Order), unless we agree with you in writing to vary these Terms. These Terms supersede and cancel any previous agreement, understanding or arrangement between us relating to the Goods and/or Services, whether written or oral.
- 1.4 Each Purchase Order incorporates, and is subject to, these Terms notwithstanding anything to the contrary in any of your invoices or other documents. By accepting any Purchase Order (in part or in full), you acknowledge that you are agreeing to comply with these Terms.
- 1.5 We reserve the right to vary these Terms from time to time by giving notice to you, and any such variations will be effective on the date we notify you, provided that no change may be made to the Terms retrospectively to apply to any existing Purchase Orders then in force between us and you without your prior written approval.

### 2. PURCHASE ORDERS

- 2.1 Where we wish to purchase Goods and/or Services from you, we will issue you with a Purchase Order. Each Purchase Order will specify the type and quantity of the Goods and/or Services requested, and may specify the date, time and location of delivery or provision, as well as any other relevant information or instructions, such as shipping terms and any specifications we may require.
- 2.2 Each Purchase Order constitutes an offer to purchase the Goods and/or Services subject to the terms as set out in that Purchase Order and the Contract. You must promptly advise us in writing whether you accept the Purchase Order or otherwise. You are deemed to have accepted a Purchase Order if you have not advised us otherwise in writing within 5 days of receiving the Purchase Order, or if you deliver the Goods and/or provide the Services requested.
- 2.3 We are not required to obtain from you any minimum value of Goods and/or Services or to guarantee to you any minimum level of income. The Contract does not establish an exclusive purchase and supply arrangement in relation to any Goods and/or Services.

### 3. YOUR OBLIGATIONS

- 3.1 By accepting a Purchase Order, you agree to supply the Goods and/or Services to us in accordance with the terms and conditions of the Contract and in compliance with all applicable Laws and applicable Policies from time to time. Copies of applicable Policies will be made available to you on request.
- 3.2 You must (at your cost) hold, maintain and comply with all certifications, approvals, permits and licences necessary to supply the Goods and/or Services.
- 3.3 You must provide all equipment, labour, plant and anything else needed (**your resources**) to carry out any Services. Your resources are at your risk. On completion of the Contract, you must remove your resources and leave our Premises in a clean and tidy condition.

### 4. DELIVERY AND ACCEPTANCE

- 4.1 You agree to deliver the Goods (on the basis of 'Delivered Duty Paid' as defined in Incoterms® 2020 as amended by these Terms) and/or provide the Services at the date, time and location set out in the Purchase Order and as otherwise required by the Purchase Order. Unless otherwise agreed by us in writing, delivery of Goods and/or provision of the Services must be made during normal working hours on a business day and be accompanied by all relevant documents.
- 4.2 Time is of the essence in respect of your delivery and provision obligations and you must advise us of any likely delays to delivery of Goods and/or provision of Services as soon as you become aware of that likely delay. We may choose to accept an alternative delivery date and time, at our discretion, but we are not obliged to do so. If we choose not to do so, we may cancel the Contract (in whole or in part) and pursue any other rights or remedies we may have against you.
- 4.3 We may request that the date, time and/or location for delivery is changed prior to delivery by providing you with a reasonable period of prior written notice. You must use your reasonable endeavours to accommodate such changes, but time will not be of the essence where we request that you deliver on a date that is before the date set out in the relevant Purchase Order.

- 4.4 Goods are not taken to be delivered unless delivery is acknowledged by the signature of one of our authorised representatives on the delivery docket or similar. Our acknowledgement of delivery does not mean that we have accepted the Goods delivered to us. Such acceptance will be deemed to occur when all of our rights in this clause 4 have been exhausted.
- 4.5 Partial deliveries or performance may be accepted at our discretion. If a greater quantity of Goods is delivered than that set out in the Purchase Order, we may refuse to accept delivery of such surplus and you must bear any cost incurred in returning such surplus.
- 4.6 We may inspect, test or observe, at all reasonable times, the Goods and/or Services, including on delivery, as we deem necessary. Any such inspection does not relieve you from any subsequent liability in respect of the Goods and/or Services and such inspection in no way implies that we will accept the Goods and/or Services.
- 4.7 You must assist us with any reasonable testing requested. If any Goods and/or Services fail any acceptance test, you must, at your own cost, immediately remedy any problem or issue.
- 4.8 We may reject all or any of the Goods and/or Services that do not comply strictly with the Contract within a reasonable period after delivery of the Goods and/or provision of the Services. Any rejected Goods held by us will be at your risk and you are responsible for any costs incurred by us in returning them to you. You must refund all amounts that we have already paid to you in respect of those rejected Goods or Services.
- 4.9 You must ensure that all Goods are appropriately packaged, secured and transported so as to:
  - (a) arrive at the delivery location in good condition, without damage or deterioration during transport, storage, loading and unloading;
  - (b) be clearly identifiable with the Purchase Order (and include the relevant PO number and be accompanied by a packing slip);
  - (c) comply with all applicable Laws; and
  - (d) clearly indicate any substances which are or may be hazardous.

### 5. PRICE

- 5.1 We will pay the price established in the Contract to you for the provision of the Goods and/or Services.
- 5.2 Unless otherwise agreed in writing, the prices for the Goods and/or Services will be as set out in the Purchase Order and will be stated in New Zealand dollars (except where the Purchase Order uses a different currency).
- 5.3 Unless otherwise agreed in writing or set out in the Purchase Order, the prices are inclusive of all costs, including packaging, labelling, freight, insurance, testing and inspection and all taxes, duties, levies or other charges (except for GST).
- 5.4 Unless otherwise stated in the Purchase Order, the prices do not include GST. We will pay at the same time as, and in addition to, the prices the amount of any GST chargeable in respect of any taxable supply made under the Contract, provided that you have provided us with a valid tax invoice for GST purposes.
- 5.5 You warrant and undertake that the prices we are charged for the Goods and/or Services are no less favourable (after taking into account any rebates or discounts you offer) than the prices you charge to any other purchaser of a substantially similar (or lesser) quantity and type of Goods or Services. You agree that the prices charged to us for the Goods and/or Services will not be increased for the duration of the Contract to which the relevant Purchase Order(s) relates.

### 6. INVOICING

- 6.1 Unless we have agreed (in a Purchase Order or otherwise) to make progress payments in respect of a particular Purchase Order, you will only invoice us following the delivery of the Goods and/or upon completing provision of the Services. If progress payments have been agreed, then invoices must be issued by you at such regular times and intervals as has been agreed by both of us in writing.
- 6.2 You must, not later than the second day of each month, provide to us an invoice for the Goods and/or Services delivered or provided in the previous month. Each invoice must:
  - (a) reference the applicable PO number (if known);
  - (b) be correctly dated and contain sufficient information to enable us to establish the accuracy of the invoice, including a breakdown of the prices and a description of the Goods and/or Services to which the invoice relates; and
  - (c) be in the form of a tax invoice for GST purposes.
- 6.3 Subject to the remainder of this clause 6, and unless otherwise agreed in writing, we will pay you the amount stated in an invoice that complies with clause 6.2 by

the 20th calendar day of the month following the month in which the invoice was received.

6.4 Invoices that do not comply with clause 6.2 will not be liable for payment, but we will endeavour to notify you of any such invoices as soon as practicable following receipt.

6.5 If we dispute the accuracy of any invoice, we will, within a reasonable period after receipt of the invoice, give you notice of that fact. That notice will state the basis of the dispute and give relevant supporting details. We may withhold payment of the invoice in dispute. If both of us do not resolve the dispute within one month of the date of the dispute notice, either party may pursue any other legal remedies available to them. No interest is payable on any invoice in respect of which we have withheld payment under this clause.

6.6 If the Purchase Order involves the supply of Goods and/or Services on a "cost-plus" basis, we have the right to audit your records on an "open book" basis to verify your calculation of the prices, which right continues for 12 months after we pay the relevant Invoice.

6.7 Without limiting any other right or remedy available to us under the Contract or at Law, we may set off against any amount payable by us to you, any sum that you owe us (or which we are currently alleging, in good faith, that you owe us) for any reason.

## 7. RISK AND TITLE

7.1 Title to the Goods passes to us on the earlier of delivery or payment of any part of the price for those Goods.

7.2 Risk remains with you until the completion of delivery and acceptance of the Goods by us in accordance with these Terms.

## 8. STANDARDS OF PERFORMANCE

8.1 In entering into the Contract with us, and supplying us with Goods and/or Services, you must:

- (a) ensure that the Goods:
  - (i) comply with any specifications, designs, quality standards and/or descriptions set out in the relevant Purchase Order or approved by us from time to time;
  - (ii) conform to any samples provided to us from time to time (if any);
  - (iii) are of merchantable quality and are fit for their intended use and purpose;
  - (iv) unless otherwise agreed in writing or stated in the Purchase Order, are new and unused on delivery, and where a shelf life (or similar) applies, at least 95% of that shelf life remains as at the date of delivery;
  - (v) are free of all charges, liens or other security interests of any kind; and
  - (vi) are free from any faults or defects (including any latent defect) in design;
- (b) ensure that the Services:
  - (i) are performed promptly, with due diligence, care and skill, by appropriately qualified and experienced personnel;
  - (ii) comply with any specifications, formats, quality standards and/or descriptions approved by us from time to time or set out in the relevant Purchase Order; and
  - (iii) are fit for their intended use and purpose;
- (c) comply with all applicable Laws, including by ensuring that all Goods supplied and/or Services provided comply with all applicable Laws;
- (d) comply with our reasonable directions, including those contained in a Purchase Order;
- (e) not damage our reputation or the goodwill of our other suppliers, customers or other persons dealing with us;
- (f) not change the specifications, or make any material change to the manufacturing process or place of manufacture, or any change in the sourcing of the Goods, without first notifying us and obtaining our prior written consent;
- (g) maintain (at your own cost) prudent levels of general liability and product liability insurance with a reputable insurer, and provide evidence of such insurance to us promptly on request; and
- (h) without limiting any other warranties in this clause 8.1, perform your obligations at all times in accordance with Good Industry Practice.

8.2 The warranties in clause 8.1 are in addition to any other warranties given by you or implied by custom or law, whether statutory or otherwise. You must pass on the benefit of any warranty relating to the Goods and/or Services received from any other person so that we are in a position to have recourse against those persons either directly or via you.

8.3 If any of the Goods and/or Services are found to be defective (excluding reasonable wear and tear, and with due allowance for any shelf life considerations) within a period of 12 months from the date of delivery or provision (or, if longer, during the period of the manufacturer's warranty) you must (at your own cost) replace or repair those Goods and/or Services.

8.4 You must promptly remedy each warranty claim to our reasonable satisfaction. The warranties in clause 8.1 apply (with all necessary modifications) in respect of the work performed by you in remedying a defect.

## 9. HEALTH AND SAFETY

9.1 If we invite you on to our Premises in connection with the Contract, you must appoint and notify us of your on-site representative, who will be the central point of contact for us on our Premises, including for the purpose of us delivering any instructions to minimise disruption and maintain a safe working environment.

9.2 Without limiting your general obligation to adhere to Good Industry Practice and comply with all applicable Laws (including as it may concern highly specialist or hazardous work), while on our Premises, you must:

- (a) comply with the Health & Safety at Work Act 2015, and, to the extent that both of us have overlapping duties under that legislation, consult, co-operate and co-ordinate with us to minimise the risks to health and safety on our Premises;
- (b) comply with our reasonable directions, including by ensuring that your personnel comply with our health and safety, drug and alcohol and contractor management policies, as well our traffic management and unloading processes (where applicable) and any other applicable Policies from time to time; and
- (c) ensure that your personnel carry appropriate identification, are respectful and courteous and identify themselves when requested.

9.3 You acknowledge that we operate CCTV cameras at certain of our Premises and you consent to our collection and use of any footage captured from those CCTV cameras (including where they capture you or your personnel) in compliance with Law and in accordance with our usual business practices.

9.4 You must immediately notify us about any health and safety related incidents (including any incident, near miss, serious illness or injury) occurring at any of our Premises or otherwise affecting the Goods and/or Services, including any "notifiable incident" (as defined in the Health & Safety at Work Act 2015).

## 10. INTELLECTUAL PROPERTY

10.1 To the extent that anything used to deliver the Goods and/or provide the Services to us belongs to any third party, you must ensure that we have all the necessary rights (and documents) to enjoy the full benefits of the Goods and/or Services, without additional cost or any further action having to be taken by us.

10.2 You warrant that our ownership (where intended), possession, use, modification or resale of any Goods and/or Services supplied by you to us will not infringe any third-party rights, and you agree to protect us, and hold us (and our clients) harmless from, any related claims or proceedings brought by a third party.

10.3 All intellectual property which is owned by, or is proprietary to, a party at the commencement of the Contract will remain owned by that party.

10.4 Any new intellectual property which is created as a result of, or in connection with, the supply of Goods and/or Services, or otherwise in connection with the Contract, will be owned exclusively by us. If requested by us, you agree to promptly do all things necessary to transfer such rights to us.

10.5 Nothing in these Terms confers on either party any licence to use any of the other party's intellectual property, except to the extent required to give effect to the Contract.

## 11. DEFAULT AND LIABILITY

11.1 If we or any of our directors, employees, agents and contractors (each a **protected person**) suffer a loss (including where we become subject to a claim from, or incur liability to, any other person) as a result of:

- (a) your breach of the Contract;
- (b) any negligence or wrongful act or omission by you or any of your employees, agents or contractors in the course of or related to the performance of, or failure to perform, any of your obligations under the Contract;
- (c) any fraud, dishonesty, misrepresentation or wilful default by you or any of your employees, agents or contractors; or
- (d) any claim that any Goods and/or Services supplied by you to us infringes upon any intellectual property rights of another person,

then you agree to reimburse us and any other protected person for the amount of the loss actually suffered or incurred as a result of those circumstances.

11.2 We may, by notice in writing to you, immediately terminate the Contract, if you:

- (a) breach the Contract;
- (b) are negligent;
- (c) are fraudulent or dishonest, or otherwise make a material misrepresentation to us; or
- (d) suffer or undergo an Insolvency Event.

11.3 Expiry or termination of this Contract is without prejudice to any other right, power or remedy under this Contract, at Law, or otherwise, that we have in respect of a default by you and will not terminate those clauses which are by their nature intended to survive expiry or termination of the Contract.

11.4 Our total liability to you arising under or in connection with the Contract (whether in contract (including under any indemnity), tort (including negligence), statute or otherwise) is limited to the price payable by us in respect of the relevant Purchase Order to which the claim relates.

11.5 Neither party will be liable to the other party for any loss of profits, income or savings, or for any indirect or consequential damage, loss or cost, except in relation to a reimbursement obligation under clause 11.1.

## 12. GENERAL

- 12.1 You must not disclose any of Confidential Information to any third party without our prior written consent, except where disclosure of any such information is required by law. You may only use our Confidential Information to complete the relevant Purchase Order. If requested by us, you must immediately return to us (or destroy) any Confidential Information. You must use Good Industry Practice to protect against unauthorised access to Confidential Information, including adopting measures at least as stringent as you use to protect your own sensitive information.
- 12.2 If you hold or receive any personal information from us in connection with the Contract (including in relation to our personnel or customers) you must comply with the Privacy Act 2020 and all other applicable Laws governing the use and disclosure of that personal information.
- 12.3 You must not assign or sub-contract any rights or obligations (or any part thereof) in respect of the Contract without our prior written consent. In any event, you will, notwithstanding any subcontracting, remain directly liable to us for all acts and omissions of your employees, agents, subcontractors and other personnel that you use in connection with the Contract or the supply of the Goods or Services.
- 12.4 A provision of, or a right granted under, this Contract, may not be waived, except in writing signed by the party granting the waiver, or varied except in writing signed by both parties. The failure by a party to enforce at any time or for any period any one or more of its rights under or in relation to the Contract will not be a waiver of those rights or any right to enforce them.
- 12.5 If any part of the Contract is illegal, void or unenforceable, this will not affect the remaining parts of the Contract which will remain in full force, and if possible the illegal, void or unenforceable part will be read with such modifications as are necessary to render it legal, valid and enforceable.
- 12.6 Nothing in the Contract will create or evidence any partnership, joint venture, agency, trust or employer/employee relationship between the parties, and a party may not make, or allow to be made, any representation that any such relationship exists between the parties. You do not have authority to act for, or to incur any obligation on behalf of, except as expressly provided for in the Contract.
- 12.7 The Contract is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.
- 12.8 The United Nations Convention on Contracts for the International Sale of Goods will not apply to the supply of Goods under the Contract.

## 13. DEFINITIONS

- 13.1 In these Terms:

**Confidential Information** means any and all information which is obtained from us under or in connection with the Contract or in the course of negotiating or finalising a Purchase Order including information which we have designated as confidential or that you ought to reasonably know is to be considered as confidential (however it is conveyed or on whatever media it is stored) including information relating to our operations, customers, Premises, practices, trading performance, use of the Goods and/or Services, intellectual property rights, know-how, personnel, customers and and/or other suppliers.

**Contract** means the agreement between us and you for the supply of Goods and/or Services as documented in the relevant Purchase Order, these Terms, any variations made in accordance with these Terms and any other documents and schedules specifically incorporated in writing, including any specifications.

**Good Industry Practice** means to exercise that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled, reasonable and experienced operator in the same or similar circumstances seeking in good faith to comply with its contractual obligations and complying with all relevant Laws, with reference to best international standards and practice in the relevant industry.

**Goods** means the goods (or any part of them) described in the Purchase Order.

**GST** means goods and services tax chargeable in accordance with the Goods and Services Tax Act 1985.

**Insolvency Event** means any of the following occurring in respect of you: (1) you become insolvent or unable to pay your debts as and when they fall due; (2) a receiver, administrator, liquidator or a controller is appointed to you or any of your assets; (3) you are the subject of a liquidation or an order or an application is made for your liquidation; (4) you stop or suspend payment to your creditors generally; or (5) you cease to carry on all or substantially all of your business or operations.

**Laws** means any statute, rule, regulation, statutory instrument, treaty, directive, by-law or common law, or any codes of practice, circular, guidance note, order, notice, demand, injunction of any relevant authority.

**Policies** means our policies, codes of practice and codes of conduct.

**Premises** includes any vessel that we own, charter or otherwise operate.

**Purchase Order** means an order issued by us for the purchase of Goods and/or Services from you.

**Services** means the services (or any part of them) described in the Purchase Order.

**Terms** means these terms and conditions of purchase, as varied in accordance with these terms.