

ANTARCTICA NEW ZEALAND – SHORTFORM TERMS AND CONDITIONS

The Supplier agrees to the provision of the Goods/Services described in the relevant Purchase Order (“PO”) issued by Antarctica New Zealand (“Antarctica NZ”) on the following terms and conditions (“T&Cs”):

1. APPLICATION

- 1.1. These T&Cs apply to all purchases of Goods/Services except where Antarctica NZ agrees in writing that they be varied or do not apply.
- 1.2. The Supplier agrees to these T&Cs when it accepts any PO or otherwise provides any Goods/Services. These T&Cs supersede any provisions in the Supplier’s terms of supply or sale, and in no event will the Supplier’s terms of supply or sale apply to the provision of Goods/Services to Antarctica NZ.
- 1.3. No right under these T&Cs shall be deemed to be waived except by notice in writing by each party.
- 1.4. These T&Cs are governed by the laws of New Zealand and the parties agree to submit to the non-exclusive jurisdiction of the Courts of New Zealand.
- 1.5. In respect of the provision of the Goods/Services the Supplier will comply with all relevant New Zealand (and international) standards, statutes, regulations, by-laws, ordinances and Antarctica NZ policies.

2. ORDER OF PRECEDENCE

- 2.1. Where Antarctica NZ and a Supplier have entered into any other agreement in writing governing the provision of Goods/Services, then the terms of that agreement will govern the supply of those Goods/Services and those terms will prevail over these T&Cs to the extent of any inconsistency.

3. ENVIRONMENTAL IMPACT

- 3.1. In order to minimise environmental impact, goods sent to Antarctica must be free of unnecessary packaging, prohibited products and any biological material such as soil, insects or plant matter. Goods which do not meet these requirements may be returned to the Supplier at the Supplier’s cost.
- 3.2. The Supplier shall make themselves aware of products that are prohibited in Antarctica and ensure these are not contained in any delivery to Antarctica NZ.
- 3.3. Where directed by Antarctica NZ the Supplier shall complete Antarctica NZ’s Environmental Sustainability Checklist for Suppliers.

4. PRICES

- 4.1. Prices stated on Antarctica NZ’s PO are fixed and may not be varied without the prior written agreement of the parties. All prices are to be G.S.T. exclusive.
- 4.2. The price includes the Goods/Services, freight and all freight associated costs, insurance, customs duty, taxes, payroll taxes, levies, duties, assessments of every nature and/or any other services in connection to the provision of Product/Services.
- 4.3. The Supplier is not entitled to claim expenses, surcharges, margins or disbursements except where agreed in advance and in writing by Antarctic NZ.

5. SUPPLY AND DELIVERY

- 5.1. All requests for Goods/Services are to be accompanied by a PO Number. Antarctica NZ will not be liable for any Goods/Services provided unless a PO has been provided to the Supplier within one Business Day of a request for Goods/Services being made to the Supplier.
- 5.2. The Goods/Services shall be provided in full on the delivery dates and to/at the address specified in the PO between 8:30 a.m.–4:30 p.m. (unless otherwise specified in the PO). The Supplier shall make itself aware of any special requirements when providing the Product/Services to the delivery address.
- 5.3. Without limiting Antarctica NZ’s rights and remedies, the Supplier shall notify Antarctica NZ in writing immediately if the Supplier becomes aware there may be a delay in the provision of Goods/Services and the Supplier must take all steps reasonably required by Antarctica NZ to minimise any delay.
- 5.4. When Goods are provided to Antarctica NZ they shall be accompanied by a delivery docket that records the Suppliers name and contact details, Antarctica NZ’s PO number, the description and quantity of the Goods with the applicable units of measure, unit rates and dollar values of the Goods provided.
- 5.5. Notwithstanding clause 3, all Goods shall be packaged, at the Supplier’s expense, in a manner to retain the original integrity of the Goods and prevent damage or deterioration when being provided to Antarctica NZ. In the case of frozen food, food must be delivered frozen.
- 5.6. The PO Number must be shown on all packages, invoices and correspondence relating to the Goods/Services. Product provided against an invalid PO or without a PO, may be returned to the Supplier at the Supplier’s expense including the cost of packaging, transportation, insurance and handling.
- 5.7. All delivery dockets must be signed and retained by an Antarctica NZ representative.

6. QUALITY, INSPECTION AND ACCEPTANCE

- 6.1. In addition to all other warranties, conditions or terms expressed or implied by law or otherwise, the Supplier warrants that:
 - (a) At the time of Delivery, the Goods will be new, unused (unless otherwise agreed by Antarctica NZ in writing) and free of defects (including latent defects);
 - (b) The Goods are fit for their intended purpose, of merchantable quality and comply with all relevant laws, standards and authority requirements.
 - (c) Where Antarctica NZ has supplied specifications and/or requirements in relation to the Goods/Services, or specifications or requirements have otherwise been agreed, the Goods/Services will comply with those specifications and/or requirements;
 - (d) The Supplier shall use the highest reasonable standard of skill, care and quality, and employ techniques, methods, procedures and materials of a high quality and standard in accordance with best professional practice in providing the Goods/Services.
 - (e) The Product and any result or product of the provision of the Services, its material and workmanship, shall be subject to inspection and testing at all reasonable times and places by Antarctica NZ (or their representative) before, during or after provision. If inspection and testing is to be conducted on the premises of the Supplier or the Supplier’s sub-contractors, the Supplier shall provide (without additional charge) all reasonable facilities and assistance for the safe and convenient inspection and testing required by Antarctica NZs inspectors in the performance of their duty.
 - (f) Services will be carried out with reasonable care, diligence and skill and performed by persons with the requisite skill and experience;
 - (g) Where the Supplier has the benefit of any warranties or covenants from a third party in respect of the Goods/Services, the Supplier shall disclose and assign the benefit of the warranties and/or covenants to Antarctica NZ.
 - (h) It has obtained all necessary rights, licences and consents to supply the Goods/Services to Antarctica NZ and neither the Goods/Services nor their use by Antarctica NZ, breaches any IP rights of any third party.
 - (i) At the time of delivery, the Goods will be free of any security interest, lien or other encumbrance; and
 - (j) These obligations survive the acceptance of and payment for the Goods/Services.
- 6.2. If the Supplier breaches any of the warranties contained in clause 6.1 then, without limiting any other right or remedy it may have, Antarctica NZ may:
 - (a) Reject any Goods in whole or in part and return the Goods to the Supplier at the Supplier’s risk and expense, including the cost of packing, transportation, insurance and handling the rejected Goods, and the Supplier must immediately refund to Antarctica NZ any monies paid in respect of the returned Goods;
 - (b) Require the Supplier to replace, repair, reinstate or re-supply Goods at the Supplier’s expense;
 - (c) Have any Goods replaced repaired or re-supplied by another party and recover the cost of doing so from the Supplier; or
 - (d) Suspend payment for the Services until the breach has been remedied.
- 6.3. The Supplier acknowledges that the signing of a delivery note or similar on behalf of Antarctic NZ does not constitute acceptance of any Goods/Services. Antarctica NZ may reject any Product/Services (as applicable), even after they have been received, that are:
 - (a) Not of merchantable quality;
 - (b) Not fit for purpose as stipulated on the PO;
 - (c) In an unsatisfactory condition or not functioning as they are designed to function; or
 - (d) Do not otherwise meet the requirements of clause 6.3 (“Rejected Goods/Services”).
- 6.4. For any Rejected Goods/Services the Supplier will, within 10 business days of receiving notice of Antarctica NZs rejection of the Goods/Services, at Antarctica NZs sole and absolute discretion and at the Supplier’s sole risk and expense:
 - (a) Repair or replace the Rejected Product;
 - (b) Request the re-performance of the Rejected Services;
 - (c) Remove the Rejected Product for reimbursement; or
 - (d) Suspend or cancel the Services; and
 - (e) In the case of clause 6.4(c), reimburse/credit Antarctica NZ in full for any amounts paid by Antarctica NZ in respect of the Rejected Goods/Services, as the case may be.

- 6.5. Title to the Rejected Product will pass back to the Supplier on the earlier of the replacement of the Rejected Product, repair of the Rejected Product or, refund or credit of any amounts paid by Antarctica NZ as specified in clause 6.4.
- 6.6. Antarctica NZ reserves the right to inspect the Goods during and/or after manufacture but before delivery. Any such inspection shall not constitute any acceptance or prejudice any of Antarctica NZ's rights.

7. OWNERSHIP AND RISK

- 7.1. Title in the Product will pass to Antarctica NZ free of any security interest, lien or other encumbrance upon an Antarctica NZ representative signing for receipt of the Goods or upon payment for the Goods whichever is the earlier date; and
- 7.2. The Product remains at the Supplier's risk until it is delivered to Antarctica NZ and is declared by Antarctica NZ as not being Rejected Product/Services.

8. INVOICES AND PAYMENT

- 8.1. The Supplier shall provide to Antarctica NZs Accounts Team, within five business days of the end of the month following provision of the Product/Services, a G.S.T. tax invoice for each provision of the Goods/Services, stating PO number, date of delivery and full description of the Goods/Services and quantity provided. Invoices received without all these details may be returned to the Supplier, unpaid.
- 8.2. If monthly charges are applicable, the Supplier shall provide to Antarctica NZs Accounts Team a monthly statement of that month's deliveries not later than the tenth business day of the month following delivery.
- 8.3. Invoices and statements are to be addressed to: Antarctica New Zealand, Private Bag 4745, Christchurch 8140, Attention: Accounts Payable.
- 8.4. Subject to clause 8.6, payment for Goods/Services, once approved, will be effected on the 20th day of the month following the date of the Supplier invoice.
- 8.5. Invoices are to include as a minimum:
- (a) Suppliers legal name; (c) Supplier G.S.T. number; (e) PO number; (g) Goods/Services, quantities and units of measure; and
(b) Suppliers NZBN number; (d) Supplier's invoice number; (f) Date of delivery; (h) NZ dollar amount to be paid.
- 8.6. Any invoices provided by the Supplier which have not met the requirements of this clause 8 may not be effected.
- 8.7. If Antarctica NZ disputes all or part of any invoice, Antarctica NZ may withhold payment for the amount in dispute until the dispute is resolved.
- 8.8. Failure by Antarctica NZ to dispute any invoice prior to payment will not prejudice Antarctica NZ's right to later dispute the correctness of such invoice.
- 8.9. Antarctica NZ may withhold, deduct or set-off the amount of any overpayment or any amount recoverable from the Supplier from any future payment.
- 8.10. The Supplier must notify Antarctica NZ's GM Corporate Services in writing of any change in its income tax status. In the event the Supplier fails to notify Antarctica NZ any withholding taxes and penalties imposed on Antarctica NZ by the NZ Inland Revenue Department will be the responsibility of the Supplier and such amounts will be recoverable from the Supplier as a debt due to Antarctica NZ.

9. CONFLICT OF INTEREST

- 9.1. The Supplier confirms it has no knowledge of any conflict of interest ("COI") in providing the Goods/Services.
- 9.2. If any COI arises or has the potential to arise during the provision of the Product/Services, the Supplier shall immediately inform Antarctica NZ in writing and Antarctica NZ will decide on the appropriate steps to be followed in such event, which may include the rights of Antarctica NZ to terminate the PO with immediate effect and no financial requirement on Antarctica NZ to the Supplier.

10. INTELLECTUAL PROPERTY

- 10.3. Intellectual Property ("IP") includes but is not limited to copyright, patents (including patent applications), trade secrets, designs, know-how, drawings, specifications, reports, data, documentation, rights in relation to trade marks, business names and domain names.
- 10.4. All Intellectual Property rights owned by either party or their licensors prior to the commencement of the provision of Goods/Services ("Pre-existing IP") will remain the exclusive property of that party and its licensors.
- 10.5. All IP arising from the provision of the Goods/Services ("New IP") is owned by Antarctica NZ and the Supplier shall cooperate with Antarctica NZ (including by signing relevant documents) to help Antarctica NZ protect its rights in the New IP.
- 10.6. To the extent that New IP incorporates or requires Pre-existing IP, the Supplier licences, or shall procure the licence to the Pre-existing IP for Antarctica NZ on a perpetual, royalty-free basis.
- 10.7. The Supplier warrants and represents to Antarctica NZ that New IP and the Pre-existing IP will not infringe the Intellectual Property rights of any third party.

11. CORRESPONDENCE

- 11.1. All correspondence shall include the PO Number and Antarctica NZs contact details as listed on the PO, and shall be in writing and sent by email, mail (with postage prepaid) or by hand delivery to the address for correspondence as set out on any PO or such other address as a party has notified in writing.
- 11.2. Any correspondence to a Supplier is deemed to be served as follows:
- (a) given in person upon delivery, provided that where delivery occurs after 4:30 p.m. on a Business Day or on any day that is not a Business Day will be deemed to have been received on the next Business Day;
- (b) by post is three business days after the date of posting; and
- (c) by email is on the first business day after such email has reached the receiver's information system for receiving emails or, in all other situations, when the email comes to the receiver's attention, provided that he sender does not receive any error message relating to the sending of the email.
- 11.3. Antarctica NZ shall only be deemed to have received delivery of a notice upon Antarctica NZ acknowledging receipt of the notice in writing.

12. INDEMNITY

- 12.1. With respect to IP the Supplier shall indemnify, and keep indemnified, Antarctica NZ and its officers, employees, contractors and agents against all claims, demands, proceedings, liabilities, costs (including legal costs), charges and expenses suffered or incurred from any claim that the Goods/Services, or Antarctica NZ's use of them, infringe the rights of any other party. This indemnity shall survive the termination of these T&Cs.
- 12.2. The Supplier shall fully protect and indemnify Antarctica NZ, its officers, employees, contractors and agents against any claim, damage, loss, expense or liability incurred directly or indirectly in connection with or as a consequence of any unlawful, negligent, tortious, criminal, reckless or dishonest errors, acts or omissions of the Supplier in the performance of its obligations under these T&Cs. This indemnity shall survive the termination of these T&Cs.

13. INSURANCES

- 13.1. The supplier shall take out and maintain at its own cost, at all times during the continuance of these T&Cs:
- (a) Public Liability insurance for not less than one million dollars (\$1,000,000); and
- (b) Where Services relate to or include the provision of professional services, Professional Indemnity insurance not less than one million dollars (\$1,000,000).
- 13.2. All such insurance shall be on such terms and with such insurers as Antarctica NZ may reasonably require.
- 13.3. To the extent applicable and at the request of Antarctica NZ, the Supplier shall in addition to the insurance requirements recorded in clause 13.1, take out and maintain seven year's run-off insurance on terms and conditions to the satisfaction of Antarctica NZ.
- 13.4. The Supplier shall produce whenever reasonably required by Antarctica NZ, the relevant policies and evidence of payment of the current premiums. If the Supplier fails to provide such evidence Antarctica NZ may, after notifying the Supplier in writing, arrange or keep in force that insurance and may, for the purpose of doing so, pay the relevant premiums and deduct a corresponding amount from any moneys payable by Antarctica NZ to the Supplier.

14. FORCE MAJEURE

- 14.1. Neither party will be liable to the other for any delays nor non-performance of obligations under this PO cause by a Force Majeure, provided each party has taken reasonable steps to minimise any loss, damage or delay resulting from a Force majeure event. A Force Majeure event includes fire, outbreaks of war, acts of hostility and acts of God. Force Majeure does not include financial management difficulties or problems caused by contractual relations between the Supplier and its employees, agents, subcontractors or suppliers or any risk or event, the effects of which the party affected could have prevented or overcome by taking reasonable care.

15. CONFIDENTIALITY

- 15.1. "Confidential Information" means information about Antarctica NZ, its business, operations, technologies, Suppliers or affairs and includes any PO and these T&Cs and any information highlighted by Antarctica NZ to the Supplier as confidential or that would reasonably be considered to be confidential to Antarctica NZ but excluding information that is required by law to be disclosed.
- 15.2. All confidential information is, and will remain, the property of Antarctica NZ and the Supplier must keep all confidential information confidential and:
- (a) Use the information only for the purpose of providing the Goods/Services, unless otherwise authorised by Antarctica NZ in writing;
 - (b) Return any information to Antarctica NZ upon Antarctica NZ's request or if no request is made, upon completion of provision of the Goods/Services; and
 - (c) Ensure its employees, contractors and agents keep the information strictly confidential on the same terms as set out in this clause 15.

16. HEALTH AND SAFETY

- 16.1. Where Goods/Services are being provided, the Supplier and any other sub-contracted person conducting a business or undertaking (PCBU) must:
- (a) Comply with all health and safety legislation, regulations, applicable codes of practice and standards;
 - (b) Ensure that it, takes all steps reasonably practicable to manage hazardous exposures to a risk level as low as reasonably practicable to ensure the health and safety of themselves, others and their product/s;
 - (c) Complete any required Antarctica NZ document or process;
 - (d) Comply with Antarctica NZ's policies, standards and procedures, any other related verbal, written or displayed instructions, including but not limited to all site rules and signage;
 - (e) Have, and keep current, all relevant knowledge/skills, training/competency and qualifications required to perform its obligations under this agreement;
 - (f) Immediately provide Antarctica NZ with information about any health and safety matters, including but not limited to emerging risks, close calls, incidents, and injuries.
- 16.2. Where a Supplier or subcontracted PCBU is working on an Antarctica NZ managed site or on behalf of Antarctica NZ, before work commences additional processes will be required including but not limited to prequalification, and inductions. The Supplier shall inform themselves of these process and take all steps to ensure compliance.

17. CANCELLATION

- 17.1. Notwithstanding anything to the contrary in these T&Cs, Antarctica NZ shall be entitled to cancel any PO, at its convenience, on 10 business days written notice to the Supplier. Where this occurs, Antarctica NZ will pay for all Goods/Services provided to the satisfaction of Antarctica NZ in respect of any PO issued.
- 17.2. Antarctica NZ may cancel a PO if it is not accepted by the Supplier's written acknowledgement within five Business Days of the date of the PO.
- 17.3. Antarctica NZ may cancel any PO immediately, with no costs incurred by Antarctica NZ, if the Supplier:
- (a) Has breached any of these T&Cs and has failed to remedy the breach within five Business Days after appropriate Notice has been given to the Supplier; or
 - (b) Becomes bankrupt, ceases to carry on business, goes into liquidation, becomes insolvent, appoints a receiver or enters into a formal proposal for a compromise with its creditors under the Companies Act 1993.
- 17.4. With reference to clause 17.3, on termination of that PO:
- (a) Antarctica NZ may recover any fees paid in advance to the Supplier under that PO; and
 - (b) Any T&Cs that are intended to survive termination or expiry of any PO will survive termination or expiry.

18. GENERAL WARRANTIES

- 18.1. The Supplier represents, warrants and undertakes that it:
- (a) Has full power, capacity and authority to execute, provide and perform its obligations under these T&Cs or any PO;
 - (b) Has and will continue to have, all necessary consents, permissions, licences and rights to enter into and perform its obligations under these T&Cs;
 - (c) Has in place no existing agreements, undertakings or arrangements which prevent it from entering into these T&Cs or which would impede the performance of its obligations under these T&Cs;
 - (d) Has not offered any inducement in connection with the entering into or negotiation of these T&Cs or any PO; and
 - (e) Is not (nor any of its directors or employees) a party to any litigation, proceedings or disputes that could affect its ability to supply under these T&Cs.

19. MISCELLANEOUS

- 19.1. The Supplier acknowledges that Antarctica NZ is a Crown Entity and agrees that it will always act in its dealings with Antarctica NZ and Antarctica NZ's advisors, employees and agents in a manner consistent with the highest standards of probity.
- 19.2. The Supplier must not assign or otherwise transfer any of its rights, benefits or obligations, and must not subcontract any of its obligations, without the prior written consent of Antarctica NZ given at its sole discretion.
- 19.3. Nothing in these T&Cs is to be interpreted as constituting either Antarctica NZ or the Supplier as agent, partner or employee of the other and neither party will have the authority to act for or to incur an obligation on behalf of the other party except as expressly provided for in these T&Cs.
- 19.4. No waiver of any breach of these terms and conditions shall be deemed to be a waiver of any other or subsequent breach.
- 19.5. If any provision in these T&Cs is held invalid, unenforceable or illegal by any Court of competent jurisdiction, these T&Cs will remain otherwise in full force apart from such provisions, which will be deemed deleted.
- 19.6. No failure or delay on the part of Antarctica NZ in exercising any of its rights under the PO or these T&Cs constitutes a waiver of any such rights.
- 19.7. The Supplier's provision of Goods/Services is non-exclusive and Antarctica NZ may appoint any alternative Supplier to provide the Goods/Services.
- 19.8. Where applicable, the Supplier grants Antarctica NZ access to the Supplier's premises, facilities and staff concerning the provision and identification of the Product. Antarctica NZ shall have the right to audit and inspect the Supplier's records concerning supply of the Product/Services.
- 19.9. The Supplier shall not under any circumstances be entitled to anticipatory profits, business, reputation, contracts, revenues, anticipated savings or to special (including multiple or punitive), incidental or consequential damages.
- 19.10. The Supplier will not use Antarctica NZ's name to advertise or promote its business or Goods/Services without the prior written consent of Antarctica NZ.
- 19.11. Interpretation:
- "Provision", "Provide" and "Provided" mean, in the case of Goods, the delivery of the goods in good order and condition to a location nominated by Antarctica NZ and in the case of Services, means the rendering of the Services to Antarctica NZ's satisfaction at a location nominated by Antarctica NZ and "Deliver" and "Delivery" have corresponding meaning.
- "Goods" means the items specified in the PO and all parts or components of those items to be provided by the Supplier to Antarctica NZ.
- "G.S.T." means goods and services tax payable in accordance with the New Zealand Goods and Services Tax Act 1985.
- "PO Number" means the reference allocated to a PO.
- "Services" means the services specified in the PO to be rendered by a Supplier.
- "Supplier" means any person or organisation to whom Antarctica NZ issues a PO.
- "Business Day" means any day other than a Saturday, Sunday or public holiday in Christchurch, and starts at 8:30 a.m. and ends at 16:30 p.m.
- 19.12. Antarctica NZ has the right to amend these T&Cs at its discretion at any time.