

STANDARD TERMS AND CONDITIONS FOR SUPPLIERS OF GOODS

1. Application of these terms and conditions to suppliers of goods

Subject to clauses 2 and 3 below, these terms and conditions apply to all suppliers of goods to, or on behalf of, the New Zealand Qualifications Authority (NZQA), where the supplier has accepted an order placed by NZQA (Purchase Order) either electronically or non electronically. The Purchase Order itself and these terms and conditions constitute the entire agreement between the parties (the “Agreement”).

2. Supplier terms and conditions

Any supplier wanting NZQA to accept the supplier’s terms and conditions must negotiate, and enter a formal agreement in writing with NZQA, prior to accepting any order. NZQA reserves the right to prefer to contract with suppliers that accept NZQA’s terms and conditions.

3. Variations and waivers

No variation to these terms and conditions, or waiver of them, is valid or effective unless the supplier negotiates, and enters, a formal variation agreement or waiver in writing with NZQA. NZQA reserves the right to prefer to contract with suppliers that accept NZQA’s terms and conditions without variation.

4. Payment

Unless otherwise agreed and subject to performance by the supplier of its obligations under these conditions, payment will be made by the twentieth day of the month following the month of invoice. Payment will be made to the supplier, or the supplier’s nominee, by cheque or direct credit. The Purchase Order will set out the agreed amounts payable, including any expenses and arrangements for GST.

5. Order Number must be used on documentation

Each packing slip, delivery note, package and invoice must be marked clearly with the order number set out in the Purchase Order (Order Number). This number shall be quoted in all relevant enquiries and documents. No Purchase Order is valid if it does not have an Order Number.

6. Conditions of goods and encumbrances

All goods supplied must be new and unused unless otherwise stipulated on the Purchase Order. The goods must be free of all encumbrances.

7. Title in the goods, and risk

Title to the goods shall only pass to NZQA upon delivery to NZQA’s designated delivery point; pending delivery the supplier shall remain liable for the goods and will need to make its own arrangements with the deliverer. All risks relating to the goods therefore remain with the Supplier until the goods are in the control of NZQA.

8. Delivery:

- a.** The supplier must deliver the ordered goods to the delivery address specified in the Purchase Order. Delivery of the goods must be made in accordance with the delivery quantity, date, and time information stipulated in the Purchase Order.
- b.** The supplier must immediately inform NZQA if it is unable to deliver the goods by any stipulated delivery time. If NZQA does not invoke its rights under paragraph 8c, and where the goods can be delivered by alternative arrangements, NZQA may at its discretion require the supplier to arrange expedited delivery by alternative means, and the supplier is responsible for payment for those alternative delivery arrangements, without prejudice to any other rights of NZQA in respect of the inability to deliver the goods on time.
- c.** If the supplier fails to deliver the goods in the agreed quantity, and or quality in an acceptable condition, by the specified time or date, then NZQA may cancel all or part of this Agreement for the purchase of the goods, may purchase all or some of the required goods from other sources, and may recover from the supplier any loss, damage or additional expenditure incurred by NZQA due to the failure of the supplier.

9. Defective Products:

- a.** In addition to its rights under clause 8c, NZQA may require the supplier to repair or replace goods supplied in damaged or defective condition, which shall be repaired or replaced at no cost to NZQA. Goods in a defective condition include, without limitation, goods that do not comply with standards, codes of practice, or any other requirements prescribed by law.
- b.** NZQA must notify the supplier as soon as is reasonably practicable in the event NZQA decides to reject the goods, or to exercise its rights under this clause 9.
- c.** In addition to the supplier's standard warranty or any warranties implied by law, the supplier warrants that the goods will be fit for the purpose for which they are purchased, and free from defects.

10. Force Majeure

In the event that either party is incapable of performing its obligations to the other due to a force majeure event, that party shall immediately give notice to the other and must do everything reasonably possible to resume performance without delay. Upon the giving of such notice, the obligations of the parties to perform the Agreement is suspended and the party receiving such notice is entitled to give the other party notice of cancellation of the Agreement with effect from any time following receipt of the force majeure notice, up to the time of resumption of performance.

11. Infringements

The supplier warrants that the use of the goods by NZQA will not infringe any other person's intellectual property rights.

12. Indemnity

The supplier indemnifies NZQA, and keeps NZQA indemnified, against all or any loss to NZQA, including losses resulting from liability to third parties, arising directly or indirectly from or in connection with any breach by the supplier of this Agreement, or resulting from negligent acts or omissions of the supplier or its agents or employees or other persons it has used in connection with the provision of goods. A loss to NZQA includes all costs, expenses, claims, demands and proceedings.

13. Health and Safety Requirements

It is the responsibility of the supplier to provide any safety or test information that may reduce the risk of loss or harm to any person handling, storing, transporting, operating, maintaining or disposing of the goods.

14. Environmental Sustainability

The supplier shall give appropriate regard to the protection of the natural environment in the recommendation, sourcing and provision of products to NZQA. NZQA reserves the right to prefer to contract with suppliers who demonstrate such appropriate regard.

15. Advertising

No advertising relating to NZQA ordering or purchasing the goods is to be published in any newspaper, magazine, journal or other advertising medium without the prior written approval of NZQA.

16. Governing Law and Submission to Jurisdiction

This Agreement is governed by and construed in accordance with the laws of New Zealand, and shall be subject to the jurisdiction of the Courts of New Zealand. The supplier agrees to submit to the jurisdiction of the Courts of New Zealand and to New Zealand law.