

# Terms & Conditions of Trade for Flexiducting Limited

Effective from: July 2024

## 1. Definitions

- 1.1 **Flexiducting Ltd:** Refers to Flexiducting Limited, its successors, assigns, or any individual authorised to act on behalf of the company (Company Number: 5627867).
- 1.2 **Client:** The individual or entity placing an order for services, as outlined in any invoice, document, order, proposal, or plan. References to 'Client' include all clients jointly and severally if there is more than one.
- 1.3 **Conditions:** The terms and conditions detailed in this document.
- 1.4 **Confidential Information:** All information exchanged between the Client and Flexiducting Ltd under the Contract.
- 1.5 **Contract:** Any agreement for the supply of Goods and/or Services by Flexiducting Ltd to the Client that incorporates these Conditions and the Order Confirmation.
- 1.6 **Delivery Point:** The specified location for the delivery of Goods and/or Services as indicated in the Order Confirmation.
- 1.7 **Estimate:** The most recent cost estimate provided by Flexiducting Limited to the Client regarding the Services.
- 1.8 **Goods:** All items supplied by Flexiducting Ltd, including but not limited to metal hoses, expansion bellows, dry break couplings, high-temperature ducting, and other parts or accessories.
- 1.9 **Order Confirmation:** Flexiducting Ltd's written confirmation of an order made by the Client, incorporating these Conditions.
- 1.10 **Price:** The amount payable by the Client for the Goods and/or Services as outlined in the Order Confirmation.
- 1.11 **Services:** The services provided by Flexiducting Ltd to the Client upon request, including the supply of Goods as detailed in the Order Confirmation or agreed upon between the parties.

## 2. Applicability

- 2.1 These Conditions are the only terms applicable to all Contracts, overriding

any other terms the Client may propose.

- 2.2 Any variations or special terms must be expressly agreed in writing by Flexiducting Ltd.

## 3. Price and Payment

- 3.1 The Price is exclusive of taxes, fees, and levies, including GST and withholding taxes.
- 3.2 The Client is responsible for any applicable taxes unless otherwise agreed in writing.
- 3.3 Flexiducting Ltd may request a deposit before commencing Services.
- 3.4 Payment for the Price or any instalments must be made within 30 days of the invoice date.
- 3.5 Payments should be made in full without any deductions.
- 3.6 Any invoice disputes must be reported within 5 days of receipt. Disputed amounts should be paid once resolved.
- 3.7 Interest on overdue payments will accrue daily at a rate of 1.5% per month.
- 3.8 Flexiducting Ltd may suspend services or require immediate payment for overdue invoices.
- 3.9 Flexiducting Ltd is entitled to recover costs for collecting overdue payments.

## 4. Plans and Specifications

- 4.1 Flexiducting Ltd relies on the accuracy of information and instructions provided by the Client.
- 4.2 Flexiducting Ltd is not liable for losses due to inaccurate plans and specifications beyond its control.

## 5. Warranties and Liability

- 5.1 Flexiducting Ltd ensures that Goods and Services will comply with agreed plans and specifications and be free from material defects.
- 5.2 Other warranties are excluded to the fullest extent permitted by law, including the Consumer Guarantees Act 1993 and the Fair Trading Act 1986.
- 5.3 If defects are found within 12 months, the Client is entitled to remedies as per Condition 9.

- 5.4 Flexiducting Ltd's liability is limited to the Price payable under the Contract.
- 5.5 Flexiducting Ltd excludes liability for indirect or consequential losses.
- 6. Delivery**
- 6.1 Delivery will be made to the specified Delivery Point.
- 6.2 Delivery times are estimates and not essential terms of the Contract.
- 6.3 Goods may be delivered in instalments, each to be invoiced separately.
- 6.4 The Client must inspect and reject any non-conforming Goods within 48 hours of delivery.
- 7. Acceptance of Products**
- 7.1 The Client shall have forty-eight (48) hours after delivery in which to reject any Goods supplied which are not in accordance with the Contract failing which the Goods will be deemed to have been accepted by the Client and the Client shall not be entitled to reject the Goods and/or Services or make any claim in respect of the Goods and/or Services.
- 7.2 Rejected Goods will be replaced or collected at Flexiducting Ltd's cost.
- 7.3 Excess Goods delivered will be returned at Flexiducting Ltd's expense.
- 8. Title and Risk**
- 8.1 Risk passes to the Client upon delivery.
- 8.2 Title remains with Flexiducting Ltd until full payment is received.
- 8.3 The Client must store and insure the Goods until title passes.
- 9. Remedies for Non-Conformance**
- 9.1 For defects within the warranty period, Flexiducting Ltd will repair, replace, or refund the Goods at its discretion.
- 9.2 The Client must notify Flexiducting Ltd in writing within the Warranty Period.
- 10. Order Cancellation**
- 10.1 Orders may be cancelled with Flexiducting Ltd's written consent.
- 10.2 The Client must indemnify Flexiducting Ltd for any associated costs.
- 11. Termination**
- 11.1 Either party may terminate the Contract for material breach or insolvency, and (if such breach is remediable) fails to remedy that breach within thirty (30) days.
- 11.2 On termination, accrued rights and obligations continue.
- 12. Variation of Contract**
- 12.1 Contract variations requested by the Client must be agreed upon in writing.
- 12.2 Flexiducting Ltd may require variations due to Client actions causing delays or additional costs.
- 13. Confidentiality**
- 13.1 Parties must keep Confidential Information private, disclosing it only to necessary personnel or as required by law.
- 13.2 Confidential Information should only be used for Contract purposes.
- 14. Data Protection**
- 14.1 Both parties must comply with data protection laws, including the Privacy Act 2020.
- 14.2 Flexiducting Ltd will process personal information according to the Client's instructions and ensure appropriate safeguards are in place.
- 15. Force Majeure**
- 15.1 Neither party is liable for delays or failures due to events beyond their control.
- 15.2 If such an event continues for more than 90 days, either party may terminate the Contract.
- 16. Dispute Resolution**
- 16.1 Parties must first negotiate in good faith upon written notice of a dispute.
- 16.2 If unresolved, mediation with an independent mediator is required, with shared costs.
- 16.3 If mediation fails after three (3) months, parties may pursue legal action while continuing to fulfill obligations. This clause does not limit seeking equitable relief.
- 17. General Provisions**
- 17.1 **Entire Agreement:** The Contract represents the complete agreement between the parties.
- 17.2 **Variation:** Changes to the Contract must be in writing and signed by both parties.
- 17.3 **Waiver:** Delays or failures to enforce rights do not constitute a waiver.

- 17.4 **Severance:** Invalid provisions will be modified or removed without affecting the rest of the Contract.
- 17.5 **Notices:** Notices must be in writing and delivered to the registered office or principal place of business.
- 17.6 **Third-Party Rights:** Only parties to the Contract may enforce its terms.
- 17.7 **Governing Law and Jurisdiction:** The Contract is governed by New Zealand law, with disputes subject to the jurisdiction of New Zealand courts.