



## STANDARD PURCHASE TERMS

All MPI purchases for Goods and Services are subject to these terms, unless a separate written contract is agreed. These terms may be changed in MPI's sole discretion, and any such changes will apply to Orders made after the date of the change, or if there is no Order then with immediate effect.

### 1. Defined terms

*Agreement* means these terms, together with each Order (if any) sent to you.

*Business Day* means any day not being a Saturday or Sunday, a public holiday observed in Wellington, or the period from 26 to 31 December each year.

*Conflict of Interest* means any situation where you or your personnel's personal or business interests or obligations do or could conflict or be perceived to conflict with your obligations under this Agreement, such that you or your personnel's independence, objectivity or impartiality can be called into question.

*Goods* means the goods (and any other result of the Services) to be provided by you, including as set out in an Order.

*HSW Act* means the Health and Safety at Work Act 2015 and any regulations made under it.

*MPI* means the Sovereign acting by and through the Ministry for Primary Industries.

*Order* means any order, work authorisation letter, email, or other document sent to you by MPI describing matters such as the Goods, Services and price.

*Party* means either MPI or the Supplier; together they are the *Parties*.

*Services* means the services to be performed by you, including as set out in an Order.

### 2. Duration

These terms apply during the period of time specified in any Order, or otherwise during the period of time when you supply Goods or Services to MPI.

### 3. Payment

You may issue invoices (which must be valid for tax purposes) at the times set out in any Order, and otherwise when the Goods or Services that will be the subject of the invoice have been provided to MPI's satisfaction (as notified by MPI to you). Please note that the current MPI invoicing requirements are found at: <https://www.mpi.govt.nz/about-us/information-for-suppliers/>

Except to the extent MPI reasonably disputes an invoice, MPI will pay you by the 20th day of the

month following the month in which MPI receives the invoice.

### 4. Title, risk, and delivery

Risk in the Goods will pass to MPI on the later of delivery of or payment for the Goods. Title to the Goods will pass to MPI on the earlier of delivery of or payment for the Goods.

If MPI notifies you in writing that the Goods are not to its satisfaction, the Goods will be held by MPI until you have picked them up and provided a refund for them, at which time title will revert to you. Risk in the Goods will revert to you on the earlier of the Goods being picked up, or the refund being provided.

Shipment and delivery of Goods must be achieved within any timeframes specified in the Order (and otherwise within 15 days of MPI ordering from you), and if that does not happen then MPI may (without limiting its other rights) cancel any unfulfilled part of the purchase. MPI is not required to receive partial or incomplete deliveries. Receipt of any part of a purchase shall not bind MPI to accept any future deliveries. Neither MPI's receipt of a delivery nor any signature given at the time will be taken to imply that the Goods or Services are satisfactory to MPI.

### 5. Warranties

You warrant that:

- (a) the Goods will conform in all respects with any description and samples provided;
- (b) the Goods will be well packaged and securely stored until delivery;
- (c) the Goods will be free from any defect (including any latent defect);
- (d) MPI will take clear title to the Goods;
- (e) if you install the Goods, the Goods will be properly installed and integrated into MPI's systems and property, and will be compatible with and not damage them;
- (f) the Goods will satisfy MPI's requirements, be fit for MPI's expected use and purpose, and meet MPI's stipulated specifications;
- (g) MPI's use of the Goods and receipt of the Services in accordance with this Agreement will not infringe the rights of any other person;

- (h) you have all necessary consents, licences, and authorities to provide the Goods and Services;
- (i) the Services will be performed promptly with due diligence, care, and skill by appropriately trained, qualified, experienced, and supervised persons;
- (j) all information provided by you in connection with this Agreement is accurate, complete, and true;
- (k) you will comply with the *Supplier Code of Conduct* issued by the Procurement Functional Leader (see [www.procurement.govt.nz](http://www.procurement.govt.nz)) and any other relevant codes of conduct listed in Schedule 1; and
- (l) you do not have any Conflicts of Interest in relation to this Agreement.

These warranties are additional to any other warranties and guarantees implied by law.

## 6. Health & Safety & Security:

You must:

- (a) consult, cooperate and coordinate with us to ensure that each Party complies with the HSW Act as it relates to this Agreement;
- (b) comply and ensure that its personnel comply with their obligations under the HSW Act;
- (c) comply with all our reasonable directions relating to health, safety, and security; and
- (d) report any health and safety incident, injury or near miss, or any notice issued under the HSW Act, us if it relates to, or affects, this Agreement.

## 7. Employment standards:

You must:

- (a) comply with your obligations under the Employment Relations Act 2000, Minimum Wage Act 1983, Wages Protection Act 1983, Holidays Act 2003 and the Parental Leave and Employment Protection Act 1987; and
- (b) report any instances where you are being investigated by the Labour Inspectorate, or where you have been found by the Labour Inspectorate, Employment Relations Authority, or the Employment Court to have breached any of the legislation referenced in clause 7(a).

## 8. Access, security, and conduct

MPI will allow your personnel access to MPI's premises to the extent necessary for your provision of the Goods and Services. You will ensure your personnel comply with MPI's security and operational requirements, code of conduct, and other relevant policies and procedures, all as notified to you from time to time. MPI may refuse your personnel access if they do not satisfy those

requirements. You must promptly notify MPI in writing if you become aware that in such premises:

- (a) any hazard may or does exist, or any situation may arise or has arisen where any person may not be safe or harm may result to any person;
- (b) any accident or serious harm to any person has occurred (in which case you must promptly notify MPI of the preventative action taken or proposed);
- (c) any improvement or prohibition notice is likely to be, or has been, issued.

## 9. Confidentiality

Each Party will keep confidential the other's confidential information, except:

- (a) pursuant to applicable law;
- (b) where the information becomes part of the public domain through no fault of the Party receiving the information;
- (c) for disclosure to its professional advisers or personnel;
- (d) for MPI, in accordance with parliamentary rules or convention, Ministerial request, or procurement rules or guidance endorsed by Cabinet.

## 10. Intellectual property

Ownership of intellectual property existing prior to this Agreement is not affected by this Agreement. Ownership of all intellectual property you create or discover in performing this Agreement will vest in MPI on creation. For all intellectual property provided to MPI that is not owned by MPI, you grant MPI 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. Liability

If MPI is liable to you under or in connection with this Agreement (including in contract, tort, or equity), MPI's maximum liability to you is limited to an amount equivalent to the amount actually paid to you under this Agreement.

## 12. Force Majeure

Neither Party will be liable for failure to fulfil its obligations due to an event beyond its reasonable control, which for clarity does not include strikes nor any form of labour dispute. The Party suffering from the event will exercise all reasonable endeavours to avoid the event or remove its cause, and perform its obligations.

### 13. Termination

*Supplier's request to terminate:* At any time during the term of this Agreement the Supplier may notify MPI that it wishes to terminate the Agreement. MPI will, within 5 Business Days following receipt of the Supplier's notice, notify the Supplier whether, in its absolute discretion, it consents to the Supplier's notice of termination. If MPI:

- a. consents, the Agreement will be terminated on a date that is mutually agreed between the Parties; or
- b. does not consent, the Agreement will continue in full force as if the Supplier's notice requesting termination had not been given.

*MPI's termination for convenience:*

MPI may terminate this Agreement at any time by giving not less than five Business Days' written notice to the Supplier.

Without limiting any other rights, MPI may terminate this Agreement on written notice (i) if there is a material breach of this Agreement, (ii) if an event which is the subject of clause 12 continues for more than 5 days, or (iii) if in MPI's reasonable opinion you suffer or will likely suffer a material financial problem.

At the end of this Agreement, each Party will return all property and information of the other's. The end of this Agreement will not prejudice any rights that arose prior to the end of this Agreement, nor affect any part of it which expressly or by its nature survives.

### 14. Communication with MPI

All notices to MPI in connection with this Agreement must be directed to:

Manager, Procurement and Commercial Management, Ministry for Primary Industries, Charles Fergusson Building, 34-38 Bowen Street, Pipitea, Wellington 6140 New Zealand

### 15. Subcontracting

The Supplier must not enter into a contract with someone else to deliver any part of the Agreement without MPI's prior written approval.

The Supplier continues to be responsible for delivering the Goods/Services under this Agreement even if aspects of the Agreement are subcontracted.

The Supplier must ensure that:

- (a) each subcontractor is paid promptly;
- (b) each subcontractor is aware of the *Supplier Code of Conduct*;
- (c) each subcontractor is fully aware of the Supplier's obligations under this Agreement; and
- (d) any subcontract it enters into is on terms that are consistent with this Agreement.

### 16. Protecting Personal Information

*Personal Information* has the same meaning as defined in the Privacy Act 1993 and codes developed under the Privacy Act 1993.

The Supplier agrees:

- (a) to use or disclose Personal Information obtained only for the purposes of delivering Goods/Services and complying with this Agreement, including the reporting requirements;
- (b) not to do anything that would breach an information privacy principle contained in the Privacy Act, which if done or engaged in by an agency under the Privacy Act, would be a breach of that information privacy principle;
- (c) to otherwise comply with the Privacy Act and any code established under the Privacy Act;
- (d) to immediately notify MPI if the Supplier becomes aware of any breach or possible breach of the Privacy Act whether by it or any of its subcontractors;
- (e) to ensure that any of the Supplier's Personnel who are required to deal with Personal Information for the purposes of this Agreement are made aware of and comply with the obligations set out in this clause 16; and
- (f) This clause 16 survives the expiration or earlier termination of this Agreement.

### 17. Resolving disputes

The Parties will use their best endeavours to resolve any dispute or difference that may arise under this Agreement through direct negotiation. If the Parties cannot resolve a dispute by negotiation, either Party may refer the matter to mediation. The Party requesting mediation must notify the other Party in writing. Each Party will meet their own costs of resolving the dispute.

### 18. General

You may not assign any of your rights under this Agreement to a third party. You must keep full and accurate records of all matters pertaining to this Agreement, and make these available to MPI on request. No waiver under this Agreement is effective unless in writing. Nothing in this Agreement creates a partnership, agency, or employee/employer relationship. This Agreement is the entire agreement between the parties in relation to the Goods and Services. This Agreement will be governed by New Zealand law, and the parties submit to the non-exclusive jurisdiction of the New Zealand courts. This Agreement does not confer any right for the Supplier to be a sole or exclusive supplier to MPI.