

PURCHASE ORDER TERMS AND CONDITIONS (version 20250909)

1. ENTIRE AGREEMENT

1.1 This agreement evidences the entire agreement between the Supplier and the Purchaser in connection with the Goods or Services and supersedes and extinguishes all prior agreements (including any quotes or terms provided by the Supplier) between the Supplier and the Purchaser relating to such matters.

1.2 Unless otherwise stated, in the event of inconsistency, the order of precedence of the documents comprising the Agreement shall be as follows:

- (a) The Purchase Order;
- (b) These terms and conditions;
- (c) The Specifications; and
- (d) Any other document attached to or referred to in the Purchase Order..

2. PRICE AND PAYMENT

2.1 The price of the Goods or Services will be as set out in the Purchase Order and includes all costs and expenses incurred by the Supplier in relation to the provision of the Goods or Services. If no price is specified in the Purchase Order, then the Supplier must confirm the price with the Purchaser before the supply of the Goods or Services are supplied. The price set out in the Purchase Order or agreed between the Supplier and the Purchaser for the Agreement may not be amended without the prior written agreement of the Purchaser.

2.2 **Invoices:** on Delivery of Goods and/or Services the Supplier shall:

- (a) send valid GST invoices (if applicable) to the Purchaser at the address stated in the Order; and
- (b) ensure all invoices, packing slips, and correspondence contain the Purchase Order Number and any other information the Purchaser may request.

2.3 **Invoice requirements:** The Supplier will provide the Purchaser with a valid tax invoice setting out the amount payable by the Purchaser to the Supplier for the Goods or Services altogether with GST.

2.4 All invoices will require the Purchase Order number to be quoted on the invoice. Any invoices received without the Purchase Order number will not be processed for payment and will be returned to the Supplier for resolution.

2.5 Electronic copies of invoices are encouraged and can be emailed to the Purchaser's accounts division at the given Purchaser address.

2.6 **Payment timing:** Unless there is a bona fide dispute in relation to the invoice will be paid on the 20th of the month following the date of the invoice if the invoice is received and able to be receipted by the Purchaser no later than the 5th day of the month.

Example: For monthly Services provided in January:

- An invoice dated 31st January and delivered by 5th February will be paid on 20 February
- An invoice dated 31st January and delivered after 5th February will be paid on 20th March.

3. OWNERSHIP, RISK AND DELIVERY

3.1 Unless otherwise agreed in writing, the Supplier will deliver the Goods to the location specified in the Purchase Order by the date specified in the Purchase Order. Where no location is specified, the Supplier shall be responsible for contacting the Purchaser to obtain delivery instructions

3.2 Any risk associated in the Goods remains with the Supplier until Delivery of the Goods to the Purchaser in accordance with this Agreement. Title in the Goods passes to the Purchaser upon Delivery of the Goods to the Purchaser

3.3 Unless otherwise agreed in writing, the Supplier shall be responsible for the cost of and arranging Delivery (including all packaging, transportation, insurance and handling costs)

3.4 If an emergency or disaster occurs, the Supplier will use its best endeavors to provide or delay Delivery as requested by the Purchaser.

4. REJECTION

4.1 The Purchaser may reject any Goods which it reasonably considers are defective in any way or where the warranties in clause 4.1 have not been complied or where no Purchase Order exists or an invalid Purchase Order is used by the Supplier within twenty (20) Business Days of receipt of such Goods by notifying the Supplier of its intention to reject the Goods. Any costs incurred by the Purchaser in rejecting any Goods will be at the Supplier's sole cost.

4.2 All Goods rejected pursuant to clause 4.1 must be removed from the Purchaser's premises by the Supplier within two (2) Business Days of Purchaser notifying the Supplier of its intention to reject the Goods and the location from which the Supplier shall collect the rejected Goods.

5. WARRANTIES

5.1 **General warranties:** in addition to any warranties implied by law the Supplier warrants that the Goods together with their components supplied by the Supplier pursuant to this Agreement will:

- (a) Be new and unused on Delivery;
- (b) Conform as to design, quality, quantity, configuration, functionality, the samples (if any); and Specifications provided by the Purchaser by the Supplier;

- (c) Be appropriately packaged, packed and securely stored until completion of Delivery and installation by the Supplier (if applicable) to minimize the risk of damage, deterioration and theft;
- (d) Where applicable, be properly installed and integrated into, and will be compatible with and will not damage, the Purchaser's systems and other property;
- (e) Goods will be free of any Security Interest or other encumbrance at time of delivery;
- (f) For at least 24 months (or such longer period as is reasonable taking into account the nature of the Goods) from the date of delivery be (i) fit for the expected use and purpose and (ii) be free from any defect in design, materials, workmanship or title; and
- (g) Will not infringe any third party's intellectual property rights.

5.2 In addition to the warranties implied by law, the Supplier warrants that the Services will be performed in accordance with the Specifications and with the highest degree of care, skill and diligence expected of a provider of services equivalent or similar to the Services. The Supplier further warrants that any pre-existing and new intellectual property incorporated in the Services will not infringe the intellectual property rights of any third party. This clause 4 survives completion and/or termination of the Agreement.

5.3 The Supplier will promptly remedy any breach of the warranties set out in this clause to the Purchaser's satisfaction. If requested by the Purchaser, the Supplier will replace, repair or upgrade any faulty Goods and reperform the Services and provide a temporary solution while the breach is being remedied. Any components of the Goods replaced or upgraded within a warranty claim period will be new and unused and will not be charged to the Purchaser..

6. TERMINATION

6.1 Termination: The Purchaser may, at any time, terminate the Agreement, in whole or in part, without cause upon written notice to the Supplier. Following any such notice, the Supplier must, to the extent specified by the Purchaser, stop all work under the Agreement. Any costs for any such termination of the Agreement will be limited to actual non-recoverable costs incurred by the Supplier which the Supplier can demonstrate where properly incurred prior to the date of termination. In no event shall such reimbursement include anticipated profits for undelivered Goods or Services. Without limiting the foregoing, the Purchaser may terminate the Agreement, in whole or in part, if the Supplier:

- (a) Fails to make Delivery of the Goods or Service within the time specified in the Purchase Order;

- (b) Fails to replace or remedy defective Goods or Services in accordance with this Agreement;
- (c) Fails to comply with any other terms specified in the Agreement; or
- (d) Becomes insolvent, files or has filed against it a petition in bankruptcy or makes an assignment for the benefit of creditors.

6.2 Outstanding orders: If the Purchaser terminates the Agreement any outstanding Orders at the end of the Period will be cancelled.

6.3 Termination of this Agreement will be without prejudice to the rights of a party against the other party accrued prior to such termination.

7. INDEMNITY

7.1 The Supplier will fully protect, indemnify and hold harmless the Purchaser its officers, employees, and agents from and against any liability, losses, damages, actions, proceedings, claims, demands, costs, and expenses including legal costs on a solicitor client basis) , incurred in connection with any breach by Supplier of any term of the Agreement or the negligent or wrongful act or default of Supplier or any of its employees, subcontractors or agents. This obligation continues after the termination or expiry of the Agreement.

8. PARTY'S RELATIONSHIP

8.1 Authority to act: Nothing in the Agreement shall be construed to create a partnership, agency, or employment relationship between the Purchaser and Supplier. Neither party has authority to act on behalf or bind the other, except as expressly stated in the Agreement.

8.2 Exclusivity: The appointment of the Supplier under this Agreement is non-exclusive.

8.3 Review: The Purchaser may carry out a performance review at any time and Supplier agrees to co-operate fully, including by attending all relevant meetings and providing requested records and information.

8.4 Co-operation: The Supplier will fully cooperate and coordinate with the Purchaser, its staff, suppliers and service providers, and any other third parties required for orderly conduct of the Purchaser's activities.

9. CONFIDENTIALITY

9.1 Confidential information: The Supplier must not disclose any Confidential Information related to the Purchaser, the Agreement or the Goods or Services except to the extent that the disclosure of that information is necessary for the Supplier to carry out its obligations under this Agreement, to enforce any of



its rights under it or where disclosure is required by law.

9.2 The Supplier must not advertise, issue any press release or other statement to the media, or publish any materials concerning this Agreement, the Services or the Purchaser, including using Social Media, without obtaining the prior written consent from the Purchaser.

9.3 Survival: Provisions intended to survive expiry or termination along with any other necessary to give them effect, will survive the termination or expiry of the Agreement.

10. HEALTH AND SAFETY

10.1 Health and safety compliance. The Supplier will be responsible for the Supplier's employees' own health and safety. The Supplier must comply with the Health and Safety at Work Act 2015 (and any successor or replacement legislation) and any Regulations made under that Act and all health and safety requirements of the Purchaser which may be relevant to the Supplier's Delivery of the Goods or Services under this Agreement.

10.2 Audits: Supplier shall participate in any health and safety audits conducted by the Purchaser and in any training or orientation required. The Supplier will take all reasonable steps to rectify any issues raised by the Purchaser.

11. SUBCONTRACTING & ASSIGNMENT

11.1 Subcontracting: The Supplier may not subcontract any of its obligations under the Agreement without the prior written consent of the Purchaser.

11.2 Assignment: The Supplier shall not assign or transfer any of its rights or obligations under the Agreement without the prior written consent of the.

12. NOTICES

12.1 Notices: Any notice to be given under the Agreement must be in writing and must be delivered or sent by post or email to the other party's address for notices set out in the Purchase Order.

13. GENERAL TERMS

13.1 Nothing in this Agreement affects or fetters any regulatory power of Auckland Council or its council-controlled organisations. Supplier has no recourse under this Agreement with respect to the exercise (or not) of such powers, including on licencing or consenting matters.

13.2 Compliance with laws: The Supplier must comply with all laws and standards applicable to the supply of Goods and/or the Services

13.3 Purchaser's Requirements: The Supplier will comply with the Purchaser's Requirements for Contractors as issued from time to time to the extent they apply to the Goods and Services being supplied and do not conflict with these provisions

13.4 Disputes: The Purchaser and the Supplier shall attempt to quickly and amicably settle any disputes or differences that may arise. In the event that any such disputes or difference cannot be negotiated and amicably resolved between the parties within fifteen (15) Business Days after the dispute was first raised, then either party may refer it for final determination by the courts

13.5 In the event of and during any unresolved dispute the Supplier must ensure the continued progress of performing its obligations under the Agreement.

13.6 No waiver: Neither party shall be considered to have waived or released any of its rights under this Agreement except by agreement in writing between the parties.

13.7 Severability: If any of these terms and conditions is or becomes invalid, unenforceable or illegal, such invalidity, unenforceability or illegality shall not prejudice or affect the remaining terms and conditions which shall continue in full force and effect.

13.8 Law and jurisdiction: This Agreement shall be governed by New Zealand law, and the New Zealand courts have non-exclusive jurisdiction in respect of this Agreement.

14. INTERPRETATION

Agreement means this Purchase Order and these terms and conditions and any Specifications and other documents referred to in the Purchase Order;

Business Day means a weekday (Monday to Friday) excluding any New Zealand Public Holidays and Auckland Anniversary Day.

Confidential Information means: (a) all information of a confidential nature (in whatever form) relating to the business, interest, methodology or affairs of the Purchaser and includes the commercial terms of the Agreement; and (b) other information unrelated to the Purchaser, this Agreement or the Services including information about third parties with whom the Purchaser deals which is treated by the Purchaser as confidential or which the Supplier ought to know is confidential

Delivery means, in the case of Goods, the delivery of the Goods in good order to the location specified in the Purchase Order, and in the Case of the Services, means the provision of the Services to the Purchaser's satisfaction at the Purchaser's premises or such other location as specified in the Purchase Order;

Goods means the goods described in the Purchase



Order.

GST means goods and services tax under the Goods and Services Tax Act 1985..

Purchaser means Auckland Council and any member of the Auckland Council group (being Auckland Council and its substantive council-controlled organisations).

Services means the services described in the Purchase Order.

Social Media means accounts on Facebook, X, LinkedIn, Instagram, tiktok or any other social media platform held or used by the Supplier whether for business or personal use;

Specifications means any technical or other specification relating to the Goods or Service attached to or referred to in the Purchase Order; **and**

Supplier means the person, firm, company or corporate entity to whom the Purchaser issues an Order and/or with whom the Purchaser enters into the Contract; and

