

# Northland Regional Council

## Purchase Order Terms and Conditions ('Terms and Conditions')

July 2025

### 1. Definitions

**Agreement** means the Supplier Form, Order, these Terms and Conditions, Specifications and other documents referred to in the Order.

**Business Day** means a day (other than Saturday, Sunday, or a statutory holiday) in the Northland region, New Zealand.

**Confidential Information** means:

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

**Council** means the Northland Regional Council.

**Delivery** means in the case of Goods, the delivery of the Goods in good order to the location specified in the Order or agreed in writing between the parties, and in the case of Services, means the provision of the Services to Council's satisfaction.

**Goods** means the goods described in the Order.

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

**Intellectual Property** means all intellectual property rights (including without limitation copyright, trademarks, patent and design rights, drawings, documents, logos, data, ideas, procedures, know-how, and calculations) whether registered or unregistered.

**Order** means any order for Goods or Services made by Council to a Supplier by any method, including but not limited to email, letter or other document and may include several documents.

**Purchase Order number** means the number provided to the Supplier which relates to the purchase of the Goods and/or Services.

**Services** means the services described in the Order.

**Social media** means accounts on Facebook, X, LinkedIn, Instagram, 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 request for Goods or Services attached to or referred to in the Order or in any other correspondence from Council.

**Supplier** means the person or entity named in the Order who provides Goods and/or Services to Council and includes its executors, administrators, successors and/or permitted assigns, as applicable.

**Supplier Form** means the form completed by the Supplier and provided to Council which contains all the Supplier's information and payment details.

## 2. Entire Agreement

- 2.1 Subject to clause 2.2, this Agreement will arise on the Supplier's acceptance of an Order (whether by written acknowledgement or by conduct).
- 2.2. In the event that the parties have signed an alternative written agreement for the provision of the same Goods and/or Services as the Order, the terms and conditions of that agreement will apply and not these Terms and Conditions.
- 2.3. Subject to clause 2.2, this Agreement comprises the entire agreement between the parties in relation to the supply of Goods and/or Services and override any terms of supply provided by the Supplier, including any standard terms and conditions printed on any form or on any other document relating to the supply of Goods and/or Services by the Supplier (including any quotation, tender, packing slip, invoice, account statement or other communication by the Supplier).
- 2.4. If the Order is not accepted by the Supplier's written acknowledgement or conduct within ten (10) Business days from the date of the Order, Council may cancel the Order by written notice to the Supplier.

## 3. Price

- 3.1. The price of the Goods or Services will be as set out in the Order and includes all costs and expenses incurred by the Supplier in relation to provision of the Good or Services. If no price is specified in the Order, then the Supplier must confirm the price with Council before the supply of the Goods or Services. Council will not be bound to pay for the Goods or Services unless it has agreed to the price in writing before the Goods or Services are supplied. The price set out in the Order or agreed between parties cannot be amended without the prior written agreement of the Council.

## 4. Payment

- 4.1. The Supplier will email to Council at the address provided by Council a valid tax invoice, which complies with the Inland Revenue Department's standards, setting out:
  - 4.1.1. the amount payable to the Supplier with the GST (if any) accounted for separately; and

4.1.2. The Purchase Order Number. If the Purchaser Order Number is not on the invoice the payment will not be processed.

4.2. Except to the extent that Council disputes an invoice, or the invoice is deficient, Council will pay the invoice to the bank account nominated by the Supplier on the Supplier Form on or before the 20th of the month following the date of invoice, provided the invoice has been received by Council by the 5<sup>th</sup> day of the following month.

**Example:** For monthly Services provided in January:

- *An invoice dated 31st January and received by Council by 5th February will be paid on or before 20th February.*
- *An invoice dated 31st January and received by Council after 5th February will be paid on or before 20th March.*

4.3. The Supplier acknowledges that payment may be delayed if the requirements in this clause 4 are not followed by the Supplier.

## 5. Ownership, Risk and Delivery

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

5.2. Any risk associated in the Goods remains with the Supplier until Delivery of the Goods to Council in accordance with this Agreement. Title in the Goods passes to the Council upon the earlier of either the Delivery or payment for the Goods.

5.3. 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).

5.4. Goods may not be delivered in part unless otherwise agreed in writing by Council.

## 6. Rejection

6.1. In the event that Council reasonably considers that the Goods are not to its satisfaction, do not comply with clause 7 (Warranties), have not been ordered or have been invalidly ordered, Council will give written notice to the Supplier that:

- 6.1.1. the Goods are rejected;
- 6.1.2. the Goods must be removed from Council premises within two (2) Business Days from the date of the notice; and
- 6.1.3. the Supplier must provide a full refund to Council.

6.2. Title to the Goods will return to the Supplier once the Goods have been removed from Council premises and Council has received a refund. Risk in the Goods will pass to the Supplier at the earlier of either the removal of the Goods from Council premises or the refund by the Supplier.

6.3. Any costs incurred by Council in rejecting any Goods will be at the Supplier's sole cost.

## 7. Warranties

7.1. 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, unless otherwise agreed with Council.
- (b) conform as to design, quality, quantity, configuration, functionality, the samples (if any) and Specifications provided to Council by the Supplier.
- (c) be appropriately packaged, packed, and securely stored until completion of Delivery and installation by the Supplier (if applicable) to minimise 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, Council's systems and other property.
- (e) be free from any security interest as defined in the Personal Property Securities Act 1999.
- (f) be fit for the expected use and purpose and meet Council's stipulated Specifications.
- (g) be free from any defect in design, materials, workmanship, or title.
- (h) not infringe any third party's Intellectual Property rights.

7.2. In addition to the warranties implied by law, the Supplier warrants that the Services will be performed in accordance with the Specifications (and any other reasonable directions of Council) 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/or new Intellectual Property incorporated in the Services will not infringe the Intellectual property rights of any third party. This clause 7 survives completion and/or termination of the Agreement.

7.3. Should Council reasonably determine that the Supplier has breached any warranty in this clause 7, Council will serve on the Supplier notice of that breach. The Supplier must within 20 Business Days from the date of the notice remedy that breach to Council's satisfaction and, if required by Council, provide a temporary solution during this period of time.

7.4. The Supplier will, to the greatest extent possible, pass onto Council the benefit of any warranty or other assurance from any other person in respect of the Goods or Services supplied to the intent that Council may have recourse against those persons through the Supplier.

## 8. Liability and Indemnity

8.1. The Supplier acknowledges that to the maximum extent permitted by law:

- (a) the Supplier indemnifies Council against any liability, loss or damage or costs suffered or incurred by Council arising directly or indirectly out of or in connection with the provision of the Goods or Services by the Supplier.
- (b) Council will not be responsible or liable for any injury, loss or damage to any person or property of any kind whether directly or indirectly caused or contributed to, by or in the course of the Supplier providing the Goods or Services; and
- (c) in the event that notwithstanding clause 8.1(b) above Council is found to be liable to the Supplier under or in connection with this Agreement, Council's liability shall be limited to the purchase price of the relevant Goods or Services.
- (d) clause 8.1 survives completion and/or termination of the Agreement.

## **9. Confidentiality**

- 9.1. The Supplier must not disclose any Confidential Information related to Council, 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 Council, including using social media, without obtaining the prior written consent from Council.

The Supplier recognises that Council is subject to the Local Government Official Information and Meetings Act 1987 which may require that Council releases to a requestor information regarding this Agreement. If practicable Council will advise the Supplier if such a request for information is received by Council.

- 9.3. Clause 9.1 survives completion and/or termination of the Agreement.

## **10. Intellectual Property**

- 10.1. Ownership of Intellectual Property existing prior to this Agreement is not affected by this Agreement.
- 10.2. Ownership of all Intellectual Property that the Supplier creates or discovers in performing this Agreement will vest in Council upon its creation.
- 10.3. All Intellectual Property provided to Council that is not owned by Council the Supplier grants to Council a non-exclusive, worldwide, royalty-free, perpetual, irrevocable and sub-licensable licence to use, copy, distribute, sub-licence, reproduce, modify, adapt, publish, transmit, translate, create derivative works from, display and perform whether publicly or otherwise that Intellectual Property.

## **11. Health and Safety/Access to Premises**

- 11.1. Supplier and all the Supplier's personnel 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 Council which may be relevant to the Supplier's Delivery of the Goods or Services under this Agreement. The Supplier will comply with all reasonable directions of Council relating to health and safety.
- 11.2. Where the Supplier is required to access Council premises, the Supplier will ensure that all of the Supplier's personnel comply with Council's security and operational requirements, code of conduct and any other relevant policies and procedures as notified to the Supplier. Council may refuse access to its premises if these requirements are not complied with.

## **12. Termination**

- 12.1. Council 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 Council, 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 were 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, Council may terminate the Agreement, in whole or in part, if the Supplier:

- (a) fails to make Delivery of the Goods or Services within the time specified in the Order.
- (b) fails to replace or remedy defective Goods or Services in accordance with this Agreement.
- (c) fails to remedy a warranty breach under clause 7.
- (d) fails to comply with any other terms specified in the Agreement; or
- (e) becomes insolvent, a receiver or liquidator is appointed, files or has filed against it a petition in bankruptcy or makes an assignment for the benefit of creditors.

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

### 13. Force Majeure

- 13.1. Neither Council nor the Supplier shall be liable to the other for default or delay in performing its obligations in respect of this Agreement caused by any occurrence beyond its reasonable control including, without limitation, fire, strike (except where it involves a party's own labour force), disturbance, riot, war, act of god and government order or regulation, provided that the party affected by such occurrence notified the other party in writing within five (5) Business Days of the commencement of that occurrence. When the party ceases to be affected by the force majeure event it must immediately recommence performing its obligations under this Agreement and notify the other party accordingly. However, if as a result of any such force majeure event, supply of all or part of the Goods or Services is delayed more than thirty (30) days after the Delivery date specified in the Order, Council may, without penalty and compensation to the Supplier, terminate the Agreement.

### 14. General Terms

- 14.1. **Compliance with laws:** The Supplier must comply with all laws and standards applicable to the supply of Goods and/or the Services including but not limited to all required consents, licences and authorities.
- 14.2. **Agreement:** This Agreement is the entire agreement between the parties in relation to the supply of Goods and/or Services. Nothing in this Agreement creates a partnership, agency or employee/employer relationship.
- 14.3. **Assignment/subcontracting:** The Supplier shall not assign or transfer any of its rights or obligations under the Agreement or subcontract any parts of this Agreement without the prior written consent of Council. If any parts of this Agreement are subcontracted, the Supplier continues to be responsible for delivering the Goods and/or Services under this Agreement.
- 14.4. **Disputes:** Council 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 the matter to mediation. The party requesting mediation must notify the other party in writing. Each party will meet its own costs of resolving the dispute. In the event of and during any unresolved dispute the Supplier must ensure the continued progress of performing its obligations under the Agreement.

- 14.5. **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.
- 14.6. **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.
- 14.7. **Notices:** Any notice to be given under the Agreement must be in writing and must be delivered or sent by post or email to Council at the central mailing address on Council's website, and to the Supplier at the address provided in the Supplier Form.
- 14.8. **Law and jurisdiction:** This Agreement shall be governed by New Zealand law, and the New Zealand courts have exclusive jurisdiction in respect of this Agreement.
- 14.9. The word "including" and similar words do not imply any limitation.
- 14.10. Headings appear as a matter of convenience only and will not affect the interpretation of these terms and conditions.