

PRINGLE BELESKI AND ASSOCIATES LTD TERMS & CONDITIONS OF PURCHASE

1. INTERPRETATION

In these terms and conditions unless the context otherwise so requires:

- (a) Agreement means the agreement constituted by acceptance of this Purchase Order;
- (b) Party means either, or both, the Purchaser and Supplier;
- (c) Purchase Order means the order form on the first page of this document together with these terms and conditions and any special terms and conditions agreed to in writing between the Purchaser and the Supplier;
- (d) Purchaser means Pringle Beleski and Associates Limited, a company having its registered office at 41A Raiha Street, Porirua, Wellington;
- (e) Special Terms and Conditions means any special terms and conditions set out on the first page of this Agreement.
- (f) Supplier means that person, firm, partnership, company or body (however constituted) from whom the Goods and/or Services described in the Purchase Order shall have been requested;
- (g) Goods, includes parts and materials;
- (h) Services includes, delivery, installation, manufacture and repair of any Goods; and
- (i) the singular includes the plural and vice versa the use of one gender includes each other gender and headings are inserted as a matter of convenience and in no way affect the interpretation of this Agreement.

2. ACCEPTANCE

- 2.1. Acceptance of this Purchase Order entails acceptance by the Supplier of all the terms and conditions contained in this Agreement and any special terms and conditions.
- 2.2. In the event of any conflict between any special terms and conditions and these terms and conditions the special terms and conditions shall prevail.
- 2.3. Any terms and conditions contained in the Supplier's acceptance shall not constitute a counter offer and in the event of any inconsistency with this Purchase Order this Purchase Order shall prevail.

3. CHARGES AND PAYMENT

- 3.1. The charges specified in the Purchase Order are the total maximum amount payable by the Purchaser to the Supplier for the supply and delivery of the Goods and/or Services. Charges include the cost, and unless where agreed, all applicable expenses.
- 3.2. Unless otherwise stated, the charges for the Goods include the following:
 - (a) costs of shipping, carriage and freight;
 - (b) insurance charges;
 - (c) customs duties and clearance charges; and
 - (d) other costs incurred by the Supplier in delivering the Goods to the Purchaser.
- 3.3. The Supplier shall supply and deliver to the Purchaser all Goods specified in this Purchase Order for the price stated and within the time set out on the first page of this Agreement unless such Good's price or time shall have been varied with the consent of the Purchaser in writing. Variation in time by extension by the Purchaser shall not form the basis for a claim for extra costs and has no other effect on this Purchase Order.
- 3.4. Payment shall be made in the manner set out on the first page of this Agreement.
- 3.5. Unless this Purchase Order expressly states to the contrary where any price is to be calculated at a rate such price shall be on a fixed price basis and shall not be varied due to rise or fall in the cost of labour and/or materials and/or any costs or expenses incurred or to be incurred by the Supplier.
- 3.6. The Purchaser may deduct from the charges stated in this Agreement:
 - (a) any monies owed by the Supplier to the Purchaser; and
 - (b) any amount reasonable representing the cost of remedying defects and omissions (if any).
- 3.7. Any reduction in the Supplier's costs from those in force at the date hereon is to be paid to or allowed to the Purchaser by the Supplier in reduction of the price stated in this Agreement.

4. PROPERTY OF SUPPLIER

- 4.1. The Supplier warrants that the Goods to be supplied in connection with this Purchase Order shall, upon delivery, be the sole and absolute property of the Purchaser and that none of the Goods shall be subject to any mortgage lien or encumbrance or security whatsoever where the Purchaser could or might be liable to be disposed of the same and that no patent trade mark or copyright has been infringed by the manufacture or supply of the Goods.
- 4.2. The Supplier is obligated to ensure that any warranty or maintenance obligation (including those from manufacturers) associated with Goods or Services the Supplier provides are passed on to the Customer.

5. INSPECTION

The Purchaser shall have the right to inspect the Goods and all materials and equipment used during the process of manufacture or installation of the Goods. Where such inspection is carried out the Supplier shall not be relieved of responsibility for any defects in the Goods nor released from any warranty. In addition to any inspection which may be carried out before the Goods are delivered all Goods the subject of this Purchase Order, whether paid for or not, may be inspected by the Purchaser after delivery. Where such Goods or any part of them do not conform with the provisions of the Purchase Order and/or where any implied condition or warranty as set out in applicable statutes is breached by the Supplier the Purchaser without prejudice to any or all of its rights or privileges under this agreement or under law may reject any such Goods or part thereof and the Supplier shall be liable for any loss or damage suffered or incurred by the Purchaser as a consequence of such rejection. The Purchaser may notify the Supplier of any such rejection and the Goods so rejected shall be collected by the Supplier at its own cost and until collection shall be the Supplier's risk. The provisions of this clause shall mutatis mutandis apply to Goods found defective at a time later than the time of inspection aforesaid where such defect is of a nature that it was not apparent upon reasonable examination after delivery.

6. DELIVERY AND INSTALLATION

- 6.1. All Goods shall be delivered F.I.S. to the Delivery Address set out on the front page in this Purchase Order or such other address as may be notified by the Purchaser to the Supplier and until the delivery, or where the Goods are to be installed by the Supplier, installation is acknowledged by the Purchaser all Goods shall be at the sole and absolute risk of the Supplier.
- 6.2. Without prejudice to the right of the Purchaser under any provision contained in this Agreement to cancel all or part of this Agreement, if delivery or, where any Goods are to be installed by the Supplier, installation is not made within the time or times stipulated in this Purchase Order, the Supplier shall pay to the Purchaser by way of liquidated and pre-ascertained damages and not as a penalty a sum that is proportionately equal to the genuine incurred loss of the Purchaser.
- 6.3. Time is of the essence in respect of deliveries and installation to be made under this Agreement and the Purchaser may at its option and without limitation of or prejudice to any of its rights cancel all or any part of this Agreement if deliveries or installation are not made within the time or times stipulated in this Agreement.
- 6.4. All Goods supplied must be accompanied by a delivery docket listing the Goods in sufficient detail to enable checking to take place at the time of delivery. No responsibility for payment will be accepted by the Purchaser unless a delivery docket has been signed by an accredited representative of the Purchaser or, where any Goods are to be installed by the Supplier, the Purchaser has acknowledged completion of installation. The signing of any delivery docket by or on behalf of the Purchaser or

such acknowledgment of installation shall not imply that the Purchaser has accepted the Goods as regards their quality or quantity. The quantity of merchandise delivered by the Supplier to the Purchaser shall not be greater than the amount specified in this Agreement unless an additional amount is first ordered by the Purchaser in writing. In the event that the Goods are delivered in excess of the amount specified in this Purchase Order they may be returned by the Purchaser at the Supplier's expense.

7. PACKAGING

The Goods shall be adequately packaged protected and labeled and shall bear the number on the face of this Purchase Order and shall be marked clearly "Freight Prepaid" for transportation to the address referred to in clause 6.1 in this Agreement. No charge will be accepted by the Purchaser for packing unless expressly agreed to by the Purchaser.

8. INSURANCE OF GOODS IN TRANSIT

Insurance of Goods in transit to the address referred to in clause 6.1 hereof shall be the responsibility of the Supplier unless otherwise stated in this Agreement.

9. PROVISION OF SERVICES

In respect of the provision of Services to the Purchaser the Supplier shall:

- (a) provide all resources required to carry out all work that the Supplier is engaged to carry out for the Purchaser to the highest possible standard within the cost and time frames agreed upon;
- (b) prior to starting work, submit and maintain a Health and Safety Management Plan specific to the work activities carried out. The Health and Safety Management Plan shall comply with all applicable Health and Safety legislation, regulations and codes of practice and guidelines;
- (c) prepare a suitable and adequate emergency plan relevant to the nature of the work being carried out, the nature of the hazards on the worksite, the size and location of the worksite and the number of workers and other persons present at the worksite. The Emergency Plan shall comply with all applicable Health and Safety legislation, regulations and codes of practice and guidelines and Principal requirements where applicable;
- (d) comply with the provisions of all statutes, ordinances, regulations, codes of practices, guidelines and resource consent conditions which are applicable to the work and Service being performed, or any plant or machinery that the Supplier is required to operate during the engagement with the Purchaser;
- (e) comply with the requirements of the Health and Safety at Work Act 2015, the Health and Safety at Work (General Risk and Workplace) Management Regulations 2015 and any subsequent amendments and maintain and update the Supplier's Health and Safety Management System;
- (f) comply with all applicable Purchaser and/or the Purchaser's client's standards, policies, procedures, design specifications and any reasonable directions of the Purchaser at all times and is deemed to have been extended the opportunity to gain full knowledge of these;
- (g) ensure that all personnel provided are appropriately trained, qualified and experienced or appropriately supervised by a person appropriately trained, qualified and experienced suitable and adequate to the nature of the work or Service being carried out;
- (h) provide at the Supplier's cost, all Personal Protective Equipment, safety and/or testing equipment ("PPE") which the Purchaser and/or the Purchaser's clients advise is required for the work activity being carried out. Require all personnel provided to wear the applicable PPE when required for the work activity; and ensure that the necessary PPE is maintained; and train all personnel provided on the PPE and cleaning of it;
- (i) ensure that no work shall commence if sufficient PPE is unavailable to carry out the required work;
- (j) ensure that all personnel provided who are engaged to carry out work for the Purchaser complete a Purchaser or Purchaser's client Site Induction prior to carrying out any work activity;
- (k) ensure that all personnel provided not working under direct supervision hold with them, at all times while working for the Purchaser, the applicable client identification card or green book;
- (l) ensure that all personnel provided stay current with any specialised or refresher training relevant to or required by trade, occupation or as requested by the Purchaser or the Purchaser's clients;
- (m) if requested, submit a monthly Health and Safety Report to the Purchaser on the first week of every month;
- (n) ensure that Health Monitoring is carried out when required under the Health and Safety at Work (General Risk and Workplace Management) Regulations 2015 and be liable for all costs in relation to health monitoring of the Supplier's personnel provided;
- (o) if required by the Purchaser's clients, submit a monthly Health Monitoring Report to the Purchaser on the first week of every month, including all costs expended in relation to health monitoring;
- (p) agree to have random worksite safety audits conducted by the Purchaser or the Purchaser's client's representatives;
- (q) agree to have a two or three yearly audit of the Supplier's Health and Safety Management System if inclusion in Purchaser's key subcontractor list is desired;
- (r) notify the Purchaser immediately in the event of any notifiable event and will provide a copy of all investigation reports for all medical treatment injuries, lost time injuries, notifiable events and significant property damage to the Purchaser;
- (s) before carrying out any work activity, carry out a systematic identification of all actual or potential hazards, risk assessment on all hazards and implement and monitor control measures to eliminate risks as far as reasonably practicable;
- (t) notify Work Safe NZ in accordance with the Health and Safety at Work Act 2015 of any notifiable event;
- (u) agree that:
 - (i) if the Supplier or any of the workers that the Supplier has employed or engaged, breach health and safety requirements or fail to meet any of the requirements of the Purchaser and/or the Purchaser's clients, that work may be suspended until the issues have been rectified; or
 - (ii) depending on the severity and/or frequency of the health and safety breach(es), work will discontinue and the Supplier will be removed from the Purchaser's key subcontractor list and be liable for all associated costs including costs associated with the timely completion of tasks previously assigned to the Supplier;
- (v) provide adequate first aid equipment for the worksite and ensure that all personnel provided have access to the equipment and ensure that there are an adequate number of personnel provided trained to administer first aid on-site at all times;
- (w) provide a system of work that includes effective communication with all personnel provided associated with remote or isolated work;
- (x) ensure that no persons under the age of 16 years shall work between the hours of 10 pm on any day and 6 am on the next day;
- (y) ensure that no persons under the age of 15 years shall work with or at machinery, drive or ride a vehicle or tractor or self-propelled mobile mechanical plant.

10. INVOICES

- 10.1. Invoices must be accompanied by signed documentary evidence of proof of delivery. Where Goods are purchased from overseas invoices shall be accompanied by bills of lading, insurance receipts, ocean freight account and receipted warranty where applicable.
- 10.2. Any invoice not received by the Purchaser by the 28th day of the month to which it pertains shall be

deemed to be dated the same day of the following month.

11. WARRANTIES

The following warranties are in addition to any warranty implied by law. The Supplier at all times warrants:

- (a) that the Goods supplied in connection with this Agreement are new (unless otherwise agreed) conform with the description and specifications in this Purchase Order, are of merchantable quality, are fit for the purpose for which they are acquired and free from defect in material and workmanship;
- (b) that the Services to be supplied in connection with this Agreement will be rendered with due care and skill;
- (c) at the Purchaser's option, and without in any way limiting the Purchaser's other rights, to repair and/or replace and/or modify without delay in a proper and skillful manner all parts of the Goods supplied including spare parts which shall become defective within twelve (12) months from the date of delivery of the Goods and shall be liable for all expenses incurred in relation to, and any damage to any equipment or associated works caused by any defect or by such repair, replacement, or modification at such place and as specified by the Purchaser for a period of twelve (12) months after any such repair and/or replacement and/or modification; and
- (d) that the Goods ordered by the Purchaser under this Purchase Order shall interpret date-based information correctly so that no error in its design, functionality or performance shall cause the Goods by themselves or in combination with other products or Services to provide abnormal results or cease to operate consistently for dates prior to, during or after the year 2000.

12. INDEMNITY AND INSURANCE

- 12.1. The Supplier shall be liable for and shall indemnify the Purchaser against any liability, loss, claim or proceedings in respect of injury, loss or damage whatsoever (whether by way of personal injury, or death, damage to any property real or personal) including financial and other consequential loss arising out of or concerning any Goods or Services supplied by the Supplier and/or any person it appoints, engages, employs or invites or any equipment provided by the Supplier used in connection with this Agreement and actual or alleged infringement of any registered design, trademark or copyright in any way connected with this Agreement.
- 12.2. If the Supplier either as principal or by any agent or employee enters upon any premises or property of or in the possession of the Purchaser, in order to perform any Services or any obligation in this Agreement the Supplier shall effect and maintain at the Supplier's expense all necessary insurances including, but not limited to, employer's liability insurance, public liability insurance and any other insurances required by law, or as are customary or which the Purchaser may require.

13. DEFAULT AND CANCELLATION

- 13.1. If the Supplier shall breach or be unable to comply with any condition of this Agreement the Purchaser may cancel this Agreement forthwith and recover from the Supplier any costs, losses or expenses incurred by the Purchaser as a consequence of the breach and cancellation.
- 13.2. In addition to the rights of the Purchaser referred to elsewhere in this Purchase Order the Purchaser shall have the right to cancel this Agreement at any time before actual production of the Goods hereby ordered has commenced and in the event of such cancellation the Purchaser's liability shall be limited to actual expenditure incurred by the Supplier on this Purchase Order or the price of the Goods, whichever is lower.
- 13.3. The Purchaser shall also have the right to cancel this Agreement if the Supplier's rights or obligations under this Agreement are assigned without the prior written consent of the Purchaser or in the event that the Supplier becomes insolvent, commits an act of bankruptcy or makes an assignment for the benefit of creditors or being a company is wound up or has a liquidator or provisional liquidator appointed or makes any arrangement or compromise with its credits generally or is placed under official management or has a receiver appointed to the whole or any part of its assets or property or ceases to carry on business or appears likely in the reasonable opinion of the Purchaser to carry on business.

14. OCCURRENCES BEYOND THE CONTROL OF THE PURCHASER

In addition to the rights referred to elsewhere in this Purchase Order in the event of any occurrence beyond the control of the Purchaser include, but not limited to acts of God, fire, war, government regulations, strikes, lockouts and labour trouble, which may prevent or delay use of any Goods the subject of this Agreement by the Purchaser, the Purchaser shall have the right to suspend delivery or installation of such Goods and the payment therefore until the circumstances preventing or hindering the use of such Goods by the Purchaser has ceased or if in the Purchaser's reasonable opinion it appears unlikely that such circumstances shall cease the Purchaser has the right to cancel this Agreement and shall incur no liability under this Agreement.

15. CONFIDENTIAL INFORMATION

- 15.1. The Supplier shall during the course of this Agreement and at all times thereafter, treat and shall require that its servants, agents, representatives, advisers, associates, contractors and sub-contractors shall treat all technical and other information provided to it by the Purchaser in connection with this Agreement as confidential and shall not disclose any such information other than that available publicly without the prior written consent of the Purchaser to any person except as is necessary for the performance of this Agreement and on the condition that such person shall be required to take appropriate measures to safeguard such information.
- 15.2. The Supplier shall not without first obtaining the written consent of the Purchaser in any manner advertise or publish the fact that the Supplier has furnished or contracted to furnish to the Purchaser the Goods or Services in this Agreement specified. The Supplier shall not disclose any of the details connected with this Agreement to any other party except as in this Agreement specified.
- 15.3. The Supplier shall not use such information except in the performance of this Agreement without the written consent of the Purchaser.

16. GOVERNMENT APPROVALS AND CHARGES

- 16.1. The Supplier shall be liable for the payment of any taxes, duties, charges and fees to any person or government body for or in connection with any matter or thing including without limitation any invention patent, registered design, trade mark or copyright used in or relating to the performance of this Agreement except Goods and Services Tax or any other similar tax which shall be paid by the Purchaser.
- 16.2. The Supplier shall not use such information except in the performance of this Agreement without the written consent of the Purchaser.

17. PURCHASER'S PROPERTY, DRAWINGS AND DEVIATION

- 17.1. All equipment supplied by the Purchaser shall remain the property of the Purchaser and shall not be used otherwise than for the manufacture or supply of Goods to the Purchaser and shall be returned to the Purchaser, unless otherwise agreed to in writing by the Purchaser, upon completion or termination of this Agreement.
- 17.2. The Supplier shall be liable for the loss of or damage to any equipment provided by the Purchaser in relation to this Agreement.
- 17.3. Notwithstanding clause 16.2 hereof, the Supplier shall notify the Purchaser in writing of any defect

or unsuitability of any equipment supplied by the Purchaser before any repair work of such equipment is undertaken by the Supplier.

- 17.4. The Supplier shall have no claim to or rights to any drawings, data, designs, specifications or ideas furnished by the Purchaser or supplied by the Purchaser to the Supplier without the Purchaser's written consent. If any drawings, designs, specifications or instructions do not cover fully any materials, manufacturing or installation process necessary to execute this Purchase Order the Supplier must obtain the Purchaser's written instructions in relation thereto.

18. WAIVER

- 18.1. Waiver by the Purchaser of any specified fault or defaults by the Supplier or failure of the Purchaser to cancel this Agreement or any part thereof when a right to do so arises shall not constitute a waiver by the Purchaser of any of the terms and conditions of this Agreement save and except in respect of the actual defaults in respect of which such waiver is given.
- 18.2. If a Party breaches this Contract, and the other Party does not immediately enforce its rights resulting from the breach that:
 - (a) does not mean that the Party in breach is released or excused from its obligation to perform the obligation at the time or in the future; and
 - (b) does not prevent the other Party from exercising its rights resulting from the breach at a later time.

19. DISPUTE RESOLUTION

- 19.1. Any dispute arising out of or in connection with these Terms and Conditions or the Purchase Order, or the subject matter of these Terms and Conditions or the Purchase Order, including any question regarding its existence, validity or termination, must first be referred to mediation. Any mediation between the Parties must be conducted in accordance with the Mediation Protocol of the Arbitrators' and Mediators' Institute of New Zealand Inc (AMINZ) in force at the time the dispute is referred to mediation.
- 19.2. Mediation may be initiated by either Party writing to the other Party and identifying the dispute which is to be suggested for mediation. The other Party will either agree to proceed with mediation or agree to attend a preliminary meeting with the mediator to discuss whether mediation would be helpful in the circumstances.
- 19.3. Upon a dispute being referred to mediation, the Parties will agree on a suitable independent mediator to facilitate the mediation. In the event the Parties fail to agree on the identity of the mediator within 10 Business Days of the dispute being referred to mediation, the mediator will be appointed by the President of AMINZ, upon the application of any Party.
- 19.4. The mediation shall be terminated by:
 - (a) the signing of a settlement agreement by the Parties; or
 - (b) notice to the Parties by the mediator, after consultation with the Parties, to the effect that further efforts at mediation are no longer justified; or
 - (c) notice by one or more of the Parties to the mediator to the effect that further efforts at mediation are no longer justified; or
 - (d) the expiry of 60 Business Days from the mediator's appointment, unless the Parties expressly consent to an extension of this period.
- 19.5. If no mediation is agreed to or if the mediation should be terminated as provided in (b), (c) or (d) above, any dispute or difference arising out of or in connection with these Terms and Conditions or the Purchase Order, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration. The arbitration will be conducted in accordance with the Arbitration Protocol of AMINZ in force at the time the dispute is referred to arbitration.
- 19.6. The arbitral tribunal will consist of one arbitrator to be agreed upon by the Parties. If the Parties fail to agree on the identity of the arbitrator within 10 Business Days from the date upon which the dispute is referred to arbitration, then the arbitrator will be appointed by the President of AMINZ, upon the application of any Party.
- 19.7. Each Party will pay its own costs of mediation or alternative dispute resolution under this clause 19.
- 19.8. If there is a dispute, each Party will continue to perform its obligations under these Terms and Conditions or the Purchase Order as far as practical given the nature of the dispute.
- 19.9. Except for urgent interlocutory relief, neither Party may commence court proceedings touching upon or in connection with any dispute in relation to these Terms and Conditions or the Purchase Order or their subject matter, unless and until such time as the dispute resolution process specified in this clause 19 has been followed.

20. HEAD CONTRACT

Where a head contract exists, the Subcontractor is deemed to have been extended the opportunity to gain full knowledge of all provisions and requirements in the Head Contract documents; and agrees to be bound by and comply with them insofar as they relate to the Subcontract Works. All powers of the Principal under the Head Contract shall extend to the Subcontract engagement and may be exercised by the Purchaser in addition to all the powers in this Agreement contained or implied.