

# Purchase Order Terms and Conditions



<p><b>1. Application of these Terms and Conditions</b></p>	<p>(a) The terms stated below form part of this Purchase Order in which they are referenced and together constitute a contract between New Zealand Sugar Company Limited (<b>Buyer</b>) and the party delivering goods or services under the terms of this Purchase Order (<b>Vendor</b>) stating their entire agreement relating to the sale and purchase of each item described on this Purchase Order (<b>Deliverable</b>) unless Vendor rejects this Purchase Order by notice to Buyer within 2 Business Days of receipt.</p> <p>(b) On this Purchase Order is stated the Description, the Quantity required, the Delivery Date, and the Price of each Deliverable.</p> <p>(c) No terms provided by Vendor prior to or after receiving a Purchase Order will be binding upon Buyer.</p> <p>Vendor must deliver the Quantity of each Deliverable by the Delivery Date for that Deliverable at the Delivery Address.</p>
<p><b>2. Deliverables that are goods</b></p>	<p>(a) Each Deliverable must be packed and transported in a way that avoids any loss, contamination or damage to the Deliverable.</p> <p>(b) All Deliverables at the time of delivery must be accompanied by customary shipping documents including a delivery note that details the Deliverables being delivered and quotes the number of this Purchase Order.</p> <p>(c) Vendor must ensure that it complies with all applicable laws, codes and standards relating to the labelling, packaging, packing and transport of the Deliverables including with respect to vehicle mass, vehicle dimension, load limit, load restraint, speed limits, driver fatigue, driving hours and rest periods, and agrees to it (or its subcontractor) being named as the consignee or consignor (as applicable) on all documentation.</p> <p>(d) Vendor must give Buyer written notice at least 24 hours in advance of the date and the approximate time when it intends to deliver the Deliverables. It is the responsibility of Vendor to unload the Deliverables at the Delivery Address.</p> <p>(e) Title to a Deliverable passes to Buyer upon the earlier of payment for the Deliverable and delivery of the Deliverable. Vendor warrants that each Deliverable is free and clear of all liens, encumbrances, restrictions and security interests and that Vendor has and will give Buyer good title to the Deliverable.</p> <p>(f) Vendor bears the risk of loss of or damage to each Deliverable until delivered at the Delivery Address.</p> <p>(g) Vendor warrants that each Deliverable; will conform to its description set out on this Purchase Order, samples provided by Vendor, and its specifications; will be of merchantable quality and free from defects in material and workmanship; and be fit for the purpose for which it is required by Buyer (if known to Vendor) or for which such Deliverable is normally provided (in any other case). This warranty is in addition to, and not to the exclusion of, any warranty implied by law.</p> <p>(h) Each Deliverable received at the Delivery Address is subject to Buyer's inspection within a reasonable time after arrival. If any Deliverable fails to meet any requirements of this Purchase Order (<b>Defective Deliverables</b>), Buyer may:</p> <ul style="list-style-type: none"> <li>(i) return those Defective Deliverables to Vendor at Vendor's risk and expense; or</li> <li>(ii) require that Vendor provide replacement Deliverables within the timeframe notified by Buyer; or</li> <li>(iii) withhold payment for the Defective Deliverables; or</li> </ul> <p>(d) if payment for the Defective Deliverables has already been made prior to inspection, require that Vendor reimburse Buyer for the purchase price and any costs incurred in the delivery or return of those Deliverables.</p>
<p><b>3. Deliverables that are services</b></p>	<p>(a) All Deliverables that constitute the supply of services by Vendor or the presence of Vendor or its employees, servants or agents on Buyer's premises are subject to the following. Vendor:</p> <ul style="list-style-type: none"> <li>(a) warrants that all work will be performed in compliance with all applicable laws and in a workmanlike manner;</li> <li>(b) must supply all labour, tools, equipment and materials necessary to complete the work;</li> <li>(c) must use its best endeavours not to impede or interfere with other work in progress on Buyer's premises;</li> <li>(d) must not subcontract or assign the work or any part of the work without Buyer's prior written consent;</li> <li>(e) must do all things necessary to ensure the safety of any persons impacted by the supply of services by Vendor;</li> <li>(f) must do all things necessary to achieve compliance with health, safety and environment laws;</li> <li>(g) and its Personnel enter Buyer's premises at their own risk;</li> <li>(h) must, at its own expense, obtain all requisite licences and permits and comply with all laws and regulations in connection with the work or installation of the Deliverables, including those relating to health and safety;</li> <li>(i) must comply with the work, health, safety and environment policies and practices of Buyer made known to Vendor; and</li> <li>(j) must comply with the reasonable directions and orders of Buyer's Personnel while on Buyer's premises.</li> </ul> <p>(b) If any of the work is found to be defective or not in compliance with this Purchase Order and Vendor, on Buyer's request, fails to remedy any defect or default to Buyer's reasonable satisfaction of Buyer, then Buyer may engage a third party to re-perform that work and the cost will be a debt due by Vendor.</p> <p>(c) Vendor must provide all engineering and other data required by Buyer within the time stated in this Purchase Order or, if no time is stated, then as notified in writing by Buyer to Vendor.</p>
<p><b>4. Price, invoice and payment</b></p>	<p>(a) In consideration of the due and proper delivery or performance of the Deliverables by Vendor the subject of this Purchase Order, Buyer will pay to Vendor the Price for those Deliverables.</p> <p>(b) An invoice may only be submitted to Buyer on or after delivery or performance of the relevant Deliverables to the address stated in the 'Forward Invoice to:' section on this Purchase Order. The invoice must state the number of this Purchase Order, the Delivery Address, each of the Deliverables delivered and its Price and the total amount payable including any applicable GST, and be accompanied by evidence of delivery of the Deliverables stated on the invoice to the satisfaction of Buyer.</p> <p>(c) Buyer will only be obliged to pay GST in respect of a supply if Vendor has delivered to Buyer a Tax Invoice in compliance with the <i>Goods and Services Tax Act 1985</i> or any subsequent Act imposing or relating to the imposition or administration of a goods and services tax in New Zealand and any regulation made under that Act.</p> <p>(d) Buyer will pay a correct invoice no later than 30 days after the end of the month in which Buyer receives the invoice from Vendor. Payment by Buyer is on account only.</p> <p>(e) Buyer may deduct from moneys otherwise due to Vendor any debt or other moneys due and owing from Vendor to Buyer or an amount Buyer considers to be the subject of a bona fide Claim against Vendor.</p>
<p><b>5. Inspection</b></p>	<p>Vendor agrees that Buyer or its nominated agent has the right to inspect all work related to the Deliverables, upon the giving of reasonable notice, at any stage during design, engineering, manufacture, installation or performance. Vendor will make this a condition of any sub-contracted work. Buyer has the right to reject any work completed or being performed that does not conform to this Purchase Order, and such work must be rectified at no additional cost to Buyer.</p>
<p><b>6. Cancellation</b></p>	<p>At its option, Buyer may cancel any part or all of this Purchase Order in relation to any undelivered Deliverables by giving notice to Vendor. On cancellation:</p>

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	<ul style="list-style-type: none"> <li>(a) Vendor must cease manufacture and supply of, or the performance of, any Deliverables and do everything possible to mitigate any further costs being incurred;</li> <li>(b) Buyer will reimburse Vendor for any expenditure justifiably incurred by Vendor prior to date of cancellation in respect of the Deliverables which cannot reasonably be otherwise recouped by Vendor; and</li> <li>(c) except to the extent set out in <b>Error! Reference source not found.</b>(b), Buyer's only obligation will be to pay for Deliverables delivered or performed (and accepted by Buyer) prior to the date of cancellation.</li> </ul>
<b>7. Termination for default</b>	<ul style="list-style-type: none"> <li>(a) If Vendor breaches any term of this Purchase Order and it remains un-remedied after 7 days; or becomes insolvent, Buyer may, at its option and without prejudice to any of its other rights, by giving notice to Vendor, terminate this Purchase Order with respect to any undelivered Deliverables, in which case Vendor will not be entitled to any compensation or reimbursement of costs or other expenses of any nature incurred either before or after termination in respect of such termination.</li> <li>(b) On receiving a notice under clause 7(a), Vendor must take any action relating to the termination of this Purchase Order reasonably required by Buyer.</li> <li>(c) Termination of this Purchase Order under this clause 7 will: <ul style="list-style-type: none"> <li>(i) not affect any provisions of this Purchase Order which are intended to continue after termination; and</li> <li>(ii) be without prejudice to any Claim arising out of any breach or non-performance by Vendor of its obligations under this Purchase Order prior to termination.</li> </ul> </li> <li>(d) Clauses 8 (<b>Intellectual property</b>), 9 (<b>Data breach</b>), 10 (<b>Indemnity</b>), 11 (<b>Insurances</b>), 12 (<b>Confidentiality</b>), and 13 (<b>Notices</b>) survive the termination of this Purchase Order.</li> </ul>
<b>8. Intellectual property</b>	<ul style="list-style-type: none"> <li>(a) Vendor warrants that the Deliverables do not infringe any third party intellectual property rights (including patents, trademarks or copyright).</li> <li>(b) Vendor indemnifies Buyer against any loss or damage (including solicitor's fees and other costs of defending an action) that may arise from a breach of this warranty. This indemnity survives the cancellation, termination or completion of this Purchase Order.</li> <li>(c) Buyer will own any intellectual property rights in any data, information or materials created, developed or produced in connection with provision of the Deliverables by Vendor.</li> </ul>
<b>9. Data breach</b>	<p>If Vendor becomes aware or suspects that there has been any: loss of; unauthorised access to; or unauthorised disclosure of, any Personal Information or any data, information and other materials collected by or disclosed to Vendor for or on behalf of Buyer, including data in relation to the provision of the Deliverables (<b>Data Breach</b>) then Vendor must immediately notify Buyer of that Data Breach and promptly disclose to Buyer all information relevant to that actual or suspected Data Breach; investigate whether a Data Breach has occurred; and provide Buyer with access to and copies of relevant records relating to the investigation. For the purposes of this clause, "<b>Personal Information</b>" means any information or an opinion, whether true or otherwise or in a material form, about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion: (a) whether the information or opinion is true or not; and (b) whether the information or opinion is recorded in a material form or not.</p>
<b>10. Indemnity</b>	<ul style="list-style-type: none"> <li>(a) Subject to clause 10(b), Vendor must indemnify and keep indemnified Buyer and Buyer Personnel (<b>Indemnified Parties</b>) against all Claims arising in connection with: <ul style="list-style-type: none"> <li>(i) any damage to Buyer's site, the Deliverables or any property whether located on Buyer's site or otherwise;</li> <li>(ii) death or injury to any person whether located on Buyer's site or otherwise;</li> <li>(iii) a breach by Vendor or Vendor's Personnel of any approval or law; and</li> <li>(iv) the breach by Vendor of an obligation under this Purchase Order or a warranty given by Vendor, if the Claim arises in connection with any act, error or omission of Vendor or Vendor's Personnel.</li> </ul> </li> <li>(b) If the Claims are caused in part by any act, error or omission of an Indemnified Party then Vendor's liability to indemnify that Indemnified Party under this clause 10 will be reduced proportionally to the extent that the Claims are caused by the act, error or omission of that Indemnified Party.</li> <li>(c) The indemnity given by Vendor under this clause 10 is a continuing obligation, separate and independent from the other obligations of Vendor; and extends to include any Claims by Vendor's Personnel and third parties whether or not specifically stated in clauses 10 (a) and (b).</li> <li>(d) Buyer will not be liable to Vendor, and Vendor will not be liable to Buyer, for any Consequential Loss arising directly or indirectly from or in connection with this Purchase Order. For the purpose of this clause, "<b>Consequential Loss</b>" includes loss of revenue, profits, time, goodwill, data, anticipated savings, opportunity, business reputation, future reputation, production or profit and any indirect, economic, special or consequential loss or damage.</li> </ul>
<b>11. Insurances</b>	<ul style="list-style-type: none"> <li>(a) Vendor must effect and maintain: <ul style="list-style-type: none"> <li>(i) public liability insurance with a limit of indemnity of not less than \$10,000,000 per occurrence, covering Vendor's liability for personal injury, illness, disease, death, or loss of or damage to third party tangible property;</li> <li>(ii) if any Deliverable is a good, product liability insurance with a limit of indemnity of not less than \$10,000,000 per occurrence and in the annual aggregate, covering Vendor for product liability claims;</li> <li>(iii) if any Deliverable includes professional advice, professional indemnity insurance with a limit of indemnity of not less than \$5,000,000 per occurrence, covering Vendor's liability for the provision of professional advice;</li> <li>(iv) motor vehicle insurance covering liability for personal injury and property damage to third parties with a limit of indemnity of not less than \$10,000,000 per occurrence; and</li> <li>(v) any other insurance that by law it is required to hold.</li> </ul> </li> <li>(b) Upon request, Vendor must provide Buyer with a certificate of currency for each of the above insurances.</li> </ul>
<b>12. Confidentiality</b>	<p>A party must not, without the prior written consent of the other party, disclose confidential information relating to the Deliverables, the other party's business or operations or that was provided to it by the other party, or use such confidential information for purposes unrelated to this Purchase Order unless such disclosure is required by an applicable law or any court or any government authority or by the listing rules of the stock exchange on which it or a Related Body Corporate is listed.</p>
<b>13. Notices</b>	<p>Any notice must be in writing and sent to the party's address stated on this Purchase Order and is treated as having been received:</p> <ul style="list-style-type: none"> <li>(a) if delivered by hand - on delivery to the relevant address;</li> <li>(b) if sent by post - on delivery to the relevant address, or three Business Days after it was posted, whichever is earlier; and</li> <li>(c) if transmitted by email - when the addressee receives it, with receipt evidenced by a report generated by the sender's email application confirming transmission,</li> </ul>

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	but will be deemed to have been received on the next Business Day if received after 5.00pm on a Business Day.
<b>14. Anti-corruption</b>	<p>Vendor represents that, in all of its activities in connection with this Purchase Order, it will:</p> <ul style="list-style-type: none"> <li>(a) comply fully with the Foreign Corrupt Practices Act 1997 (15 U.S.C. §78-dd-1, et seq., as amended), the Bribery Act 2010 (UK), the Crimes Act 1961 as well as all other anti-bribery laws, anti-corruption laws, conflict of interest laws, or other laws, rules or regulations of similar purpose and effect applicable to Vendor, Buyer and any anti-bribery, anti-corruption or conflict of interest policies of Buyer notified to Vendor from time to time (collectively, Anti-Bribery Material);</li> <li>(b) not take any action in violation of the Anti-Bribery Material;</li> <li>(c) not accept or receive, directly or indirectly, any payment, item, or benefit, regardless of value, as an improper inducement to award, obtain or retain business or otherwise gain or grant an improper business advantage from or to any other person; and</li> <li>(d) not pay, offer, promise, or authorise the payment of money or anything of value, directly or indirectly, to any government official or any other person for the purpose of:             <ul style="list-style-type: none"> <li>(i) influencing any act or decision of such person in his/her official capacity;</li> <li>(ii) inducing such person to act (including through action or omission) in violation of the lawful duty of such person;</li> <li>(iii) securing any improper advantage; or</li> <li>(iv) inducing such person to use his/her influence to affect or influence any act or decision of a government body; and</li> <li>(v) in order to assist Vendor or Buyer in obtaining or retaining business for or with, or directing business to, any person.</li> </ul> </li> </ul> <p>If Buyer determines or has good reason to suspect that Vendor, its Personnel or Related Bodies Corporate are engaging, or have engaged, in conduct that violates or will place Buyer at risk of liability under the Anti-Bribery Material, including by breaching any of the representations set out in this clause, Buyer may by notice to Vendor immediately terminate this and any other Purchase Order issued to Vendor.</p>
<b>15. Human Rights</b>	<p>Vendor must:</p> <ul style="list-style-type: none"> <li>(a) comply with all applicable laws which prohibits exploitation of a worker, human trafficking, slavery, servitude, forced labour, debt bondage or deceptive recruiting for labour or services (or similar) or any other human rights, that are relevant to the supply of the Deliverables (Human Rights Laws);</li> <li>(b) comply with Buyer's "Supplier Code" found at <a href="https://www.wilmarsugar-anz.com/">https://www.wilmarsugar-anz.com/</a>;</li> <li>(c) take prompt corrective actions in respect of any failure to comply with such Human Rights Laws; and</li> <li>(d) cooperate fully with Buyer in any investigation of such failure carried out by or on behalf of Buyer, including by providing Buyer with access to relevant documents and persons and by providing Buyer with a copy of any incident investigation reports carried out by or on behalf of Vendor or that are otherwise in the possession or control of Vendor or any of its Related Bodies Corporate.</li> </ul>
<b>16. General</b>	<ul style="list-style-type: none"> <li>(a) If a dispute relating to this Purchase Order is not resolved within 30 days after being notified by one party to the other then either party may commence court proceedings in relation to that dispute.</li> <li>(b) No waiver of any breach of, or failure to enforce any provision of, this Purchase Order in any way limits the rights of a party to enforce compliance with the provisions of this Purchase Order in the future.</li> <li>(c) If any term of this Purchase Order is, or becomes, unenforceable, illegal or invalid for any reason, the relevant term is to be taken to have been modified to the minimum extent necessary to remedy the unenforceability, illegality or invalidity (or, if that is not possible, it is taken to have been severed from this Purchase Order).</li> <li>(d) This Purchase Order is governed by and construed in accordance with the laws of New Zealand, and the parties submit to the exclusive jurisdiction of the courts in New Zealand.</li> <li>(e) These Terms may only be varied by agreement of both parties in writing.</li> <li>(f) If there is more than one entity comprising Vendor, a reference to Vendor is a reference to all of the entities comprising Vendor both jointly and severally.</li> </ul>
<b>17. Engineering data</b>	<p>The Supplier must provide all engineering and other data required by the Purchaser within the time stated in the Purchase Order Documents or, if no time is stated, then as notified in writing by the Purchaser to the Supplier.</p>
<b>18. Definitions</b>	<p><b>"Business Day"</b> means a day on which banks are open for general business in the place of delivery excluding Saturdays, Sundays, or public holidays.</p> <p><b>"Consumer Protection Law"</b> means the <i>Fair Trading Act 1986</i> (NZ) and any applicable legislation with provisions regarding conditions and warranties in consumer transactions.</p> <p><b>"Deliverables"</b> mean all products and/or services to be supplied by the Supplier to the Purchaser as specified in a Purchase Order.</p> <p><b>"GST Legislation"</b> means <i>Goods and Services Tax Act 1985</i> (NZ) or any subsequent Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act.</p> <p><b>"Purchase Order"</b> means any electronic order by the Purchaser to purchase Deliverables from the Supplier.</p> <p><b>"Purchase Order Documents"</b> means the Purchase Order, these Terms and Conditions, any other signed agreement for the purchase of the Deliverables by the Purchaser from the Supplier and all documents attached, or incorporated by reference, to the Purchase Order Documents.</p> <p><b>"Purchaser"</b> means New Zealand Sugar Limited.</p> <p><b>"Supplier"</b> means the person, firm or corporation from whom the Deliverables are being purchased pursuant to a Purchase Order.</p>