

TE RŪNANGA GROUP - PURCHASE ORDER TERMS AND CONDITIONS

1. OPERATION OF THESE TERMS

- 1.1 By accepting an Order from the Purchaser, or Delivering any Good or Service that is the subject of an Order, the Supplier agrees it has entered an agreement with the Purchaser that is governed by these Terms.
- 1.2 Other terms (including, without limitation, any terms included in a Supplier invoice, packing slip or website) will not apply in relation to any Order unless the parties expressly agree otherwise in writing and, in that case, those other terms will only apply to the extent they are inconsistent with these Terms.

2. PERFORMANCE

- 2.1 The Supplier must Deliver the Goods and/or Services in accordance with these Terms.
- 2.2 The Supplier must have a valid PO Number before it supplies any Goods and/or Services.
- 2.3 The Supplier must Deliver all Goods and/or Services on or before the applicable date specified on the Order. Where no date is specified, the Supplier must Deliver the Goods and/or Service promptly. Time is of the essence for the Delivery of any Goods or Services.
- 2.4 Without limiting the Purchaser's rights, the Supplier must:
 - (a) immediately notify the Purchaser in writing if it becomes aware that it will, or that it is likely to, be late in Delivering any Goods or Services; and
 - (b) take all steps reasonably required by the Purchaser to minimise that delay or likely delay.

3. DELIVERY OF GOODS

- 3.1 In relation to the Delivery of Goods under any Order, the Supplier must (at its cost):
 - (a) adequately pack and protect the Goods against damage and deterioration during Delivery;
 - (b) deliver the Goods to the delivery address provided by the Purchaser;
 - (c) provide detailed advice notes and packing slips with the Goods;
 - (d) mark the valid PO Number, any Goods' numbers and the name of the Purchaser on all invoices, packing slips, advice notes and correspondence; and
 - (e) otherwise satisfy the Purchaser's delivery requirements set out in the Order or otherwise advised by the Purchaser.
- 3.2 Where any Goods are supplied in breach of clause 3.1, the Purchaser may (at its discretion) reject those Goods in which case clause 3.6 will apply.
- 3.3 The signing of any delivery receipt or similar document by a representative of the Purchaser does not indicate the Purchaser's acceptance of the Goods.
- 3.4 If, following its inspection of any delivered Good, the Purchaser considers that that Good, or the Delivery of that Good, breaches these Terms, then the Purchaser may (without limiting any other right or remedy):
 - (a) require that the Supplier repair or replace the Good, in which case the Supplier must immediately do so, at its cost; or
 - (b) reject the Good, in which case clause 3.6 will apply.
- 3.5 If the Purchaser is not satisfied with the Supplier's progress within a reasonable time in repairing or replacing any Good under clause 3.4(a), the Purchaser may:
 - (a) reject that Good, in which case clause 3.6 will apply; or
 - (b) arrange for the Good to be repaired by someone else, in which case the Supplier will reimburse all costs and expenses incurred by the Purchaser in doing so.
- 3.6 If the Purchaser rejects any Good in accordance with these Terms, the Supplier must immediately:
 - (a) remove the rejected Good from the Purchaser's premises at its own risk and expense. If the Supplier does not remove the rejected Goods within 15 Business Days, the Purchaser may return the Good and recover from the Supplier any cost and expense incurred; and
 - (b) provide a full refund of any amount paid (or credit for any amount payable) for the rejected Good.

4. TITLE AND RISK

- 4.1 Title to any Good will pass to the Purchaser free of any security interest or other encumbrance upon the earlier of payment for that Good and Delivery to the Purchaser.
- 4.2 Risk in any Good will pass to the Purchaser upon Delivery of that Good to the Purchaser.

5. DELIVERY OF SERVICES

- 5.1 In relation to the Delivery of Services under any Order, in addition to any performance and/or quality standards set out in the Order or otherwise specified by the Purchaser, the Supplier must Deliver the Services:
 - (a) with due care, skill and diligence, and to the appropriate professional standard or in accordance with good industry practice as would be expected from a leading supplier in the relevant industry; and
 - (b) in accordance with all applicable laws, regulations and relevant industry standards.
- 5.2 The Supplier must ensure that its applicable employees and contractors have the necessary skills, experience and resources to Deliver the Services in accordance with these Terms.
- 5.3 The Supplier must, and must ensure its employees and contractors must, comply with all of the Purchaser's policies and procedures, including those relating to health and safety, and security. The Supplier shall ensure all its staff complete a site induction in accordance with the Purchaser's requirements prior to, or immediately upon arrival. The Supplier will establish their own health and safety system that is fit for purpose and ensure their staff comply with that system. The Supplier will promptly provide such health and safety information as the Purchaser may request.
- 5.4 The Supplier shall provide such information as the Purchaser may request about the Supplier's business to enable the Purchaser to ensure the Supplier is operating in accordance with Ngāi Tahu values, this may include information such as the Supplier's greenhouse gas emissions, environmental policies and practices or other relevant information.

- 5.5 If the Supplier breaches these Terms in relation to the Delivery of any Service then the Purchaser may (without limiting any other right or remedy):
- (a) require the Supplier to perform the Services again to the required standard at the Supplier's expense; or
 - (b) have the Services re-supplied by another person and recover the cost of doing so from the Supplier.
- 6. PRICE AND PAYMENT**
- 6.1 The Price for any Goods or Services may not be changed without the prior written approval of both parties.
- 6.2 The Supplier will provide the Purchaser a valid GST invoice to the address noted on the Order.
- 6.3 Subject to the Supplier's compliance with these Terms, the Purchaser will pay the Price on the 20th day of the month following the month in which a valid GST invoice is received. Payment will be made by direct credit or other payment method agreed by the parties.
- 6.4 If the Purchaser disputes all or part of any invoice, the Purchaser may withhold payment until the dispute is resolved.
- 6.5 In making payment for the Goods or Services, the Purchaser may withhold, deduct or set off any amount recoverable by the Purchaser or any entity in the Te Rūnanga Group from the Supplier under these Terms or under any other arrangement.
- 7. WARRANTIES**
- 7.1 In addition to all other warranties, conditions or terms expressed or implied by law or otherwise, the Supplier warrants to the Purchaser that (unless otherwise agreed in writing):
- (a) at the time of Delivery, the Goods will be new and unused and free of defects;
 - (b) the Goods and Services are fit for any purpose for which the Goods and Services are commonly used and for any purpose that the Purchaser otherwise makes known to the Supplier;
 - (c) the Goods and Services comply with any specifications and/or requirements supplied or agreed by the Purchaser in relation to the Goods or Services;
 - (d) the Goods and Services comply with all applicable regulatory and legislative requirements;
 - (e) it has obtained all necessary rights, licences and consents to supply the Goods and Services to the Purchaser;
 - (f) at the time of Delivery, the Goods will be free of any security interest, lien or other encumbrance; and
 - (g) it is the sole owner or duly authorised licensee of all Intellectual Property Rights in the Goods and Services and neither the Delivery of Goods or Services, nor their use by the Purchaser, breaches any Intellectual Property Rights of any party.
- 8. CANCELLATION**
- 8.1 The Purchaser may cancel any Order immediately if the Supplier:
- (a) has breached any of these Terms and has failed to remedy the breach within 5 Business Days after the notice has been given to the Supplier specifying the breach and requiring it to be remedied; or
 - (b) becomes bankrupt, ceases to carry on business, goes into liquidation, becomes insolvent, appoints a receiver, enters into a formal proposal for a compromise with its creditors under the Companies Act 1993 or experiences any similar action as a result of debt.
- 8.2 The Purchaser may cancel any Order for Services at any time by giving the Supplier at least 5 Business Days' notice.
- 8.3 The Purchaser's right to cancel any Order are in addition to any other rights or remedies it may have.
- 8.4 On termination or expiry of any Order:
- (a) the Purchaser may recover any fees paid in advance to the Supplier under that Order;
 - (b) provide all reasonable assistance and cooperation necessary to facilitate a smooth handover of the provision of the same or similar Goods and/or Services to the Purchaser; and
 - (c) clauses 4, 6.4, 6.5, 7, 8, 9, 11, 12 and any other terms that are intended to survive termination or expiry of any Order will survive termination or expiry.
- 9. INSURANCE AND LIABILITY**
- 9.1 From the date these Terms are accepted by the Supplier under clause 1.1 or otherwise until at least 3 years after Delivery of the relevant Goods and/or Services, the Supplier must maintain insurance coverage in amounts and against risks that are normal for businesses similar to that of the Supplier, including, where applicable, professional indemnity insurance and insurance against public liability and property damage.
- 9.2 The Purchaser's liability to the Supplier is limited to the price payable under the Purchase Order and the Purchaser will have no liability to the Supplier for any loss of profits, income or opportunity, or for any indirect or consequential damage or loss.
- 9.3 The Supplier shall be liable for and indemnifies the Purchaser, its employees, officers, agents, related parties, associated parties, contractors and advisors (each an "Indemnified Person"), from and against any loss, cost, liability, claim or expense (including legal costs on a solicitor-client basis) suffered or incurred by an Indemnified Person in connection with any:
- (a) breach of these Terms by the Supplier (including any breach of warranty); or
 - (b) property damage caused by any act or omission of the Supplier (or its personnel).
- 10. CONFIDENTIALITY AND RECORDS**
- 10.1 The Supplier will not use the Purchaser's name, Te Rūnanga o Ngāi Tahu or the name of any Te Rūnanga Group entity to advertise or promote itself or its business in any way without the prior written consent of the Purchaser.
- 10.2 The Supplier must keep all Confidential Information confidential and, in relation to each Order:
- (a) not use, disclose or copy the Confidential Information for any purpose other than for the purpose of, and to the extent necessary for, Delivering the Goods and/or Services in accordance with the requirements of that Order; and
 - (b) return the Confidential Information to the Purchaser upon the Purchaser's request at any time or if no request is made, upon completion of Delivery of the Goods and/or Services under that Order.
- 10.3 The Supplier must only disclose the Confidential Information to its employees, contractors and agents to the extent necessary for the purpose of an Order and must ensure those employees, contractors and agents keep the Confidential Information strictly confidential on the same terms as those set out in this clause 10.

11. INTELLECTUAL PROPERTY

- 11.1 All Intellectual Property Rights owned by a party prior to, or independently of, an Order will remain owned by that party.
- 11.2 All Intellectual Property Rights created the course of supplying the Goods or Services will be owned by the Purchaser. The Supplier must execute all documents and take all other actions reasonably required by the Purchaser to give effect to this clause 11.2.
- 11.3 The Supplier must indemnify the Purchaser against all claims, demands, proceedings, liabilities, costs, charges and expenses suffered or incurred by the Purchaser and/or its officers, employees, contractors and agents arising from any claim that the Goods or Services, or the Purchaser's use of them, infringe the Intellectual Property Rights of any person.

12. GENERAL

- 12.1 Neither party will be liable to the other for any failure to perform its obligations under any Order to the extent the failure is directly caused by a Force Majeure, provided that party notifies the other party, uses its best endeavours to comply with its obligations under the Order notwithstanding the Force Majeure Event and continues to comply with any unaffected obligations.
- 12.2 The Supplier warrants that as at the date of the Order, it has no conflict of interest in providing and/or Delivering the Goods and/or Services. The Supplier must do its best to avoid situations that may lead to a conflict of interest and must immediately notify the Purchaser in writing if any conflict of interest arises in relation to the Goods or Services.
- 12.3 The Supplier must not assign or subcontract any of its rights or obligations under these Terms without the Purchaser's prior written consent.
- 12.4 Nothing in these Terms is to be interpreted as constituting either the Purchaser or the Supplier as agent, partner or employee of the other and neither party will have the authority to act for or to incur any obligation on behalf of the other party except as expressly provided for in these Terms.
- 12.5 If any provision of these Terms is held invalid, unenforceable or illegal for any reason, these Terms will remain otherwise in full force apart from such provisions, which will be deemed deleted.
- 12.6 The Supplier's Delivery of Goods and Services is non-exclusive, and the Purchaser may appoint any other person to provide goods and services identical or similar to the Goods and Services.
- 12.7 No failure or delay on the part of the Purchaser in exercising any of its rights under the Order or these Terms shall be construed as constituting a waiver of any such rights.
- 12.8 These Terms will be governed and construed in accordance with the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.

13. INTERPRETATION

Business Day means any day other than a Saturday, Sunday or public holiday in Christchurch, New Zealand.

Confidential Information means information about the Purchaser, its business, operations, technologies, clients, suppliers or affairs and all information relating to third parties held by the Purchaser or in relation to which the Purchaser has any responsibility and includes the terms of each Order and any information highlighted by the Purchaser to the Supplier as confidential or that would reasonably be considered to be confidential to the Purchaser, but excluding information that is required by law to be disclosed. In this definition the word "Purchaser" means "the Purchaser and/or the Te Rūnanga Group (or any part of it)".

Delivery means, in the case of Goods, the delivery of the Goods in good order and condition to a location nominated by the Purchaser and in the case of Services means the provision of the Services to the Purchaser's satisfaction at a location nominated by the Purchaser and "Deliver" has a corresponding meaning.

the Purchaser means the entity named on the Purchase Order who is buying the Good or Services from the Supplier.

Force Majeure Event means an event that is beyond the reasonable control of the relevant party.

Goods means the goods specified in the Order and all parts or components of those goods to be supplied by the Supplier to the Purchaser.

GST means goods and services tax at the rate prevailing from time to time, as contemplated by the Goods and Services Tax Act 1985.

Intellectual Property Rights means all industrial and intellectual property rights whether conferred by statute, at common law or in equity, including all copyright, rights in relation to inventions (including all patents and patent applications), trade secrets and know-how, rights in relation to designs, rights in relation to trade marks, business names and domain names.

Order means a purchase order issued by the Purchaser which may be placed with the Supplier from time to time and not being a purchase order made under any master or other written agreement between the Supplier and the Purchaser that is valid at the date that order is made.

PO Number means the number supplied to the Supplier relating to the Order.

Price means the price payable by the Purchaser for the Goods and/or Services as set out in the applicable Order or otherwise agreed in writing.

Services means the services specified in the Order to be provided or performed by the Supplier.

Supplier means the person, firm, company or corporate entity to whom the Purchaser issues an Order.

Te Rūnanga Group means Te Rūnanga o Ngāi Tahu group.