

PURCHASE ORDER TERMS AND CONDITIONS

1. Acceptance of Order

- 1.1. The Order is an offer by the Earthquake Commission (EQC) and shall be deemed to be accepted by the Supplier on the provision of the Goods and/or commencement of the Services to which the Order relates.
- 1.2. The Supplier shall provide the Goods and/or Services in accordance with the Purchase Terms, unless EQC agrees otherwise in writing. If EQC and the Supplier have entered into another agreement in writing governing the supply of the Goods and/or Services, then the terms of that agreement will govern the supply of those Goods and/or Services.

2. Price

- 2.1. Unless otherwise specified in the Order, all prices stated in the Order is in New Zealand dollars exclusive of GST and is the full and final price payable for the Goods and/or Services detailed within the Order.

3. Performance

- 3.1. In providing the Goods and Services, the Supplier shall:
 - a. comply with all applicable New Zealand laws, regulations, rules, including the Privacy Act 2020 and the Health and Safety at Work Act 2015;
 - b. ensure that all personnel providing any Goods or Services are suitably skilled, experienced and qualified;
 - c. comply with all relevant EQC policies, procedures and standards that are notified to the Supplier;
 - d. comply with the reasonable directions of EQC; and
 - e. without limiting (a) to (d) above, exercise the degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled, reasonable and experienced person in the same or similar circumstances, with reference to good industry practice.

4. Delivery

- 4.1. The Supplier shall provide the Goods and/or Services on the applicable date specified in the Order (and if no delivery date is specified, within a timeframe that is reasonable in the circumstances).
- 4.2. Goods delivery is to be accompanied by a packing slip that refers to the Order number.
- 4.3. EQC may reject any non-conforming Goods or Services.
- 4.4. Without limiting EQC's other rights and remedies, EQC may return any rejected Goods to the Supplier at the Supplier's costs, and any rejected Services shall be provided again at the Supplier's cost.
- 4.5. Any receipt of delivery or similar document do not constitute acceptance of the Goods by EQC.

5. Variation

- 5.1. No variation to the Order is permitted.

- 5.2. Where variation is requested or required, the Supplier must notify the EQC representative responsible for issuing the Order prior to acceptance by the Supplier, and a new Order must be issued.

6. Invoices

- 6.1. The Supplier shall ensure that all of its invoices are valid GST invoices. Unless otherwise specified in the Order, the Supplier may only invoice EQC on successful delivery of the Goods and/or Services.
- 6.2. All invoices must be emailed to: egcinvoices@eqc.govt.nz.
- 6.3. **Invoices must include the Order Number provided on the Order, otherwise it may be returned unprocessed.**

7. Payment

- 7.1. Subject to the Supplier's compliance with the Purchase Terms and unless otherwise agreed, EQC will pay the Supplier on the 20th day of the month following the month in which the valid GST invoice is received. EQC will endeavour to pay all invoices within 10 days of the invoice being entered into EQC system, regardless of the agreed payment terms.
- 7.2. If EQC disputes all or part of any invoice, EQC may withhold payment for the amount in dispute until the dispute is resolved.
- 7.3. In making payment for the Goods and Services, EQC may withhold, deduct or set off any amount recoverable by EQC from the Supplier under these Purchase Terms, or otherwise. EQC shall not be required to gross up the amount payable on account of the withholding, deduction or set-off.

8. Ownership

- 8.1. Title to any Good will pass to EQC free of any security interest or other encumbrance on the earlier of payment for that Good and delivery to EQC.
- 8.2. Risk in any Good will pass to EQC on delivery of that Good to EQC.

9. Warranties

- 9.1. The Supplier warrants that:
 - a. all Goods, and all deliverables as part of the Services, shall be new and unused on delivery;
 - b. all Goods will be free from defects in materials and workmanship under normal use and service for a period of 12 months from the date of delivery to EQC;
 - c. the Goods and Services are fit for all purposes for which such Goods and Services are normally acquired, and for all purposes which EQC makes known to the Supplier; and
 - d. the Goods and Services comply with any specifications and/or requirements supplied or agreed between the Supplier and EQC in relation to the Goods or Services.

10. Termination

- 10.1. EQC may cancel the Order immediately if the Supplier:
- has breached the Purchase Terms, and that breach is not capable of being remedied;
 - has breached the Purchase Terms and that breach is capable of being remedied, but has not been remedied within the timeframe specified in a written notice given by EQC specifying the breach and the timeframe for remedying the breach; or
 - is unable to pay its debt as they fall due, or goes into receivership, liquidation, statutory management, ceases to carry on business, or experiences any similar event.
- 10.2. EQC may, for any reason, terminate or cancel the Order on giving 48 hours' written notice prior to the Goods and/or Services being delivered, without being liable for any damages or compensation other than the reasonable costs incurred by the Supplier on the Goods and/or Services prior to the written notice being provided to the Supplier.
- 10.3. Termination of this Order is without prejudice to the rights of either EQC or the Supplier that may have arisen prior to the date of termination.
- 10.4. This clause 10.4, and clauses 10.3, 11, 12, 13.4, 13.5, 13.6, and 0, and any other terms that are intended to survive termination or expiry of any Order, will survive termination or expiry of that Order.

11. Confidentiality and media

- 11.1. The Supplier will keep confidential all information provided or received under or in relation to this Order ("**Confidential Information**"), unless otherwise agreed by EQC or as required to do so by law.
- 11.2. The Supplier may only disclose Confidential Information to its employees, contractors and agents to the extent necessary for the purpose of performing or enforcing this Order and must ensure those employees, contractors and agents keep the Confidential Information strictly confidential on the same terms as the Supplier.
- 11.3. The Supplier will advise EQC immediately if they become aware of any issue in relation to EQC, the services and/or the operation of this Order which has or may have media or public interest. The Supplier must not make any public announcements or statements about EQC or this Order without the prior written agreement of EQC (at its sole discretion).
- 11.4. The Supplier will not use EQC's logos or name (including to promote or advertise its business in any way) without EQC's prior written approval. This approval may be noted in the Order.

12. Intellectual Property

- 12.1. All Intellectual Property owned by a party prior to, or independently of, an Order will remain owned by that party.
- 12.2. All Intellectual Property created in the course of supplying the Goods or Services will be owned by

EQC. The Supplier must execute all documents and take all other actions reasonably required by EQC to give effect to this clause 12.2.

- 12.3. The Supplier must indemnify EQC against all claims, demands, proceedings, liabilities, costs, charges and expenses suffered or incurred by EQC or its personnel, arising from any claim that the Goods or Services, or EQC's use of them, or any rights given to EQC under the Purchase Terms, infringe the Intellectual Property rights of any person.

13. General

- 13.1. **Assignment:** The Supplier shall not transfer, assign, subcontract or otherwise dispose of any rights, benefits, obligations or liabilities under the Purchase Terms to any third party without the prior written agreement of EQC (at its sole discretion).
- 13.2. **Insurance:** It is the Supplier's responsibility to ensure its risks of doing business are adequately covered, whether by insurance or otherwise.
- 13.3. **Force majeure:** A party is not liable for any breach if due to a cause reasonably beyond its control (a "**Force Majeure Event**") and it has used its best endeavours to perform despite the cause. A Force Majeure Event does not include a lack of financial resources, strikes, lockouts or any other form of labour dispute in relation to the Supplier's employees, or any reasonably foreseeable physical or weather conditions. If a Force Majeure Event continues for more than 21 consecutive days, or for an aggregate of 45 days in any six month period, the party not claiming the protection of this provision may terminate the Order.
- 13.4. **Disputes:** The parties will use their reasonable endeavours to resolve any dispute or difference that may arise under the Purchase Terms through direct negotiation.
- 13.5. **Governing law:** The Purchase Terms are governed by and shall be interpreted in accordance with New Zealand law. New Zealand courts have exclusive jurisdiction.
- 13.6. **Severability:** If any term is or becomes illegal, unenforceable or invalid, it will be treated as being severed from these Terms and Conditions, but the rest of these Terms and Conditions will not be affected.

14. Definitions

- 14.1. **Delivery Date** means the date by which the Supplier is to provide the Goods and/or Services, as set out in the Order or required by the Terms and Conditions.
- 14.2. **GST** means the goods and services tax at the rate prevailing from time to time, as contemplated by the Goods and Services Tax Act 1985.
- 14.3. **Goods** mean the goods specified in the Order to be supplied by the Supplier.
- 14.4. **Intellectual Property** means all intellectual and industrial property rights and interests (including common law rights and interests), whether registered or unregistered, including all patents, trade marks, service marks, copyright, registered designs, trade names, symbols, logos, rights in relation to designs, trade secrets and know-how.

- 14.5. **Order** means the written purchase order placed by the Purchaser for the provision of the Goods and/or Services.
- 14.6. **Purchase Terms** means the Order together with the Terms and Conditions.
- 14.7. **Services** means the services specified in the Order to be provided by the Supplier.

- 14.8. **Supplier** means the party providing the Goods and/or Services to EQC.
- 14.9. **Terms and Conditions** means these terms and conditions of purchase.

Our mission: To reduce the impact on people and property when natural disasters occur.