



Buying goods/services

These Purchase Order Terms and Conditions apply as between Fire and Emergency New Zealand and any person supplying goods and/or services (**Deliverables**) to Fire and Emergency New Zealand (referred to in these Purchase Order Terms and Conditions as the **Supplier**) unless otherwise stipulated by Fire and Emergency New Zealand. Where these Purchase Order Terms and Conditions do apply, any other contractual provision will only apply or prevail if agreed to in writing by Fire and Emergency New Zealand in each case. By supplying Deliverables to Fire and Emergency New Zealand (except where otherwise stipulated by Fire and Emergency New Zealand in writing), the Supplier is agreeing to supply such Deliverables in accordance with these Purchase Order Terms and Conditions.

Fire and Emergency New Zealand can unilaterally amend these Purchase Order Terms and Conditions from time to time by updating its website. Fire and Emergency New Zealand will not be required to give notice of any such amendment to any existing or potential supplier. The amended Purchase Order Terms and Conditions will apply to all applicable contracts entered into with Fire and Emergency New Zealand on or after the date the amendment is made.

Fire and Emergency New Zealand will order Deliverables by issuing a Purchase Order to the Supplier which includes placing an order by way of a Purchase-Card (Credit Card). No contract for the supply of Deliverables exists until Fire and Emergency New Zealand places a Purchase Order with the Supplier.

1. Delivery/price

The Supplier will deliver each Deliverable ordered by Fire and Emergency New Zealand how, by when, where and for the prices specified to satisfy Fire and Emergency New Zealand's requirements. Prices are all inclusive, including all materials, labour, packaging, storage, freight, duty and taxes, unless specified otherwise in each case and agreed to by Fire and Emergency New Zealand. The Supplier will keep Fire and Emergency New Zealand informed about delivery progress so that there are no adverse surprises for Fire and Emergency New Zealand.

2. Variations

Fire and Emergency New Zealand can vary or cancel any order, or any of its requirements for any good or service prior to completion of delivery by giving written notice to the Supplier. The Supplier will accommodate variations by Fire and Emergency New Zealand. Fair adjustments will be made to prices and delivery requirements due to variations by Fire and Emergency New Zealand, provided that unless the Supplier gives Fire and Emergency New Zealand a written request for an adjustment within three working days after notice of each variation, no increase adjustment can be made. Fire and Emergency New Zealand will not be liable to the Supplier for any cancelled order.

3. Compliance

The Supplier will ensure that each Deliverable is:

- (a) designed, manufactured, delivered and operates in compliance with applicable user requirements, specifications and standards; and
 - (b) compatible with each system that it will be used with.
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4. Standards/quality assurance

The Supplier must itself, and ensure that its representatives:

- (a) perform the relevant obligations using due diligence, care and skill, using sufficient, appropriately trained, qualified, experienced and supervised persons; and
- (b) have and comply with standards and a quality assurance system approved by Fire and Emergency New Zealand. If a standard is not specified, then it will be the best standard in the applicable profession/industry.

Fire and Emergency New Zealand can observe and review anything being done by anyone. The Supplier will end the involvement with Fire and Emergency New Zealand's operation of any of the Supplier's representatives to the extent reasonably required by Fire and Emergency New Zealand (e.g. due to Fire and Emergency New Zealand security requirements or misconduct concerns).

5. Access

Subject to Fire and Emergency New Zealand's security, operational and documentation requirements as advised to the Supplier from time to time, Fire and Emergency New Zealand will allow the Supplier's representatives access at reasonable times to relevant property as necessary for the delivery of each Deliverable. The Supplier will ensure that its representatives co-operate with other persons, and do not restrict any other person's activities during access and generally when performing this contract. The Supplier will minimise disruption, and promptly tidy up and make good any damage or problems it causes.

6. Operational requirements

The Supplier will:

- (a) itself, and ensure each of its representatives and visitors, comply with Fire and Emergency New Zealand's health and safety, security (including physical security and data integrity), operational and documentation requirements and with applicable law;
- (b) have and comply with its own appropriate health and safety plan, and promptly notify Fire and Emergency New Zealand:
 - (i) if any hazard exists at relevant properties of Fire and Emergency New Zealand due to the Supplier's representatives or visitors; and
 - (ii) of any accident or serious harm that occurs to, or is caused by, the Supplier's representatives or visitors at relevant properties of Fire and Emergency New Zealand;
- (c) not allow any unauthorised activity, discharge of any contaminant, or making of excessive noise, by any of its property, representatives or visitors at relevant properties of Fire and Emergency New Zealand;
- (d) not supply any ozone depleting or hazardous substance to Fire and Emergency New Zealand without having the necessary exemption; and
- (e) properly label and package every dangerous good and other hazardous substance it delivers to Fire and Emergency New Zealand and mark the good with a prominent warning and provide a Material Safety Data Sheet.

7. Insurance

The Supplier will have insurance cover to the extent that is reasonable in the circumstances except as otherwise approved by Fire and Emergency New Zealand.

8. New intellectual property

If any new intellectual property is developed during, or as the purpose of, any supply of a Deliverable to Fire and Emergency New Zealand, such intellectual property will belong to Fire and Emergency New Zealand only.

9. Documentation/training

The Supplier will supply, with the Deliverables, appropriate documentation in English and a reasonable amount of training, to enable Fire and Emergency New Zealand to independently install, operate and maintain each Deliverable. The Supplier will promptly and freely provide Fire and Emergency New Zealand with updates of that information as it becomes available. Fire and Emergency New Zealand can freely copy any relevant information for use by Fire and Emergency New Zealand and its personnel.

10. Acceptance

Fire and Emergency New Zealand can carry out any acceptance test of any Deliverables, component and related system as Fire and Emergency New Zealand determines, either before delivery or within a reasonable period of time after delivery. The Supplier will assist with any such acceptance test and will promptly remedy any acceptance test failure at its cost. Warranty identification labels are to be attached by the Supplier and dated on completion of each servicing or supply.

11. Payment

Payment will be made by Fire and Emergency New Zealand to the Supplier by the 20th day of the month following the month in which the later of:

- (a) an acceptance certificate for the relevant Deliverable was given by Fire and Emergency New Zealand to the Supplier; and
- (b) Fire and Emergency New Zealand received a correct, itemised tax invoice for the relevant Deliverables.

Fire and Emergency New Zealand can set off any amount that is or may become payable by it to the Supplier against any amount that is or may become payable by the Supplier to Fire and Emergency New Zealand.

12. Title	Clear title in the Deliverables passes to Fire and Emergency New Zealand at the earlier of delivery and any payment by Fire and Emergency New Zealand for that Deliverable.
13. Risk	Every risk to each Deliverable remains with the Supplier until completion of delivery to, and acceptance by Fire and Emergency. The Supplier's representatives and anything involved in delivery are provided at the Supplier's risk and cost.
14. Support	The Supplier will ensure that Fire and Emergency New Zealand has access to the prompt supply of appropriate support (e.g. spares, maintenance services, etc.) on a reasonable basis throughout the expected life of each Deliverable.
15. General warranties	<p>The Supplier represents and warrants to Fire and Emergency New Zealand that:</p> <ul style="list-style-type: none">(a) each good (and its components) supplied by the Supplier will be new and unused on delivery, and if a shelf life or calendar life (by time, not utilisation) or a utilisation life is applicable, at least 95% of each of those lives remain on delivery;(b) each Deliverable supplied by the Supplier will conform as to design, quality, quantity, configuration, functionality, the samples (if any) and specifications provided to Fire and Emergency New Zealand;(c) each good supplied by the Supplier will be appropriately packaged, packed and securely stored until completion of delivery and installation by the Supplier (if applicable) to minimise damage, deterioration and theft;(d) where applicable, each good will be properly installed and integrated into, and will be compatible with and will not damage, Fire and Emergency New Zealand's relevant systems and other property;(e) irrespective of any inspection, acceptance or payment by Fire and Emergency New Zealand, each Deliverable supplied by the Supplier will, for at least 12 months from the later of the date of acceptance and the date of commencement of being in service with Fire and Emergency New Zealand:<ul style="list-style-type: none">(i) be fit for the expected use and purpose for which Fire and Emergency New Zealand requires it; and(ii) be free from any defect (including any latent defect) in design, materials, workmanship and title;(f) ownership, possession, modification, use or resale of any Deliverable supplied by the Supplier will not infringe any third party rights and the Supplier will indemnify Fire and Emergency New Zealand from any infringement allegation, claim or proceeding by any other person arising as a result of Fire and Emergency New Zealand's use of the Deliverables;(g) no form of inducement or reward has been or will be directly or indirectly provided to any of Fire and Emergency New Zealand's representatives. <p>These are additional to any other representations, warranties and assurances given by the Supplier or implied by custom or law. The Supplier will, to the maximum extent possible, pass on to Fire and Emergency New Zealand the benefit of any warranty, guarantee or other assurance from any other person in respect of each Deliverable supplied, with the intent that Fire and Emergency New Zealand can have recourse against those persons through the Supplier.</p>

16. Warranty claims

The Supplier will promptly remedy each warranty claim to Fire and Emergency New Zealand's satisfaction. Fire and Emergency New Zealand can require repair or replacement solutions, and a temporary solution while the warranty claim is being remedied. Components replaced or upgraded within a warranty claim will not be charged to Fire and Emergency New Zealand. If a hard drive is not repairable at Fire and Emergency New Zealand property, Fire and Emergency New Zealand can retain or destroy the hard drive without charge for security reasons. The warranty period will be suspended, while each claim is being remedied by the Supplier, and will start again for the remaining warranty period on completion of the Supplier remedying each defect. If any defect results in Fire and Emergency New Zealand not receiving the expected value or performance from the Deliverables, the Supplier will, at its cost, promptly replace the Deliverable with a new and compliant Deliverable with a full warranty, when requested by Fire and Emergency New Zealand.

17. Compliance with laws/authorisations

The Supplier:

- (a) will ensure it, and each Deliverable prior to acceptance, complies with all New Zealand, and each relevant jurisdiction's, laws, codes and standards; and
- (b) is responsible for ensuring that every necessary and prudent authorisation is obtained to ensure that the Supplier can perform this contract and Fire and Emergency New Zealand can at all times own (where intended) and freely possess, modify, use and resell unrestricted, each Deliverable supplied by the Supplier.

18. Failure by Supplier

If:

- (a) any Deliverable is destroyed or damaged prior to acceptance, not delivered how, when or where required by Fire and Emergency New Zealand, or fails any acceptance test or otherwise does not comply with Fire and Emergency New Zealand's requirements;
- (b) any warranty claim is not promptly dealt with by the Supplier or other relevant party in accordance with these terms;
- (c) the Supplier breaches, or fails to properly or promptly perform, any of its obligations and fails to remedy the situation to Fire and Emergency New Zealand's satisfaction within two working days after notice from Fire and Emergency New Zealand of the breach or failure;
- (d) the Supplier is or becomes insolvent or bankrupt, or is threatened with any insolvency or bankruptcy process, or is in or commences any process typically associated with a person's actual or potential insolvency or financial distress including administration, receivership or liquidation; or
- (e) the Supplier has a change of control or ownership, or a conflict of interest with Fire and Emergency New Zealand's interests, which Fire and Emergency New Zealand considers sufficiently inappropriate,

Fire and Emergency New Zealand can, at its sole discretion:

- (f) withhold any payment due to the Supplier until the matter is resolved to Fire and Emergency New Zealand's satisfaction;
- (g) cause the Supplier to remove any rejected Deliverables from Fire and Emergency New Zealand's premises at the Supplier's risk and expense, and no longer be obliged to pay for that Deliverable, or if paid for, receive a refund from the Supplier or set-off the amount paid against any amount Fire and Emergency New Zealand owes the Supplier. If the rejected Deliverables are not removed by the Supplier within 20 working days of notification of their rejection, Fire and Emergency New Zealand can return the Deliverables to the Supplier at the Supplier's own risk and expense;

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- (h) suspend or terminate this contract (in whole or in part) by written notice to the Supplier;
 - (i) recover, or deduct from or set-off, amounts for any direct or indirect damage, loss or cost (including legal costs) to Fire and Emergency New Zealand relating to the non-performance by the Supplier or any Deliverable; and/or
 - (j) have the requirement performed by its own personnel or anyone else and can recover any costs and/or expenses incurred by Fire and Emergency New Zealand from the Supplier.
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19. Indemnity

The Supplier will promptly indemnify, and protect Fire and Emergency New Zealand and its representatives and personnel from, any damage, problem, claim or proceedings the Supplier causes in relation to this contract including as a result of the Supplier's breach of contract or negligence to the maximum extent permitted by law.

**20. Fire and
Emergency New
Zealand liability
limited**

To the maximum extent allowed by law, Fire and Emergency New Zealand will not be liable (in contract or tort, including negligence, or otherwise) to the Supplier for any indirect damage, loss (including loss of direct or indirect profits or business) or cost caused or contributed to by Fire and Emergency New Zealand, any of its representatives, personnel or visitors in relation to this contract. Each of Fire and Emergency New Zealand's representatives and personnel is also to enjoy the benefit of this provision.

21. Confidentiality

The Supplier will keep confidential and secure, and not misuse, any information of Fire and Emergency New Zealand which would reasonably be expected to be proprietary, or commercially or militarily sensitive or confidential. Disclosure and use of information to the extent required by law is allowed.

**22. No assignment/
subcontracting**

The Supplier will not assign or subcontract any of its benefits or burdens in respect of this contract without Fire and Emergency New Zealand's written consent. The Supplier will keep Fire and Emergency New Zealand informed about the involvement of subcontractors on a fully transparent basis and will ensure each subcontract has pass-through/step-in provisions allowing Fire and Emergency New Zealand to directly benefit from and enforce such subcontract.

23. Relationships

Nothing in this document creates or evidences any legal partnership, joint venture, agency or employer/employee relationship between the parties.

24. Waiver

No delay or failure to act is a waiver. No waiver is effective unless it is in writing. A waiver of a breach is not a waiver of any other breach.

25. Disputes

If a party believes there is a dispute, it will promptly notify and give written details to the other party. If the dispute is not resolved within 10 working days by senior representatives of the parties, it will be promptly submitted to mediation or arbitration if requested in writing by Fire and Emergency New Zealand.

26. Governing law

New Zealand law governs this contract. The New Zealand courts have exclusive jurisdiction.

27. Interpretation

Unless the context otherwise requires, or it is specifically otherwise stated:

- (a) "good" and/or "service" include any form of deliverable;
 - (b) if the Supplier comprises more than one person, each of those person's liability to Fire and Emergency New Zealand is joint and several;
 - (c) references to a party or a person includes any form of entity and their respective successors, assigns and representatives;
 - (d) amounts are in New Zealand dollars; and
 - (e) time is of the essence.
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