

**TERMS AND CONDITIONS OF PURCHASE OF GOODS AND SERVICES****1. Definitions****1.1.** In these Terms:

**Confidential Information** means any and all information which has been designated as confidential by either party or that reasonably ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, properties, assets, trading practices, Goods, Services, developments, trade secrets, intellectual property rights, know-how, personnel, customers and and/or suppliers of either party.

**Contract** means the agreement between Sealord and the Supplier 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 Specification.

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

**GST** means goods and services tax in terms of the Goods and Services Tax Act 1985.

**Invoice** means a tax invoice for GST purposes relating to the supply of Goods and/or Services.

**PCBU** has the meaning given to it in the Health and Safety at Work Act 2015.

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

**Sealord** means Sealord Group Limited or a subsidiary of Sealord Group Limited that is named on a Purchase Order.

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

**Specification** means any technical or other specification relating to the Goods and/or Services referred to in the Purchase Order.

**Supplier** means the supplier of the Goods and/or Services to Sealord.

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

**2. Terms applying****2.1.** These Terms apply to all Purchase Orders.**2.2.** Any terms or conditions of supply on any invoice or other documentation provided by the Supplier (whether before or after the date of a Purchase Order) will be of no effect and will not replace or vary any of these Terms unless agreed to by Sealord in writing. Each Purchase Order incorporates, and is subject to, these Terms notwithstanding anything to the contrary in the Supplier's invoice or other documentation.**2.3.** Acceptance of a Purchase Order (in part or in full) by the Supplier constitutes acceptance of these Terms.**2.4.** Sealord may vary these Terms from time to time by written notice to the Supplier and any such variations will be effective on the earlier of the date of notification and Sealord placing the varied Terms on its website [Terms of Purchase | Sealord](#), provided that where the Supplier has signed a copy of these Terms, the signed Terms shall apply unless varied by written agreement between the parties**2.5.** These Terms may be executed by electronic signature which meets the identification and reliability standards for electronic signatures set out in the Contract and Commercial Law Act 2017.**3. Supplier's obligations****3.1.** The Supplier must supply the Goods and/or Services in accordance with the terms of the Contract and all applicable laws, regulations, standards and codes of practice.**3.2.** The Supplier must hold and maintain (at its own cost) all consents, permits and licences necessary to supply the Goods and/or Services.**3.3.** Where a Purchase Order includes provision of training or support or maintenance services the Supplier must promptly supply such in accordance with best industry practice. The Supplier will make available free of charge to Sealord all technical information (including updates from time to time) and support reasonably requested by Sealord.**3.4.** The Supplier shall provide all equipment, labour, plant and anything else necessary (**equipment**) to carry out any Services. All equipment will be at the Supplier's risk. On completion of the Contract the Supplier shall remove its equipment and leave Sealord's premises in a clean and tidy condition.**4. Purchase Orders****4.1.** Purchase Orders may specify type, volume, delivery time and date, delivery point, shipping terms and any other specifications in relation to Goods and/or Services as Sealord may require. Each Purchase Order will be identified by Sealord with a unique number.**4.2.** Each Purchase Order is an offer to purchase the Goods and/or Services subject to the terms as set out in that Purchase Order and the Contract.**4.3.** The Supplier shall promptly advise Sealord in writing as to its acceptance or otherwise of any Purchase Order.**5. Delivery and acceptance****5.1.** Unless otherwise agreed in writing, the Supplier shall deliver the Goods on the basis of 'Delivered Duty Paid' as defined in Incoterms 2020 ) and/or provide the Services at the time, on the delivery date and at the delivery point as set out in the Purchase Order and as otherwise required by the Purchase Order. Unless otherwise agreed by Sealord in writing, delivery of Goods and provision of Services must be made during normal working hours and be accompanied by all relevant documents. Where applicable in relation to a specified delivery point, the Supplier is responsible to ensure compliance with clause 10.**5.2.** Time is of the essence in respect of the Supplier's delivery and provision obligations and the Supplier must advise Sealord of likely delays to delivery of Goods and/or provision of Services.**5.3.** Goods are not taken to be delivered unless delivery is acknowledged by the signature of an authorised representative of Sealord on the delivery docket or other acceptance form. Sealord's acknowledgement of delivery does not imply acceptance of the quality and quantity of the Goods. Such acceptance will be deemed to occur when all of Sealord's rights in this clause 5 have been exhausted.**5.4.** If any Goods are not delivered and/or Services are not provided within the time specified in the Purchaser Order or otherwise in accordance with these Terms, Sealord may, without limiting its other rights and remedies, cancel the Contract (in whole or in part).**5.5.** Sealord may vary the delivery time and date and/or delivery point at any time prior to delivery by providing the Supplier written notice of those changes.**5.6.** If a Purchase Order includes installation by the Supplier, the Supplier must promptly complete installation, with minimum disruption, by the date set out in the Purchase Order or if no date is specified, then in accordance with such time as may be specified by Sealord.**5.7.** Sealord may inspect, test or observe, at all reasonable times, the Goods and/or Services. However, any such inspection does not relieve the Supplier from any subsequent liability in respect of the Goods and/or Services and such inspection in no way implies that Sealord will accept the Goods and/or Services.**5.8.** Sealord may carry out any acceptance tests of any Goods and/or Services or any part thereof as Sealord, in its sole discretion, deems necessary. The Supplier agrees to assist Sealord in any testing requested. If any Goods and/or Services fail any acceptance test, the Supplier must, at its sole cost immediately remedy any problem or issue.**5.9.** Sealord may reject any 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 may be returned at the cost of the Supplier. Rejected Goods held by Sealord will be held at the Supplier's risk.**5.10.** In the event that Goods and/or Services are rejected pursuant to clause 5.9 or the Contract is cancelled pursuant to clause 5.4, Sealord may obtain replacement Goods and/or Services from a third party and the Supplier agrees to indemnify Sealord against all damages, claims, costs, losses and liabilities which may arise from the Supplier's failure to deliver Goods and/or provide Services in accordance with the Contract (including, without limitation, direct and indirect damages).**6. Packaging of Goods****6.1.** All Goods shall be packaged so as to:

- a. prevent damage during transport, storage, loading and unloading;
- b. be clearly identifiable with the Purchase Order (and shall include the relevant Purchase Order number and be accompanied by a packing slip); and
- c. comply with all applicable laws, regulations, standards and codes of practice.

**7. Price****7.1.** Unless otherwise agreed in writing, all prices shall:

- a. be the prices set out in the Purchase Order;
- b. be in New Zealand currency (unless otherwise stated in the Purchase Order);
- c. in respect of a Purchase Order, subject to any decrease, be fixed for the duration of the Contract and not subject to increase;
- d. be inclusive of all duties, revenue taxes or charges whatsoever relating to the Goods and/or Services (but exclusive of GST only); and
- e. include all costs of testing and inspection, packaging, tagging, insurance and delivery to the delivery point.

**7.2.** Sealord will pay GST, if any, in addition to the prices.**7.3.** The Supplier warrants to Sealord that the prices are equal to or lower than the best prices being offered by the Supplier to any third party customer of the Supplier purchasing similar quantities or types of Goods or Services (or both).

Supplier's Initials: \_\_\_\_\_

**8. Payment and Invoicing**

- 8.1. Unless the Purchase Order states that progress payments are to be made, the Supplier shall invoice Sealord upon delivery of the Goods and/or upon completing provision of the Services.
- 8.2. Where the Purchase Order states that progress payments are to be made, the Supplier must invoice Sealord at the end of each calendar month (or other period specified in the Purchase Order) for Goods delivered and/or Services provided in that month or that period (as the case may be).
- 8.3. Unless otherwise agreed in writing, Sealord is liable to pay the Contract price for Goods (plus GST, if any) delivered and/or Services provided at the end of the second month following the month of Invoice. The cut off for Sealord receiving Invoices for payment is the second working day of the month following the month of Invoice.
- 8.4. Each Invoice must:
  - a. state the Purchaser Order number;
  - b. be sent to the address specified on the Purchase Order;
  - c. contain sufficient information to enable Sealord to establish the accuracy of that invoice;
  - d. include full bank account details of the Supplier; and
  - e. (where the Supplier is making a taxable supply as that term is defined in the Goods and Services Tax Act 1985) constitute a valid tax invoice for GST purposes.
- 8.5. Invoices that do not comply with clause 8.4 will not be liable for payment. Sealord will advise the Supplier of such invoices as soon as practicable following receipt.
- 8.6. If Sealord disputes any portion of any amount appearing as payable on any Invoice issued to it by the Supplier, Sealord will promptly notify the Supplier of that dispute. Sealord will pay any undisputed portion of each Invoice on the due date for payment under clause 8.3, but may withhold payment of the disputed portion until the dispute is resolved between Sealord and the Supplier.
- 8.7. If the Purchase Order involves the supply of Goods and/or Services on a cost plus basis, Sealord has the right to conduct an audit of the basis of the Supplier's charges using the Supplier's records and, if necessary, dispute the Invoices in accordance with clause 8.6. This right continues for 12 months after Sealord pays the relevant Invoice.
- 8.8. Without limiting any other right or remedy available to Sealord under the Contract or at law, any amount payable by Sealord to the Supplier may be set-off against any amount owed (or claimed to be owed) to Sealord by the Supplier.

**9. Risk and title**

- 9.1. Title in any Goods (including any parts or items supplied as part of a Service) passes to Sealord on the earlier of delivery or payment by Sealord of any part of the Contract price.
- 9.2. Risk remains with the Supplier until the completion of delivery and acceptance of the Goods by Sealord in accordance with these Terms.

**10. Sealord's premises / health and safety**

- 10.1. Whilst on Sealord's premises, or when engaged by Sealord on the premises of a third party, the Supplier shall have, at all times, a competent site representative whose name has been notified to Sealord in advance. All work on site shall be carried out under the supervision of the site representative who shall be authorised to receive any instructions from Sealord or Sealord's delegate and have the responsibility for maintaining a safe working environment, including co-ordinating and co-operating with other PCBUs as required by Sealord.
- 10.2. Whilst on Sealord's premises, the Supplier must at all times and at its own cost:
  - a. operate in accordance with best industry practice applicable to the relevant scope of the Services to be undertaken (including, without limitation, in relation to work or training regarding specialist or non-routine hazardous work such as height, confined spaces, hot work and diving);
  - b. comply with all health and safety laws and all of Sealord's health and safety, drug and alcohol, and security policies (as may be amended from time to time);
  - c. comply with all applicable laws, regulations, standards and codes of practice; and
  - d. comply with Sealord's reasonable directions.
- 10.3. The Supplier will notify Sealord immediately in writing of:
  - a. all health and safety related incidents (including any incident, near miss, dangerous occurrence, illness or injury) occurring at any Sealord premises which involves the Supplier or members of the public, and which has caused or has the potential to cause any work related illness or injury or any damage to assets or property;
  - b. any hazards which do or may arise during delivery of the Goods or provision of the Services; and
  - c. any health and safety concern which the Supplier may have in relation to the delivery of Goods or provision of Services.
- 10.4. All persons employed by or associated with the Supplier on Sealord's premises must undergo an induction process as required by Sealord and any other health and safety or other training as Sealord may request from time to time. The Supplier shall be

responsible for their employees' and/or associate's compliance with induction and other training requirements. All employees and associates working on site must carry identification to demonstrate that they are employees or associates of the Supplier and carry on them evidence that they have completed Sealord's induction and training requirements.

- 10.5. On request, the Supplier will provide Sealord with a copy of the Supplier's health and safety policy and plans.
- 10.6. The Supplier must ensure that all material safety data sheets related to any Goods delivered and/or Services provided are made available to Sealord on request.
- 10.7. The Supplier acknowledges that Sealord has CCTV cameras in operation at its premises. The Supplier agrees that Sealord may collect, use and otherwise deal with footage obtained from the cameras capturing the Supplier and/or its agents' activities on site, as outlined in in accordance with Sealord's CCTV Management Policy. The Supplier also agrees to adhere to the requirements set out in the Policy, including for requesting and using copies of footage. The Supplier acknowledges its obligations under the CCTV Management Policy to inform its staff members of the operation of cameras and the purposes footage will be used for. The Policy is available on site and can be provided, available to the Supplier on request.

**11. Warranties**

- 11.1. The Supplier warrants and represents to Sealord that:
  - a. each Service will:
    - i. be performed promptly, with due diligence, care and skill, by appropriately trained, experienced and supervised persons and to the best industry standards;
    - ii. conform with the requirements of the Contract and with all other descriptions and specifications agreed and approved by Sealord (if any); and
    - iii. be fit for expected purpose; and
  - b. each Good (and its components) will:
    - i. be of merchantable quality and fit for expected use and purpose;
    - ii. conform with the requirements of the Contract and with all other descriptions and specifications, design, quality, quantity, configuration, description and samples agreed and approved by Sealord (if any);
    - iii. (unless otherwise stated in the Purchase Order) be new and unused on delivery, and where a shelf or utilisation life applies, at least 95% of such life remains on delivery;
    - iv. not be subject to any mortgage, charge, lien, encumbrance, retention of title or other security interest; and
    - v. be free from any fault or defect (including any latent defect) in design, materials and workmanship and not emit any contaminant or hazardous substance; and
  - c. all Goods supplied and/or Services provided will comply with all applicable laws and regulations (including, without limitation, relating to safety, manufacture, packaging, labelling, transportation, sale, nature, substance, quality, weight and measurement), standards and codes of practice and the Supplier will, at its own cost, hold and maintain in good standing all necessary licences, registrations, permits, authorisations, consents and approvals required by or from any governmental, provincial or local department or agency.
- 11.2. These warranties are additional to any other warranties given by the Supplier or implied by custom or law, whether statutory or otherwise. The Supplier will pass on the benefit of any warranty relating to the Goods and/or Services received from any other person to the intent that Sealord may have recourse against those persons either directly or via the Supplier.
- 11.3. Any Goods and/or Services found to be defective (excluding reasonable wear and tear, and notwithstanding any shelf or utilisation life) within a period of twelve (12) months from the date of delivery or provision, or during the period of the manufacturer's warranty (whichever is greater) shall be replaced or repaired by the Supplier at its sole cost and expense.
- 11.4. The Supplier will promptly remedy each warranty claim to Sealord's reasonable satisfaction. Warranties start again for the full period on completion of remedying each defect.

**12. Indemnity**

- 12.1. The Supplier indemnifies Sealord and Sealord's directors, employees, agents and contractors (**indemnified parties**) against all claims, losses, damages, costs and liabilities (**liabilities**) sustained or incurred by an indemnified party in relation to any:
  - a. breach of the Contract (including warranties) by the Supplier;
  - b. negligent or wrongful act or omission by the Supplier or any of its employees, agents or contractors in the course of or related to the performance of, or failure to perform, any of the Supplier's obligations under the Contract;
  - c. fraud, dishonesty, misrepresentation or wilful default of the Supplier or any of its employees, agents or contractors; or

- d. claim that any Goods and/or Services supplied to Sealord infringe upon or misappropriate any patent, copyright, trademark, trade secret or other intellectual property interest of another person.
- 13. Insurance**
- 13.1. Without limiting its obligations under the Contract, the Supplier must take out and maintain:
- for the duration of the Contract and for a period no less than 12 months thereafter, general liability insurance cover; and
  - for the duration of the Contract and for a period no less than 6 years thereafter, product liability insurance cover,
- in each case for any damage, loss, injury or third party claim for an amount not less than NZD 2,000,000 for any one claim or series of claims arising out of the same occurrence.
- 13.2. Sealord reserves the right to vary the type or limit of any cover required in respect of the Contract. The Supplier is responsible for the costs of any premium.
- 13.3. The Supplier will ensure that the benefit of such insurance is available to Sealord and the Supplier will use best endeavours in pursuing any insurance claim for the full amount of Sealord's loss or damage.
- 13.4. The Supplier's insurance shall be effected with an insurer and on terms acceptable to Sealord. Whenever requested by Sealord, the Supplier shall make available the policy or policies and receipts for payment of the current premiums or such equal evidence of insurance.
- 14. Intellectual property**
- 14.1. The Supplier must notify Sealord if anything used to deliver the Goods and/or provide the Services belongs to any third party. The Supplier must ensure that Sealord has all the necessary rights (and documentation) to enjoy the full benefits of the Goods and/or Services.
- 14.2. The Supplier warrants to Sealord that ownership (where intended), possession, use, modification or resale of any Goods and/or Services supplied by the Supplier will not infringe any third party rights and that it will protect Sealord and its clients from any related claims or proceedings. Sealord may freely participate in any infringement proceedings.
- 14.3. 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.
- 14.4. 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 Sealord.
- 14.5. On Sealord's request and at Sealord's reasonable cost, the Supplier agrees to assist Sealord in perfecting, recording and registering any new intellectual property right owned by Sealord under the Contract.
- 14.6. 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.
- 15. Default and liability**
- 15.1. Sealord may, at its discretion, immediately terminate the Contract (including any Purchase Order), in whole or in part by giving the Supplier written notice, where the Supplier:
- breaches the Contract;
  - fails to comply with a reasonable direction by Sealord;
  - becomes bankrupt or insolvent;
  - becomes unable to pay debts as they fall due;
  - seeks an arrangement with creditors;
  - goes into receivership, liquidation, administration or statutory management;
  - is negligent or commits a wrongful act or omission; or
  - is fraudulent or dishonest or makes a misrepresentation to Sealord.
- 15.2. Sealord's sole liability to the Supplier (whether in contract (including under any indemnity), tort (including negligence) or otherwise), is limited to the price payable in respect of the relevant Purchase Order and Sealord shall not be liable for any loss of profits, income or savings, or for any indirect or consequential damage, loss or cost.
- 16. Modern Slavery**
- 16.1. Modern slavery describes situations where coercion, threats or deception are used to exploit victims and undermine their freedom. Sealord does not tolerate any form of modern slavery in its supply chain. In performing its obligations under the Contract, the Supplier must:
- comply with all applicable modern slavery laws, statutes, regulations and codes from time to time in force; and
  - have and maintain throughout the term of this Contract its own policies and procedures to ensure its compliance.
- 17. General**
- 17.1. Sealord is not required to obtain from the Supplier any minimum value of Goods and/or Services. The Contract is not intended to establish an exclusive purchase and supply arrangement in relation to any Goods and/or Services.
- 17.2. The Supplier shall not disclose any Confidential Information to any third party without Sealord's prior written consent, except where disclosure of any such information is required by law. Confidential Information shall only be used by the Supplier solely to complete the relevant Purchase Order and must be immediately returned to Sealord on request by Sealord.
- 17.3. The Supplier acknowledges that the Sealord business and brand carries significant equity and goodwill and that Sealord operates in markets that are sensitive to reputational matters. The Supplier must ensure that it, at all times, operates in a manner that promotes and advances the interests and reputation of Sealord and shall not do anything that may harm or damage the reputation or goodwill of Sealord or the Sealord brand. The Supplier must immediately notify Sealord upon becoming aware of any circumstance that could cause reputational harm to Sealord.
- 17.4. The Supplier shall not assign or sub-contract any rights or obligations (or any part thereof) in respect of the Contract without Sealord's prior written consent.
- 17.5. The Contract is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.
- 17.6. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the supply of Goods under the Contract.
- 17.7. All documentation to be supplied and all communications between the parties under the Contract shall be in the English language.
- 17.8. No delay or failure to act shall constitute a waiver under the Contract. No waiver is effective unless it is in writing. A waiver of a breach is not a waiver of any other breach.
- 17.9. The provisions of the Contract that may reasonably be implied to survive termination of the Contract shall remain in full force and effect after termination.
- 17.10. If part or all of any provision of the Contract or its application to any person or circumstance is illegal or unenforceable, the provision will be interpreted as may be necessary to ensure it is not illegal or unenforceable and, if such interpretation is not available, will be severed from the Contract and the remaining provisions shall continue in force.
- 17.11. Nothing express or implied in the Contract shall be construed as constituting the Supplier as the partner, agent, employee, officer or representative of, or as a joint venturer with, Sealord, and the Supplier shall have no authority to incur any obligation on behalf of Sealord unless expressly authorised by Sealord in writing.
- 17.12. A party providing a notice under these Terms will, where possible, give notice electronically, provided that, if that party is unable to effect or confirm delivery of the notice electronically, or delivery of the notice electronically is not permitted by law, that party will, to the extent practicable, use a means of delivery that minimises greenhouse gas emissions.
- 17.13. Each party agrees to take reasonable steps to minimise the greenhouse gas emissions of its activities wherever practicable when performing its obligations under these Terms.