

Te Whatu Ora Southern - Purchase Order Terms (District)

The supplier listed in the Purchaser Order (**Supplier**) shall supply goods or services (or both) to Te Whatu Ora Southern (**Buyer**) on the terms set out in:

- (a) the Purchase Order (including any additional terms attached to or listed in the Purchase Order); and
- (b) the following terms

(together the **Contract**). No variation to this Contract is valid unless agreed to in writing by the Buyer. No term sought to be imposed by the Supplier is binding on the Buyer unless the Buyer agrees to any such term in writing.

1. The Buyer will not be liable for any goods or services supplied unless ordered on the Buyer's Purchase Order. The relationship between the Buyer and the Supplier is non-exclusive and there is no requirement on the Buyer to purchase any minimum quantities.
2. The prices specified in the Purchase Order shall apply without variation unless such variation is first authorised by the Buyer in writing. The Supplier is satisfied that the prices are sufficient to cover the cost of providing the relevant goods/services and it is not entitled to any additional payment.
3. No charge shall be made by the Supplier for wrapping, packing, cartons, boxing or preparing the goods for shipment unless authority for such charge is expressly incorporated in the Purchase Order.
4. Delivery must be to the address, in the manner and by the dates specified on the Purchase Order. Goods shall remain at the Supplier's risk until delivered to that address. The time for delivery or completion of the Purchase Order or for any item listed in the Purchase Order shall be of essence. The Supplier must ensure:
 - a. All cases, crates and packages to be used in packaging the goods shall be protected against corrosion, weather damage, condensation, distortion, damage by vermin and the ingress of foreign matter.
 - b. All packaging material shall comply with all laws which are relevant to such materials, including the requirements of the Ministry for Primary Industries. The Supplier shall take all necessary steps to ensure that the packing materials comply with such laws and requirements. The Supplier indemnifies the Buyer against all losses, claims or expenses suffered or incurred by it as a result of such packing material not so complying.
 - c. The number of the Purchase Order must be quoted on all packing slips, delivery dockets, invoices and related documents, and shown clearly on all consignments. A packing slip must be provided with all goods.
5. The Supplier shall issue valid GST invoices in rears with the relevant Purchase Order number on it, addressed to: accountspayable@southernhdb.govt.nz; or to Te Whatu Ora Southern, Private Bag 1970, Dunedin, 9054, New Zealand, Attention: Accounts Payable. The Buyer shall pay valid invoices by the 20th of the month following the date of invoice. In addition to any other remedies it may have, the Buyer may withhold payment if the goods or services have not been provided in accordance with this Contract or to its reasonable satisfaction.
6. Acknowledgement of delivery of goods or services is not to be taken as acceptance of either the quantity or quality of the goods or services indicated on the delivery docket. All deliveries and work shall be subject to the Buyer's inspection within a reasonable time after delivery, irrespective of date of payment. The Buyer shall notify the Supplier of any known defects and/or non-deliveries and hold any articles so claimed to be defective for the Supplier's instructions and at the Supplier's risk for a reasonable period not exceeding 60 days.
7. Goods supplied in excess of the quantities listed in this Purchase Order may, at the Buyer's option, be returned at the Supplier's risk and expense.
8. The Supplier shall supply the goods with clear title, free from defect in material and workmanship, and ensure they are reasonably fit for the purpose the Buyer requires them for. The Supplier shall carry out the services and supply the goods in a proper, professional and timely manner; using all reasonable skill and diligence; in compliance with all specifications; and using personnel with appropriate skill and experience. The Supplier shall comply with all relevant laws and the Buyer's reasonable directions.
9. Where the Supplier has been pre-paid for goods and where the Buyer is yet to take delivery, title to the good shall pass on payment and the Supplier shall store the goods in a manner and in a place that enables the Buyer to easily identify them. The Buyer (and its agents and employees) have the right, without necessary notice, to enter any premises where the goods are located and to remove them without being liable to the Supplier or anyone claiming through the Supplier.
10. All technical specifications, drawings, designs, concepts, other property or information provided by the Buyer to the Supplier, or created for and paid for by the Buyer as part of this Contract, remain the property of the Buyer and are confidential (**Confidential Information**). The Supplier shall not use, copy or disclose the Confidential Information without the Buyer's written consent. It will not be a breach of this clause for the Supplier to use Confidential Information to the extent required to perform its obligations under this Contract or to disclose Confidential Information to the extent required by law. Confidential Information must be sent to the Buyer immediately on demand or termination of this Contract. This clause does not apply to information which is or becomes publicly available without breach of the obligations under this clause. These confidentiality obligations survive the expiry or termination of this Contract.
11. Where the Supplier provides goods or services (including intellectual property) solely for the Buyer, or based substantially or wholly on the Buyer's specifications, drawings, concepts or property, those goods or services shall be the Buyer's property. The Supplier may not offer them for sale or use without the Buyer's prior written consent.
12. By accepting the Purchase Order the Supplier indemnifies the Buyer and its officers, employees, agents, representatives, customers and the users of its product by reason of the use of the goods/services, against all suits, at law or equity, and from all damage claims, and demands, for actual or alleged infringement of any third party's intellectual property rights, improper appropriation or use of trade secrets, proprietary information or know-how. If a finding in any such action is made against the Supplier in a court of competent jurisdiction then the Contract may immediately be cancelled by the Buyer.
13. Neither party shall be liable for any delay or failure to perform its obligations, which is caused or contributed to by war, fire, act of God, riot, or any other cause reasonably beyond its control, provided that party:
 - a. could not have avoided or overcome the event by exercising a standard of reasonable care at a reasonable cost;
 - b. notifies the other party in writing of the event on becoming aware of it; and
 - c. uses its best endeavours to mitigate the effects of the event and to perform its obligations not affected by the event.If the event materially affects a party's ability to meet its obligations for more than 60 days, the other party may terminate this Contract by notice in writing.
14. Either party may terminate this Contract by notice in writing if the other party:
 - a. does not fulfil any of its obligations under this Contract and that breach is material and cannot be remedied or is not remedied 10 days after notice requiring the breach to be remedied; or
 - b. commits an act of bankruptcy, is placed in liquidation, receivership, voluntary administration or statutory management, is insolvent or ceases to carry on a substantial part of its business or makes any composition or arrangement with its creditors or has execution levied upon all or any part of its assets (except where the execution is contested in good faith or if within 10 days after it is levied, payment is made in full to the judgement creditor in question of all amounts owing to such judgement creditor).
15. The Buyer may terminate this Contract by 2 calendar month's written notice to the Supplier in the event of any changes to its statutory duties, functions or services which render this Contract incapable of fulfilment.
16. The Supplier shall not, without the Buyer's prior written consent (including as to form and content), in any manner advertise or publish the fact that the Supplier has contracted to supply goods or services to the Buyer.
17. The Buyer may, by notice in writing, require the Supplier to take out and maintain public liability insurance in respect of this Contract and to produce evidence of such insurance.
18. The Supplier shall not directly or indirectly subcontract or assign this Contract without the Buyer's prior written consent. A change in the Supplier's effective ownership or control will be deemed to be an assignment for the purpose of this clause.
19. No failure or delay by a party in insisting on the strict performance of, or to exercise any right under, this Contract will operate as a waiver of those matters. A waiver is only effective if it is in writing. A waiver of a breach will not be a waiver of any other breach. The remedies set out in this Contract shall be cumulative and in addition to any other remedies provided in law or equity. This contract is to be construed according to the laws of New Zealand.