

The following Conditions apply to all Services provided by the Supplier.

1. Definitions

In these Conditions, the following meanings shall apply;

Client	The business or person who requests the Services (including the Directors / Trustees of any Client).
Conditions	These terms and conditions.
Day	Any reference to time measured in day(s) within these Conditions shall mean calendar day(s).
Due Date	The date specified on the invoice in which payment in full must be made on.
Estimate	A price estimate to complete identified Services (which will be charged based on the Schedule of Rates).
Materials	Any goods or raw materials supplied by the Supplier in conjunction with the Services.
Price(s)	Means the price payable by the Client for the Services in accordance with a Quotation or in accordance with the Schedule of Rates subject to any variation in accordance with these Conditions.
Quotation	Fixed price to complete the Services requested by the Client, subject to adjustment as per clause 4.
Schedule of Rates	The hourly rates of individuals and/or machinery charged by the Supplier for the Services where no Quotation is given.
Services	Contracting services to be carried out by the Supplier at the Clients request as detailed in a Quotation or Estimate.
Supplier	Greg Donaldson Contracting Ltd and/or any of its any subsidiary companies.
Underground Infrastructure	Any buried or partially buried infrastructure including, without limitation water, gas, sludge, irrigation, oil, fuel, sewage, compressed air, drainage, other piped gas or fluid, fibre optic, electrical, telecommunications, or other piping, ducting, cabling, foundations and/or associated equipment.

2. Terms of Agreement

- 2.1. All Services provided by the Supplier are subject to these Conditions and shall be read in conjunction with the Supplier's Quotation, Estimate, Schedule of Rates, correspondence, or any other forms as provided by the Supplier. If there are any inconsistencies with these Conditions, then these Conditions shall prevail.
- 2.2. The Supplier shall not be bound or liable for any statement, correspondence, discussions, promise or understanding not set forth in the Quotation or Estimate.
- 2.3. The Client warrants that it has the power to accept Quotations and Estimates, and has obtained all necessary authorisations to allow it to do so.
- 2.4. The Supplier may withdraw, revoke or vary the Quotation, Estimate or change the Schedule of Rates at any time prior to the Client communicating to the Supplier acceptance of the Quotation or Estimate.

3. Acceptance of Conditions

- 3.1. The Client accepts and is immediately bound, jointly and severally, by these Conditions on acceptance.
- 3.2. Client acceptance can be communicated verbally or in writing. The Client shall be deemed to have accepted the Supplier's Quotation or Estimate when the Services commence.
- 3.3. Any time specified by the Supplier for the completion of the Services is an indication only, and the Supplier will not be liable for any loss, damage or extra charges incurred by the Client as a result of lateness for any part of the Services. However, both parties agree that they shall make every endeavour to enable the Services to be completed at/in the time intended between both parties.

4. Price

- 4.1. Subject to clause 2.4, any Quotation will remain valid for 30 Days from the date of issue, unless otherwise specified in writing.
- 4.2. Unless otherwise stated, Prices do not include GST nor other taxes and duties that may be applicable for which the Client will be liable.
- 4.3. The Supplier reserves the right to vary the Price or add an additional charge above any Quotation for the reasons given in Clauses 4.3.1 - 4.3.5. Such changes to the Quotation may be communicated by the Supplier in writing or electronically, or verbally if time is of the essence. The Client understands the risk of proceeding with variations to the Services without an agreed revised Price and agrees to pay the revised Quotation.
 - 4.3.1. A variation to the Services is requested by the Client.
 - 4.3.2. Additional Services are required due to the discovery of hidden or unidentified difficulties which only become apparent during provision of the Services (including but not limited to; poor weather conditions, site access limitations, safety considerations, incomplete or poor-quality prerequisite work, ground conditions).
 - 4.3.3. Increases to the cost of the Services that are beyond the Supplier's control or could not have been foreseen at the time of Quotation.
 - 4.3.4. Unless stated in the Quotation, the period of Services extends 60 Days beyond the originally intended completion date.
 - 4.3.5. Any costs incurred (including demurrage, delivery/storage charges, rescheduling costs and labour downtime) as a result of any delays or inaction by the Client in relation to the agreed dates for the Services.
- 4.4. Any discount that is offered by the Supplier will only apply if payment from the Client is received in full on or before the Due Date for payment as indicated on the invoice.
- 4.5. The Supplier will make reasonable endeavours to ensure that all Estimates are as accurate as possible, however the Client acknowledges that Estimates are subject to change, and the Services will be charged and payable by the Client based on the Schedule of Rates. The Supplier accepts no responsibility for variations to the Estimate. Where no Quotation or Estimate is provided, the Client will engage the Supplier on the Schedule of Rates.

5. Payment

- 5.1. Payment is made only when funds have fully cleared through the bank system into the Supplier's nominated bank account.

- 5.2. The Supplier may undertake interim billing at its sole discretion. Any such invoices may cover Services performed and materials obtained as at the date of the invoice.
- 5.3. The Client will pay invoices by the Due Date unless otherwise agreed in writing. Where no Due Date is specified, payment will be due on the 20th day of the following month in which the invoice was issued.
- 5.4. Unless the Supplier grants credit to the Client and subject to the Supplier's right to withdraw credit, the Client must pay for the Services in accordance with Clause 5.1 and 5.3.
- 5.5. If full payment for the Services is not made by the Due Date, then without prejudice to any other rights or remedies available to the Supplier, the Supplier may:
 - 5.5.1. Cancel or suspend the Services made by the Client, wholly or partly.
 - 5.5.2. Require prior payment in full for further Services.
 - 5.5.3. Charge interest on all overdue monies on a daily basis at 15% per annum from the Due Date until payment in full, and interest shall continue to accrue both before and after judgment.
- 5.6. The Client will be responsible for and must pay on demand all costs (including, without limitation, debt collection agency costs and legal costs on a solicitor/client basis) incurred by Supplier in recovering overdue monies and/or enforcing the Supplier's rights under these Conditions.
- 5.7. If the Client disputes any amount of an invoice, the Client will pay the non-disputed amount of the invoice by the Due Date, and must notify the Supplier of the disputed amount within seven (7) Days of the invoice being issued. Failure to do so will be deemed acceptance of the invoice.

6. Ownership

- 6.1. Ownership of any Materials supplied with the Services shall remain with the Supplier, until payment of all monies owed has been received in accordance with Clause 5.
- 6.2. Until all such monies have been paid:
 - 6.2.1. The Client will keep the Materials in good order and condition, protected as appropriate, insured, and identified as Supplier's property.
 - 6.2.2. The Client irrevocably authorises the Supplier to enter any premises where the Supplier believes the Materials are kept and recover possession. The Client agrees to fully indemnify the Supplier in respect of any liability incurred by the Supplier when accessing a premise Services are believed to be.
- 6.3. If any of the Materials are damaged or destroyed following installation but prior to ownership passing to the Client, the Supplier is entitled to receive all insurance proceeds payable for the Services. The production of these Conditions by the Supplier is sufficient evidence of the Supplier's rights to receive the insurance proceeds.
- 6.4. Acceptance by the Client of the Services does not limit or waive the Client's rights to claim from the Supplier for any defect in the Services or failure to comply with the warranties, Quotation or Estimate requirements.
- 6.5. The Client expressly grants the Supplier the right to register a charge(s) over Materials on the Personal Property Securities Register. The Client agrees that the Supplier does not need to provide notice that they are exercising this right.

7. Access

- 7.1. The Client shall provide the Supplier with clear and free access to the site to enable the Services to be completed. The Supplier shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways or Underground Infrastructure and concreted or paved or grassed areas), unless due to the gross negligence of the Supplier.
- 7.2. It is the responsibility of the Client to ensure that access is suitable to accept the weight of laden trucks and other plant and machinery. This includes any Underground Infrastructure under the access route and within the vicinity of the Services. The Client agrees to indemnify the Supplier against all costs incurred by the Supplier in recovering such vehicles in the event they become bogged or otherwise immovable or repairing damaged Underground Infrastructure.
- 7.3. Underground Infrastructure;
 - 7.3.1. Unless specified in a Quotation or Estimate, the Client must advise the Supplier prior to commencing the Services of the precise location and depth of all Underground Infrastructure on the site and clearly mark the same.
 - 7.3.2. Whilst the Supplier will take all care to avoid damage to any Underground Infrastructure, the Client agrees to indemnify the Supplier in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to Underground Infrastructure not precisely located and notified as per clause 7.3.1.
 - 7.3.3. Unless specified in the Quotation or Estimate, the Supplier accepts no liability for damage to tree roots, and the Supplier will not go out of its way to protect such roots.
- 7.4. In the event that unexpected buried items (contamination, archaeology, abandoned structure, or other significant deviation from the ground conditions normal for that location), the Supplier will halt works and notify the Client. Any changes to the provisions of the Services as a result of the buried items shall be considered a variation in accordance with Clause 4.

8. Warranties and Liability

- 8.1. The Client acknowledges that its own skill and judgment has been used in selecting the Services, and that the Client is responsible for ensuring that the Services purchased are suitable for the purpose for which they are required, and no liability rests on the Supplier if they are not.
- 8.2. In the case the Services being defective (excluding Materials) the Supplier warrants that at its sole discretion it will elect to carry out remedial work or refund or credit to the Client the price of Services supplied (excluding Materials) that are accepted to be defective due to poor workmanship (or faulty design if the Quotation or Estimate specified the Supplier includes design). This warranty will not apply where the defect arises from fair wear and tear, wilful damage, negligence, or any alteration or repair not authorised by the Supplier.
- 8.3. To the fullest extent permitted by law:
 - 8.3.1. All other warranties not associated with the Services, Conditions or obligations are excluded.
 - 8.3.2. All liability for any loss of profits, revenue, business or for any indirect, special or consequential loss or damage of any kind is excluded.

- 8.3.3. Any claim against the Supplier in connection with any defect in Services or any other breach of the Supplier's obligations to the Client, the Supplier's total liability shall not exceed the price of the Services to which the claim relates.
- 8.3.4. The Supplier does not accept any liability or responsibility in relation to any advice, recommendation, information or assistance it provides the Client.

9. Defects, Errors & Omissions

- 9.1. The Client shall inspect the Services on completion, and shall within seven (7) Days notify the Supplier of any alleged defect, shortage in quantity, errors, omissions or failure to comply with the Quotation or Estimate. Notification must be made in writing. The Client shall afford the Supplier an opportunity to inspect/review the Services within a reasonable time following such notification if the Client believes the Services are defective in any way. If the Client fails to comply with these provisions, the Services shall conclusively be presumed to be compliant with the Quotation or Estimate.
- 9.2. While all care is taken when preparing, placing and finishing Services associated with civil works, such work is not an exact science and may vary in finish, dimensions, density or other specifications. In so far as is reasonably practicable Supplier takes no responsibility for such minor deviations.

10. Consumer Guarantees Act 1993 (CGA)

- 10.1. If the CGA applies, these Conditions shall be read subject to the Client's rights under the CGA.
- 10.2. Where the Client is acquiring or hold itself out as acquiring the Services for the purposes of a business, the CGA shall not apply.

11. Compliance with Laws

- 11.1. The Client and the Supplier shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services, including any environmental laws and occupational health and safety laws relating to places or work and business.
- 11.2. Unless specified in the Quotation or Estimate, the Client shall obtain (at the expense of the Client) all licenses and approvals (including, but not limited to, local council and other agencies) that may be required for the Services. In the event the Client engages the Supplier to obtain the relevant consents, the Supplier will use its reasonable endeavours to obtain the consent and accepts no liability if the requested consent is refused.
- 11.3. Privacy;
 - 11.3.1. The Client authorises the Supplier to collect and hold personal information about the Client from any source the Supplier considers appropriate, to be used for credit, administration, service and the Supplier's own marketing purposes. The Client further authorises the Supplier to disclose personal information about the Client held by the Supplier to any other person for these purposes.
 - 11.3.2. The Client authorises any person to give the Supplier information about the Client that we may require in response to our credit and other enquiries related to the Quotation or Estimate. The Client authorise the Supplier to provide credit related information about the Client to any credit reference agency or other person.

12. Intellectual Property

- 12.1. Supplier does not transfer to you any right, title or interest in any copyright, trademarks, patents or other intellectual property rights in or relating to the Services.

13. Miscellaneous & General

- 13.1. The failure by the Supplier to enforce any provision of these Conditions shall not be treated as a waiver of that provision, nor shall it affect the Supplier's right to subsequently enforce that provision.
- 13.2. If any provision of these Conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 13.3. The Supplier may license or subcontract all or any part of its rights and obligations without the Client's consent. The Client agrees and understands that they have no authority to give any instruction to any of the Supplier's subcontractors without the authority of the Supplier.
- 13.4. The Supplier shall not be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of the Supplier.
- 13.5. Without prejudice to the Supplier's other remedies at law, the Supplier shall be entitled to cancel all or any part of a Quotation or Estimate which remains unperformed. All amounts owing to the Supplier shall, whether or not due for payment, become immediately payable in any of the following events:
- 13.5.1. any money payable to the Supplier becomes overdue,
 - 13.5.2. the Client becomes insolvent,
 - 13.5.3. a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
- 13.6. The Supplier warrants that it will have Public Liability insurance in place at all times.
- 13.7. The Client and Supplier acknowledge that each party has obligations under the Health and Safety at Work Act 2015. The Client agrees to inform the Supplier of all relevant hazards on site, prior to the commencement of work, and will provide ongoing disclosure of such hazards should further hazard become identifiable whilst the Supplier is onsite. The Client agrees to indemnify the Supplier against any Health and Safety claims, which arise due to the negligence and non-disclosure of information from the Client.
- 13.8. The Client also warrants that all Underground Infrastructure to the site will be disabled prior to the commencement of the Services.

14. Dispute Resolution

- 14.1. All disputes and differences between the Client and the Supplier concerning all Services provided by the Supplier shall be referred to arbitration under a single arbitrator agreed upon by both parties, or failing agreement, appointed by the President of the Canterbury Westland branch of the New Zealand Law Society or their nominee, such arbitration to be carried out in accordance with the latest New Zealand Arbitration Act.