

## NORTHPOWER LIMITED PURCHASE ORDER TERMS AND CONDITIONS

### 1. DEFINITIONS

- 1.1 "Northpower" means Northpower Limited and all its subsidiaries, affiliates and each of their respective directors, officers, partners, employees and agents.
- 1.2 "Vendor/Contractor" means the entity as specified in clause 29: Signature.
- 1.3 "PO" means a Northpower purchase order.

### 2 ACCEPTANCE OF ORDER

- 2.1 A PO is an offer by Northpower that is deemed to be accepted upon the Vendor/Contractor commencing to supply the goods or services to which the PO relates or confirmed acceptance of PO by the Vendor/Contractor.
- 2.2 A PO will expire after 7 days of its issue unless accepted by the Vendor/Contractor.
- 2.3 Northpower can withdraw the PO at any time prior to acceptance by the Vendor/Contractor.
- 2.4 Additional or different terms or pricing proposed by the Vendor/Contractor do not apply unless accepted in writing by the originator of the PO prior to supply by the Vendor/Contractor.

### 3 PRICE

- 3.1 The price stated in the PO is exclusive of GST and any duty, but is otherwise all inclusive of freight, insurance and any other charges or taxes.
- 3.2 Prices may be quoted in the following currencies: NZD, USD, JPY, EURO and AUD. Prices quoted must be fixed and not subject to adjustment due to foreign exchange rate fluctuations.
- 3.3 Price will be included within the PO by the individual Northpower department when generating a PO and will reflect any contractually agreed pricing.
- 3.4 Any variation to price must be notified prior to acceptance of the PO by the Vendor/Contractor and acceptance must be confirmed by Northpower.

### 4 RELATIONSHIP

- 4.1 The Vendor/Contractor is an independent Vendor/Contractor to Northpower. No legal partnership, principal/agent or joint venture relationship between the parties is created or evidenced by the PO.

### 5 DELIVERY AND IDENTIFICATION

- 5.1 Unless specified otherwise by Northpower all goods that are supplied shall be "free into store" at the place of destination named by Northpower.
- 5.2 The Vendor/Contractor must obtain from Northpower an acknowledgment of delivery of all orders.
- 5.3 Where Northpower has not named a place of destination the Vendor/Contractor shall be responsible for contacting Northpower to obtain delivery instructions.
- 5.4 The order number for the PO shall be shown on all packages, invoices and correspondence.
- 5.5 Each consignment shall be accompanied by a delivery note stating the description of goods and PO number.
- 5.6 Partial deliveries may be accepted at Northpower's discretion.
- 5.7 All goods/services shall be delivered within the time specified in the PO, should any delay occur, the Vendor/Contractor must ensure that Northpower is notified as early as possible and before the date of delivery, as shown on the PO. Northpower reserves the right to void or cancel the order if not delivered within the agreed time frame and no compensation will be payable to the Vendor/Contractor.
- 5.8 All goods must be adequately packaged to prevent deterioration or damage whilst in transit.

### 6 QUALITY GOODS

- 6.1 Northpower reserves the right to have the goods inspected or tested before, on or after delivery by a representative appointed by Northpower and the Vendor/Contractor shall facilitate inspection or testing when required.
- 6.2 Northpower may reject any good that is:
  - 6.2.1 of inferior quality;
  - 6.2.2 contrary to the specifications for the goods; or
  - 6.2.3 in an unsatisfactory condition or not functioning in the way they are designed to function, and
  - 6.2.4 for any such rejected goods the Vendor/Contractor shall, at Northpower's sole option and at the Vendor/Contractor's sole risk and expense, either:
    - i) repair or replace it and reimburse Northpower for any loss of function attributable to it; or
    - ii) remove it and reimburse Northpower in full any payments made by Northpower in respect of it.

### 7 QUALITY ASSURANCE

- 7.1 The Vendor/Contractor will provide the goods or perform the services using due diligence, care and skill, using sufficient appropriately trained, qualified, experienced and supervised persons.
- 7.2 The Vendor/Contractor will:
  - (a) ensure that the services satisfy the requirements of Northpower and are fit for the purpose intended;
  - (b) have and comply with standards (including any environmental policies) and any quality assurance system approved or required by Northpower.
- 7.3 If a standard is not specified, it will be the highest in the relevant industry.

### 8 OPERATIONAL REQUIREMENTS (Contractors only)

- 8.1 The Contractor must report to Reception and sign the visitors log prior to the commencement of any work. On completion of the work, the Contractor must sign out at reception.
- 8.2 The Contractor must provide Northpower with regular updates on job status e.g. that the work has been completed, the job is in progress or that the job timeframe needs to be extended etc.

### 9 PHYSICAL WORK (Contractors only)

- 9.1 Where any physical work is involved, the Contractor must:
  - 9.1.1 promptly and properly complete the work, but only when approved by Northpower, and minimise any disruption to anyone; and
  - 9.1.2 tidy up those areas accessed by the Contractor during the work, and promptly make good any damage or problems caused by the Contractor.

### 10 NEGLECTED PROPERTY (Contractors only)

- 10.1 If the Contractor's property is not removed from Northpower property or Northpower's customer's property when required by Northpower, it may be disposed of by Northpower at the Contractor's risk and cost.

### 11 INTELLECTUAL PROPERTY

- 11.1 Northpower must be informed if anything used to deliver the goods/services belongs to any third party. The Vendor/Contractor must ensure that Northpower has all the necessary rights (and documentation) to fully enjoy the full benefits of the goods or service.
- 11.2 The Vendor/Contractor warrants to Northpower that ownership (where intended), possession, use, modification or resale of any deliverable supplied will not infringe any third party rights and the Vendor/Contractor will protect Northpower and its customers from any related claims or proceedings. Northpower may freely participate in any infringement proceedings.
- 11.3 If any new intellectual property is developed during, or as the purpose of, any delivery of any deliverable, it will belong to Northpower. If requested by Northpower, the Vendor/Contractor will freely waive any rights and transfer every relevant proprietary interest/right to Northpower or its nominee.

### 12 INVOICING AND PAYMENT

- 12.1 Invoices should be sent to Northpower Ltd, C/- Accounts Payable, Private Bag 9018, Whangarei 0148.
- 12.2 If correct tax invoices are received by the accounts payable department of Northpower by the 5<sup>th</sup> working day of the month, undisputed amounts due from Northpower will be paid to the Vendor/Contractor by the 20<sup>th</sup> day of that month in respect to work completed or goods supplied in the preceding month.
- 12.3 Invoices should show a breakdown of all labour, materials and any mileage (if applicable).
- 12.4 Invoices for part orders will not be accepted (unless progress payments are agreed to prior to the work commencing).
- 12.5 Northpower shall deduct withholding tax where required by law.

### 13 TITLE

- 13.1 Title to any goods supplied to Northpower will pass to Northpower at the earlier of delivery or any payment by Northpower for the goods.

### 14 RISK

- 14.1 Every risk to any deliverable remains with the Vendor/Contractor until completion of delivery and acceptance of the service/goods. Anything involved in delivery or acceptance is provided at the Vendor/Contractor's every risk and cost.

### 15 INDEMNITY

- 15.1 The Vendor/Contractor shall at all times indemnify Northpower in respect of any loss, damage or expense suffered or incurred by Northpower as a direct or indirect consequence of:
  - (a) any act, error or omission by the Vendor/Contractor; or
  - (b) any breach by the Vendor/Contractor of any warranty or other obligation in the PO.
- 15.2 The indemnity shall survive the termination of this contract.

## 16 INSURANCE

### (A) General Supplies

16.1 Vendors supplying general goods, must hold:

(a) Public Liability Insurance for a minimum value of \$2,000,000 NZD and must be maintained for a minimum of 12 months following the supply of the general goods;

(b) such other insurance as specified in the PO.

### (B) Goods & Contracting Related Supplies

16.2 Vendors supplying any goods that Northpower may use in any of its processes (including but not limited to Network and Contracting – Electrical, Gas, Fibre) are required to hold, at the vendors cost:

(a) Public Liability Insurance for a minimum value of \$10,000,000 NZD and must be maintained for a minimum of 6 years following the supply of goods;

(b) such other insurance as specified in the PO or agreement.

### (C) Services and Professional Contracts

16.3 While supplying any professional services, the Vendor/Contractor is also to maintain, at the Vendor's/Contractor's cost, Professional Indemnity Insurance for a minimum value of \$1,000,000 NZD and must be maintained for a minimum of 6 years following the supply of services.

### (D) Contractors:

16.4 While undertaking any work, a Contractor is to maintain, at the Contractor's cost, the following insurance:

(a) Contractors All Risk insurance policy to a minimum value of \$2,000,000 NZD;

(b) motor vehicle third party liability to a minimum value of \$2,000,000 NZD.

16.5 The Vendor/Contractor must have the Vendor's/Contractor's insurer complete the Northpower's standard insurance certificates for the specified insurances if required by Northpower and ensure that the benefit of such insurance is available to Northpower for any loss, damage, expense, or third party claim.

16.6 The Vendor/Contractor shall diligently pursue any insurance claims for the full amount of Northpower's loss or damage.

## 17 WARRANTIES

17.1 The Vendor/Contractor must ensure that any goods delivered:

(a) have as a minimum 70% of its 'use by' date remaining unless otherwise agreed by Northpower;

(b) are designed, manufactured, delivered and operate in compliance with all applicable user requirements, specifications and standards;

(c) are new and unused on delivery unless specified otherwise in each case by Northpower;

(d) are free from any defects and are fit for the purpose intended by Northpower; and

(e) are compatible with the other goods available from the Vendor/Contractor.

17.2 If not specified, the Vendor/Contractor's warranty and guarantees to Northpower for any deliverable will be for the greater of at least 12 months or the warranty period generally available to the Vendor/Contractor's customers.

17.3 Each warranty is to cover any defective labour, materials and performance. The Vendor/Contractor will, to the extent possible, pass on to Northpower the benefit of any warranty or guarantee received from any other person in respect of deliverables supplied, so that Northpower may have recourse against those persons.

## 18 LEGAL COMPLIANCE

18.1 The Vendor/Contractor will ensure that the provisions of all goods/services and each deliverable, complies with all New Zealand laws, codes and standards.

18.2 The Vendor/Contractor must obtain every necessary and prudent authorisations to ensure that it can perform/supply each goods/service and Northpower can at all times enjoy the full benefits of the goods/service.

## 19 PUBLICITY

19.1 The Vendor/Contractor will not represent or publicise in any way to anyone that it is a Vendor/Contractor of Northpower, or allow media releases or advertising that names or suggests Northpower, without Northpower's prior written consent.

## 20 CONFIDENTIALITY

20.1 The Vendor/Contractor will keep confidential and secure, and not misuse, any information of Northpower that would reasonably be expected to be proprietary, commercially sensitive or confidential.

20.2 Disclosure and use of information by either party is allowed to the extent required by law or to the extent necessary to perform the supply of the goods/services.

20.3 The Vendor/Contractor will stop using and return to Northpower, or destroy if so directed by Northpower, Northpower property and information as requested by Northpower.

## 21 NO NUISANCE

21.1 The Vendor/Contractor will not allow any unauthorised activity, nuisance, discharge of any contaminant, or make excessive noise at Northpower property.

## 22 ENVIRONMENTAL REQUIREMENT

22.1 The Vendor/Contractor will ensure goods and services supplied meet high environmental standards in their production and operational performance, consistent with ISO 14001.

## 23 HEALTH & SAFETY

23.1 The Vendor/Contractor shall comply when on site at Northpower with the Health and Safety in Employment Act 1992, and the Vendor/Contractor shall have in place and comply with a Health and Safety Management Plan. The Vendor/Contractor shall at all times be able to provide proof of its Health and Safety Management Plan.

23.2 All Contractors/Consultants of physical works must be listed on Northpower's Health & Safety Approved Contractor Register.

## 24 SUBCONTRACTING

24.1 The Vendor/Contractor will not subcontract in relation to the PO without Northpower's prior written approval.

## 25 CLAIMS AGAINST NORTHPOWER

25.1 In no event will Northpower be liable for any indirect or consequential loss, damage or expense including any loss of profit or revenue, economic loss, loss of contract.

25.2 Any claim against Northpower, whether arising in contract, tort (including negligence) or otherwise must be in writing and delivered within 3 months of the event to which it relates and no claim shall exceed the value of the PO to which it is connected.

## 26 FAILURE

26.1 In the event of any breach or failure by the Vendor/Contractor, or inability to perform the required obligations, Northpower shall give written notice to the Vendor/Contractor of such a breach or failure and at its sole discretion may:

(a) give the Vendor/Contractor 5 working days notice to remedy the breach or failure; or

(b) suspend or cancel the PO.

26.2 Where notice has been given under 26.1(a) and such breach has not been remedied by the Contractor/Vendor Northpower may immediately suspend or cancel the PO.

26.3 Where Northpower cancels or suspends the PO it may select an alternative vendor of goods or services and any additional costs incurred by Northpower may be recovered from the Vendor/ Contractor.

## 27 RELATIONSHIP MANAGEMENT

27.1 Northpower and the Vendor/Contractor will act in good faith towards one another and do all things reasonably required to ensure that the full benefit of this agreement and the relationship between the parties is realised.

## 28 VARIATIONS AND WAIVERS

28.1 No variation to or waiver of any of the above terms and conditions shall be valid or effect unless agreed to in writing by Northpower.

## 29 SIGNATURE

I/We accept the above terms and conditions:  
Entity / Vendor / Contractor

Entity Name:

Signed on behalf of the Entity/Vendor/Contractor:

Name: (Print)

Title:

Date: