

ONE NZ STANDARD PURCHASE TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these One NZ Standard Purchase Terms the following words have these meanings:

Acceptance in relation to any Deliverable means that One NZ has accepted that Deliverable by issuing a written confirmation of acceptance in accordance with clause 8(b) or has been deemed to have accepted that Deliverable in accordance with clause 8(a) (and **Accept** and **Accepted** has a corresponding meaning);

Agreement means each Purchase Order, each Statement of Work, the Specific Terms, the Category Terms, and these One NZ Standard Purchase Terms, as varied from time to time in accordance with this Agreement;

Applicable Law means any applicable (a) laws, statutes, regulations; (b) legally binding codes of practice, orders or directions issued by any judicial, governmental or other regulatory authority; and (c) any applicable industry codes, policies or standards that are legally binding;

Category Terms means the contract terms for any particular categories of Deliverables and/or Services set out in one or more Appendices to this Agreement;

Confidential Information means any information which the disclosing Party identifies as confidential or which ought reasonably be considered confidential because of its nature and the manner of its disclosure, including the existence and terms of this Agreement and, in the case of One NZ, the One NZ Data, and One NZ Information but excluding information:

- (a) that was lawfully known to the receiving Party prior to receipt from the other Party;
- (b) is, or becomes, public knowledge through no fault of the receiving Party;
- (c) is, or becomes available to the receiving Party from a source other than the disclosing Party free of any obligation of confidence; or
- (d) has been or is independently developed by the receiving party.

Contract Year means the first 12 month period commencing on the Effective Date and each successive 12 month period;

Control means the direct or indirect ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of a person;

Credit Note has the meaning given by the GST Act;

Custom Software means object code and source code versions of the software developed specifically by You for One NZ or a Customer or potential customer or to meet specific One NZ Requirements as set out in the relevant Statement of Work and as further detailed in the applicable One NZ Requirements and the Specification;

Customer means a third party customer of One NZ that has entered into an agreement with One NZ for the supply of Services or Deliverables, whether alone or in combination

with other services or products provided by or on behalf of One NZ;

Debit Note has the meaning given by the GST Act;

Defect means a material error, omission, failure, inefficiency or inconsistency in a Deliverable, including a failure of a Deliverable to comply with the relevant Specifications or Warranties (and **Defective** has a corresponding meaning);

Deliverables means any products, goods, Documentation, Software, and / or other deliverables to be provided by You to One NZ as specified in the Specific Terms, Purchase Orders and/or Statements of Work, as well as any and all products of the Services;

Delivery Date means the date and, if specified, the time for delivery of Deliverables as specified in the Specific Terms, Statement of Work or relevant Purchase Order or otherwise as notified by One NZ to You;

Delivery Address means the delivery address as specified in the Specific Terms, Statement of Work or relevant Purchase Order or otherwise as notified by One NZ to You;

Developed Intellectual Property has the meaning set out at clause 21.2;

Disabling Code means any virus, trojan horse or computer software or code, that could disrupt, disable, damage or otherwise adversely affect, shut down or deny access to any or all parts of the Software or the One NZ Environment or perform any similar action;

Documentation means any documentation required for the proper use of Deliverables and/or Services together with any other documentation specified in the Specific Terms, Purchase Order and/or Statement of Work;

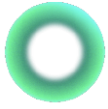
Effective Date means the date this Agreement is signed by both Parties;

Force Majeure Event means any cause (excluding lack of funds for any reason) preventing the affected Party from performing any or all of its obligations under this Agreement which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the affected Party, which was not reasonably foreseeable, could not have been avoided or mitigated through reasonable precautions and was not caused by the affected Party or its Personnel;

Government Agency means any government or any public, statutory, governmental (including a local authority), semi-governmental, local governmental or judicial body, entity, department or authority, any self-regulatory organisation established under statute, or any other body that has legal power to require another person to act or not act in a particular way or to authorise a particular act in any part of the world;

GST means goods and services tax payable on supplies in accordance with the GST Act;

GST Act means the Goods and Services Tax Act 1985;



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H&S Policies means One NZ's health and safety policies (as may be amended or updated by One NZ from time to time), including those available at www.one.nz/our-company/suppliers/;

Initial Term means the initial term specified in the Specific Terms (if any);

Insolvency Event means a Party ceases to carry on all or substantially all of its business, is unable to pay its debts when due, or is deemed unable to pay its debts under any law or becomes, or is deemed to be, insolvent or bankrupt;

IP Claim has the meaning set out in clause 18.2;

IPR means any patent, trademark, service mark, copyright, moral rights, right in a design, know-how, brand names, domain names, product names, logos and all or any other intellectual or industrial property rights whether or not registered or capable of registration and all renewals and extensions of such rights;

Key Milestone means a key milestone that must be completed by a specified date, in each case as specified in a Statement of Work or any plan agreed in writing between the Parties;

Loss means all actual loss, damage, cost, expenses (including legal expenses) and/or liability, however it arises;

New Version has the meaning set out in the Software Maintenance Category Terms;

One NZ means One New Zealand Group Limited and its Related Companies;

One NZ Brand means the trademarks, trade names, product or service names, logos or slogans used by One NZ from time to time;

One NZ Data has the meaning given to that term in the Privacy Schedule;

One NZ Dependency means those specific tasks and responsibilities relating to the Services which are assigned to One NZ and which are expressly stated to be One NZ Dependencies in the Specific Terms or the relevant Statement of Work;

One NZ Environment means the networks and IT infrastructure used and controlled by One NZ in the course of its operations, and includes networks, software, hardware, facilities, cables, material and devices which interface with Deliverables and/or Services;

One NZ Inputs means all material that may be supplied or otherwise made available by or on behalf of One NZ for use in connection with the Deliverables and/or Services;

One NZ Information has the meaning set out in the Minimum Cyber Security Requirements schedule;

One NZ Standard Purchase Terms means these One NZ purchase terms;

One NZ Policies means the latest versions of One NZ policies available at www.one.nz/our-company/suppliers/;

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and any other policies, procedures or standards from time to time added to such website, or as otherwise notified by One NZ to Supplier from time to time;

One NZ Requirements means the requirements set out in the Specific Terms and/or relevant Statement of Work (as applicable);

One NZ System Access Agreement means One NZ's Third Party Access to the One NZ System Conditions of Use Agreement, as may be appended to this Agreement or provided to You for signing in accordance with clause 12, as updated by One NZ from time to time;

Party means either One NZ or You (as appropriate) and **Parties** shall mean both of us;

Personal Information has the meaning given to that term in the Privacy Act 2020;

Personnel means in respect of a Party, its directors, officers, employees, contractors, agents and advisors and in Your case, Your sub-contractors and Your subcontractors' directors, officers, employees, contractors, agents and advisors;

PO or Purchase Order means a One NZ purchase order for Deliverables and/or Services, submitted by One NZ to You in writing and accepted by You or deemed to have been accepted by You in accordance with clause 4.2;

Price means the price for the Deliverables and/or Services as applicable and specified in the Specific Terms (including any Supplier Price Book expressly referenced in the Specific Terms) or the relevant Statement of Work or Purchase Order;

Privacy Schedule means One NZ's standard Privacy Schedule for Supplier Contracts, as updated by One NZ from time to time;

Proprietary Software means the object code versions of the proprietary software supplied by you under this Agreement as set out in the relevant Statement of Work and as further detailed in the Specification including:

- (a) all configurations of such software to activate or implement add-ons, features or functionality within the software; and
- (b) all Updates and New Versions supplied under this Agreement, but excludes any Custom Software except to the extent provided otherwise in the relevant Statement of Work;

Related Company has the same meaning as in section 2(3) of the Companies Act 1993;

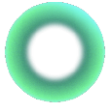
Relief Event means, in respect of Your failure or delay in performing Your obligations under this Agreement:

- (a) a failure or delay by One NZ to perform or comply with a One NZ Dependency; or
- (b) any wilful misconduct or negligent act or omission of One NZ.

Renewal Term has the meaning set out in clause 17.1(a)(i)

Required Insurance has the meaning set out in clause 20.1;

Services means the services to be provided by You to One NZ, as specified in the Specific Terms and/or Statement(s) of



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Work, and any other activities which are reasonably necessary for, or incidental to, the provision of such services;

Service Levels means the required performance standard for the Services, as set out in the Specific Terms or relevant Statement of Work;

Software means the Proprietary Software and the Custom Software;

Specifications means any description or specifications of the Deliverables and/or Services as set out in, attached to, or referenced in, the Specific Terms or relevant Statement of Work or Purchase Order or otherwise as notified by One NZ to You;

Specific Terms means the Specific Terms set out at, or expressly referenced in, the front of this Agreement;

Statement of Work means those statements of work detailing specific Services to be provided by You to One NZ as well as Price and other matters, signed by You and One NZ, substantially in the form set out in Part C of this Agreement;

Statement of Work Start Date means the start date for provision of Services under a Statement of Work, as specified in that Statement of Work;

Statement of Work Term means the period commencing on the Statement of Work Start Date and ending on the earlier of the expiry or termination of that Statement of Work;

Supplier Materials means all materials that are:

- (a) owned or licensed to You before the date of this Agreement; or
- (b) have been developed by or on behalf of You independently of this Agreement;

Tax includes:

- (a) all forms of taxation (whether direct or indirect), withholding, duties, charges, dues, imposts, levies, rates or other statutory or governmental impositions of whatever nature, imposed in New Zealand or elsewhere, including without limitation income tax, withholding tax, digital services tax (or similar), GST, VAT, customs or excise duties, regional or local taxes, municipal taxes and accident compensation levies; and
- (b) all interest, penalties or fines relating to, or arising in connection with, the imposition of, or the non, late or under-payment of, any such Tax;

Tax Invoice means an invoice that complies with section 24 of the GST Act;

Term has the meaning set out in clause 17.1(a);

Third Party IPR means any and all IPR owned by a third party that is incorporated into any Deliverable or otherwise used by You in the performance of Your obligations under this Agreement;

Update has the meaning set out in the Software Maintenance Category Terms;

Warranties means the warranties provided by You in relation to the Deliverables and Services under this Agreement as set out in clause 16 and any additional warranties set out in the

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Category Terms and relevant Statement of Work, and **Warranty** shall mean each of them;

Warranty Period commences on the date of Acceptance of the relevant Deliverable(s) and continues for the period set out in the Specific Terms and/or the relevant Statement of Work (as applicable) If no Warranty Period is set out in the Specific Terms or the relevant Statement of Work, then it shall commence on the date of Acceptance of the relevant Deliverable(s) and continue for 90 days;

Working Day means between the hours of 8.30am and 5.30pm on any day (other than a Saturday, Sunday or public holiday in Auckland, New Zealand); and

You means the supplier named in the Specific Terms (and **Your** has a corresponding meaning).

1.2 Interpretation

In this Agreement, unless the context indicates otherwise:

- (a) section, clause, paragraph and other headings are included for the purpose of ease of reference only and do not have any effect on construction and interpretation;
- (b) words importing the singular include the plural and vice versa;
- (c) a reference to a Party is to a Party to this Agreement and includes that Party's successors and permitted assigns and, where the context so permits, its Personnel;
- (d) whenever the words "include or "including" are used they are deemed to be followed by the words "without limitation";
- (e) a reference to a person includes a partnership and also a body of persons, whether corporate or unincorporated; and
- (f) a term of this Agreement must not be construed against a Party by reason of the fact that that term was first proposed or was drafted by that Party.

2. INCORPORATION OF TERMS AND ORDER OF PRECEDENCE

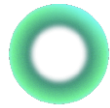
2.1 Entire Agreement

(a) This Agreement constitutes the entire agreement of the parties concerning the subject matter of the agreement. It supersedes and cancels any previous representations, agreements, understandings, negotiations or arrangements (whether written or oral) between the parties, and, to the extent permitted by law, overrides and replaces any rights that may otherwise exist (whether under statute, common law or equity), in each case, provided that, the parties agree for the purposes of section 5D of the Fair Trading Act 1986 (**FTA**) that they are not contracting out of the FTA in respect of the matters covered by this Agreement.

(b) All Deliverables and Services provided by You are provided on the terms of this Agreement only and any other terms, including any general or specific terms and conditions that may appear on Your invoices, estimates, quotations, shipping forms or other documentation, are expressly excluded.

2.2 Priority

(a) Subject to clause 2.2(b) below, if there is any inconsistency between any of the documents making up this Agreement then the document higher in the following list shall prevail to the extent of the inconsistency: (i) these One NZ Standard Purchase



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Terms; (ii) the Specific Terms; (iii) the Category Terms; (iv) the relevant Statement of Work; and then (v) the relevant Purchase Order.

(b) If the Parties agree specific amendments to clauses that form part of the One NZ Standard Purchase Terms in the relevant Statement of Work, then those specific amendments in the relevant Statement of Work shall prevail.

3. NO EXCLUSIVITY

One NZ has entered into this Agreement on a non-exclusive basis and nothing in this Agreement restricts One NZ from procuring items and/or services that are the same as or similar to the Deliverables and/or Services from any other party or supplier. One NZ does not guarantee that it will purchase any particular amount of Deliverables and/or Services from You.

4. STATEMENTS OF WORK, ORDER PROCESS AND RESALE TO CUSTOMERS

4.1 Statements of Work

Where You make available certain Deliverables and/or Services (including project services such as consultancy and installation services ongoing services such as technical support), and One NZ wants to obtain those Deliverables and/or Services from You then (to the extent such Deliverables and/or Services are not already detailed in the Specific Terms) the parties will enter into a statement of work substantially in the form set out in Part C to this Agreement. Once signed by You and One NZ, each such Statement of Work then becomes part of, and will be governed by the terms of, this Agreement.

4.2 Purchase Orders

One NZ may place orders for Deliverables and/or Services from time to time by submitting a Purchase Order to You (referencing the relevant Statement of Work, where applicable). Unless You notify One NZ in writing within two Working Days of receipt of the Purchase Order that You cannot supply the Deliverables and/or Services specified in the Purchase Order, You will be deemed to have accepted the Purchase Order. For avoidance of doubt, One NZ is under no legal obligation to purchase the Deliverables and/or Services specified in Statement of Work until there is both a signed Statement of Work and a Purchase Order.

4.3 Purchase Order number

Each Purchase Order issued by One NZ must have a unique Purchase Order number, and all correspondence from You in relation to a Purchase Order must refer to the relevant Purchase Order number.

4.4 Resale to Customers

The relevant Statement of Work will specify whether the Services and/or Deliverables will be provided to One NZ for re-sale / sub-licensing to Customers. If they will be provided to a Customer, the "Resale to One NZ Customers" Category Terms will apply.

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5. PRICE AND PAYMENT TERMS

5.1 Payment of Price

(a) One NZ will pay the Price for the Deliverables and/or Services supplied to One NZ pursuant to a Purchase Order subject to, and in accordance with, this Agreement.

(b) Unless otherwise agreed in writing in the Specific Terms, the relevant Statement of Work or Purchase Order, the Price is inclusive of Your expenses incurred in connection with the supply of the Deliverables and/or Services and You are not entitled to any other payments or reimbursements in respect of the Deliverables and/or Services. Where the Specific Terms, the relevant Statement of Work or Purchase Order (as applicable) expressly states that the Price is exclusive of such expenses then One NZ will only be required to reimburse You for such expenses if they are specifically approved by One NZ before they are incurred.

5.2 Basis of Price

(a) The Price is fixed for the Term.

(b) All Prices are exclusive of GST (if any) but otherwise include all other Taxes, duties and levies imposed on or in relation to the Deliverables and/or the Services and include:

(i) in the case of Deliverables, the cost of delivery to the Delivery Address DDP (per Incoterms 2020) and, where the Specific Terms or relevant Statement of Work provide that you are required to install the Deliverables at the Delivery Address, installation; and

(ii) all royalties, licence fees or other expenses in relation to One NZ's use of any Supplier Materials.

(c) Where One NZ is required to reimburse You for any expense, that expense will be calculated by reference to the cost of that expense less any GST component for which You can claim an input tax credit or deduction from output tax.

(d) Despite clause 5.2(b), no amount shall be paid by One NZ to You on account of GST unless You have provided a valid Tax Invoice

(e) for the relevant payment.

(f) If the GST amount shown on a Tax Invoice issued by You differs from the actual GST chargeable then You will issue a valid Debit Note or Credit Note and any payments necessary to reflect that adjustment shall be paid within 30 days. One NZ shall not be liable for any penalties, interest or other charges imposed as a result of such adjustment, and You shall indemnify One NZ on demand for any similar charges imposed on One NZ as a consequence of an adjustment.

5.3 Invoicing schedule

You will submit valid tax invoices to One NZ electronically via One NZ's e-invoicing solution in accordance with the payment schedule set out in the relevant Statement of Work or, if there is no agreed payment schedule:

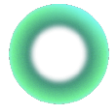
(a) for Deliverables; following Acceptance; and

(b) for Services, on completion of the relevant Services.

5.4 Pre-conditions to payment

One NZ's payment obligation is subject to:

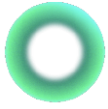
(a) You submitting invoices in a format and with such supporting information as One NZ reasonably requires from time to time (which includes, at a minimum, specifying the relevant Purchase Order number, Statement of Work (if relevant), quantities supplied, Your Key Contact's contact details);



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- (b) all Deliverables and Services set out in the invoice having been ordered pursuant to a Purchase Order; and:
- (i) in the case of Deliverables, having been Accepted by One NZ; and
 - (ii) in the case of Services, having been provided to One NZ in accordance with the terms and conditions of this Agreement; and
- (c) receipt of the relevant invoice by One NZ within 180 days of delivery of the Deliverables and/or completion of performance of the Services to which such invoice relates (after which time One NZ will have no liability to pay You).
- 5.5 Payment**
Subject to clause 5.2(c) and clause 5.4, and in the absence of a genuine dispute, One NZ will pay invoices no later than 60 days following the date that One NZ receives the invoice.
- 5.6 Disputed invoices**
If One NZ reasonably disputes an invoice, then One NZ may withhold any reasonably disputed sum until the dispute is resolved (in accordance with clause 25) and shall pay the undisputed portion in accordance with this clause 4.4.
- 5.7 Withholdings**
(a) If One NZ is required by any Applicable Law or authority to make a deduction or withholding for or on account of Tax in relation to its payment of the Price for any Deliverable or Service or any other payment under this Agreement, One NZ will be entitled to deduct such sums from the Price or other payment and pay You the reduced balance only, without being required to pay the full amount originally agreed. One NZ will produce evidence of any such tax payments required on request by You.
(b) You will indemnify One NZ on demand for any Tax imposed on One NZ in connection with its payment of the Price to You under this Agreement (other than a Tax imposed on One NZ's net income).
- 5.8 R&D Tax Credits**
(a) You agree that, to the extent that the Price is "eligible research and development expenditure" (as that phrase is defined in s LY 5 of the Income Tax Act 2007, or as that phrase may be amended or replaced in any successor provision) then such amount shall, to the extent permissible by law, be treated as One NZ's expenditure for the purposes of claiming any tax credit under subpart LY of the Income Tax Act 2007.
(b) You shall not claim a tax credit under subpart LY of the Income Tax Act 2007 in relation to the expenditure referred to in clause 5.8(a) of this Agreement.
(c) The results of any research and development activities under this Agreement to which the expenditure referred to in clause 5.8(a) of this Agreement relates will be:
 - (i) owned by One NZ; and/or
 - (ii) available for use by One NZ for no consideration.
(d) If any approval is required from the Commissioner of Inland Revenue in relation to the availability of a tax credit referred to in clause 5.8(a) of this Agreement, One NZ will make such application for approval. You will provide such assistance as is reasonably required by One NZ in making any such application.
- 5.9 Lowest price clause**
(a) For the purposes of the financial arrangements rules in the Income Tax Act 2007, the Parties agree that:
 - (i) the Price (as adjusted) is the lowest price the parties would have agreed for the Deliverables and/or Services, on the date the relevant Agreement was entered into, if payment had been required in full at the time the first right in the Deliverables was transferred or the Services performed; and
 - (ii) they will compute their taxable income for the relevant periods on the basis that the Price includes no capitalised interest and they will file their Tax returns accordingly.
- 6. DELIVERY AND PERFORMANCE**
- (a) You must deliver the Deliverables DDP (in accordance with Incoterms 2020) to the Delivery Address by the Delivery Date together with any required Documentation relating to the Deliverables. Deliverables are not taken to be delivered unless delivery is acknowledged by the signing of the delivery receipt.
- (b) You must perform the Services:
 - (i) expeditiously and within the timeframes set out in this Agreement (including, where relevant, completing any Key Milestone by the associated Key Milestone date) or, to the extent no timeframes are specified, within a reasonable time; and
 - (ii) in accordance with the Service Levels and Specifications and any other requirements specified in the Specific Terms or relevant Statement of Work.
- (c) One NZ may alter the Delivery Date or Delivery Address (for Deliverables) or performance timeframe (for Services) or any other terms of the relevant Purchase Order upon written notice to You at any time prior to delivery or performance, following which:
 - (i) You will use your reasonable endeavours to meet the altered Delivery Date or performance timeframe; and
 - (ii) One NZ will reimburse You for any additional costs reasonably and actually incurred by You in order to comply with the altered Delivery Date, performance timeframe, Delivery Address and/or other term (as applicable), provided that such additional costs have been approved in advance in writing by One NZ (acting reasonably).
- (d) For the avoidance of doubt, a Statement of Work may only be amended in accordance with clause 32.
- (e) One NZ must:
 - (i) provide information and access to One NZ Personnel to Supplier as reasonably requested by the Supplier in connection with the provision of the Deliverables and Services; and
 - (ii) comply with and perform the One NZ Dependencies (if any) specified in the Specific Terms or relevant Statement of Work.
- (f) You will ensure that all applicable One NZ Dependencies are identified in the Specific Terms or relevant Statement of Work.



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7. DELAY

(a) You must promptly notify One NZ in writing if You become aware of any actual or likely delay in delivery and/or performance (as applicable), stating the reasons for, and consequences of, the delay, in addition to measures You have taken and/or will take to mitigate the effect of the delay and prevent any further delays in the future.

(b) To the extent that the delay is caused by a Relief Event then, provided You immediately notify One NZ in writing as soon as it becomes reasonably apparent that the occurrence of the Relief Event will impact Your ability to meet the Delivery Date or the performance timeframe (including where relevant, any Key Milestone date) (as applicable) then You will be entitled to a fair and reasonable extension of the Delivery Date or performance timeframe.

(c) Subject to clause 7(b), if You fail to:

- (i) deliver Deliverables on or before the Delivery Date then One NZ will have those rights set out at clause 9.1; or
- (ii) complete any Key Milestone by the associated Key Milestone date then such failure will be deemed to be a material breach for the purpose of clause 17.3(a).

8. ACCEPTANCE OF DELIVERABLES

(a) Subject to clause 8(b), One NZ will be deemed to have Accepted the Deliverables unless One NZ notifies You in writing of any Defect or other problem with the Deliverables within 10 Working Days of the date that delivery is acknowledged (by the signing of a delivery slip).

(b) Where the Specific Terms or relevant Statement of Work or Purchase Order provide that:

- (i) You are required to install the Deliverables at the Delivery Address; or
- (ii) Deliverables are subject to acceptance testing,

then Acceptance will only occur once One NZ issues You with a written confirmation of Acceptance, confirming that installation services have been completed to One NZ's reasonable satisfaction or that the Deliverables comply with the Specification and are free of Defects (as applicable) provided that if One NZ fails to provide You with confirmation of Acceptance or, alternatively, notify You in writing of any Defect or other problem with the Deliverables, within 30 Working Days of completion of installation or acceptance testing (as applicable), then One NZ will be deemed to have Accepted the Deliverables.

9. CONSEQUENCES OF DEFECTIVE DELIVERABLES AND/OR SERVICES

9.1 Repair or replacement of Deliverables

- (a) If:
- (i) One NZ notifies You of a Defect or other problem with any of the Deliverables;
 - (ii) You deliver the incorrect quantity of Deliverables; or
 - (iii) You fail to deliver the Deliverables on or before the Delivery Date,

One NZ may, on notice to You, reject all or part of the affected Deliverables and require You to repair the Deliverables as necessary to make them comply with the terms of this Agreement or deliver replacement Deliverables to the Delivery Address.

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(b) If any Deliverables are rejected by One NZ in accordance with clause 9.1(a), such Deliverables will be made available to You for collection provided that You, at One NZ's option, promptly either refund the Price paid for the Deliverable(s), issue a credit note for the Price paid for the rejected Deliverable(s) or repair or replace the Deliverable(s). You will assume all costs of storage, transportation, handling and disposal of rejected Deliverable(s).

(c) The Warranties set out at clause 16.2 will apply equally to any Deliverables repaired or replaced by You pursuant to this clause 9.1, in which case the Warranty Period will be the longer of the remainder of the original Warranty Period or 6 months from the date of receipt by One NZ of the repaired or replaced Deliverables.

9.2 Re-performance of Services

If all or part of the Services do not comply with the Specifications (or any other requirements under this Agreement) or the Services otherwise fail to comply with the Warranties at clause 16 then, subject to clause 19.4:

(a) One NZ may require You to (at Your cost) re-perform the affected Services or to provide such additional Services as are necessary to remedy the breach of the Warranties; and

(b) in the case of a failure of the Services to meet or exceed any applicable Service Levels, You will pay the Service Level Credits where specified in the Specific Terms or relevant Statement of Work.

9.3 Failure to repair, correct, replace or re-perform

If You fail to:

(a) repair, correct or replace the affected Deliverables where required by One NZ pursuant to clause 9.1(a); or

(b) re-perform the affected Services or remedy the breach of the Warranties in accordance with clause 9.2,

(as applicable) within a reasonable time (as determined by One NZ) then One NZ may either itself or through a third Party, repair or replace the affected Deliverables or re-perform the Services (as applicable) and, subject to clause 19.4, set-off the cost of doing so against any sum One NZ owes You and recover any further amount outstanding from You as a debt.

9.4 Remedies non-exclusive

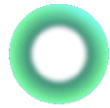
One NZ's rights and remedies in this clause 9 are in addition and without prejudice to its other rights and remedies under this Agreement or at law.

9.5 No waiver

Acceptance of a Deliverable or payment of invoices will not limit One NZ's rights under clause 16 (Warranties) or otherwise comprise a waiver of any claim by One NZ.

10. TITLE AND RISK

(a) Legal and beneficial ownership of Deliverables will pass to One NZ upon delivery to One NZ except where payment is made prior to delivery, in which case ownership in the Deliverables will pass to One NZ as soon as payment is made. Any retention of ownership or security interest for the purposes of the Personal Property Securities Act 1999 shall be without effect, and You warrant that clear title shall pass at the time required in accordance with this clause 10(a).



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(b) Risk in Deliverables will pass to One NZ upon Acceptance.

11. COMPLIANCE

11.1 Applicable law

Compliance with Applicable Law, including in relation to bribery and corruption, is a matter of fundamental importance for One NZ. Each Party must:

- (a) in performing its obligations under this Agreement comply with, and ensure that its Personnel comply with, all Applicable Law that imposes obligations on that Party, including in relation to bribery and corruption; and
- (b) not do or omit to do anything likely to cause the other Party to be in breach of any such Applicable Law.

11.2 One NZ Policies and Health and Safety

In performing Your obligations under this Agreement You must comply at all times with:

- (a) One NZ Policies and with any other policies or guidelines which One NZ reasonably requires You to comply with from time to time;
- (b) the Health and Safety at Work Act 2015 (and all regulations and approved codes of practice under the Health and Safety at Work Act); and
- (c) H&S Policies.

11.3 Mutual obligation

Each Party will consult, cooperate and coordinate activities with the other Party relating to any health and safety matters arising in relation to this Agreement.

11.4 Visiting One NZ Premises

You must exercise all reasonable care when accessing any One NZ premises and comply with all procedures and instructions in relation to such access notified to You by One NZ and, where necessary or as required by One NZ, You will also comply with the accreditation and other requirements that are specified by One NZ's health and safety accreditation tool (as amended from time to time).

11.5 Provision of policies

On request, You must provide One NZ with Your health and safety policies, procedures and management plans or any other health and safety related information or document.

11.6 Obligation to notify

If You become aware that You are or may be in breach, or are likely to be in breach, of this clause 11 then You must:

- (a) immediately notify One NZ of such breach or anticipated breach; and
- (b) follow the directions, if any, of One NZ to avoid, remedy or mitigate such breach or anticipated breach.

11.7 Suspension or cessation of performance

One NZ may require You to suspend or cease to provide the Deliverables and/or Services in the event of a notifiable event (as defined by Health and Safety Law) or any breach of this clause 11, in which case You shall not recommence work until You are advised by One NZ. In such circumstances You shall not be entitled to any compensation or any right to delay performance, increase the prices payable or any other form of contractual waiver, forbearance or relaxation.

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12. ACCESS TO ONE NZ SYSTEMS

If, in order to perform Your obligations under this Agreement, You require access (whether remotely or on-site at the relevant One NZ premises) to any data or component of the One NZ Environment that is controlled by One NZ, You must sign a One NZ System Access Agreement prior to obtaining such access.

13. USE OF ONE NZ PROPERTY

Where You are in possession of One NZ's property for the purposes of performing Your obligations under this Agreement, You must:

- (a) only use such property for the purposes of performing those obligations;
- (b) take all reasonable care not to damage such property;
- (c) not do anything which might reasonably be expected to cause any breach of the terms of any insurance policies One NZ has in place; and
- (d) at Your expense repair or replace (at the option of One NZ) any such property that is lost or damaged while in Your possession to the reasonable satisfaction of One NZ.

14. USE OF AI

- (a) You must not use any artificial intelligence technology to provide the Services or the Deliverables.
- (b) You must not use, and must not permit any third party to use, Personal Information or One NZ Confidential Information with any artificial intelligence technology.

15. PRIVACY AND DATA PROTECTION

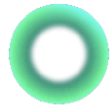
- (a) You must not do, cause or permit anything which may result in a breach by One NZ of Applicable Law in connection with Your Use (as that term is defined in the Privacy Schedule) of Personal Information (including the Privacy Act 2020); and
- (b) If you will be Using any Personal Information in the course of performing Your obligations under this Agreement, to the One NZ Privacy Schedule and associated Data Processing Appendix will be incorporated into this Agreement and You must Use Personal Information solely in accordance with the terms of the Privacy Schedule.
- (c) If You will be Using any One NZ Information in the course of performing Your obligations under this Agreement, the Minimum Cyber Security Requirements schedule will be incorporated into this Agreement and You must Use One NZ Information solely in accordance with the terms of the Minimum Cyber Security Requirements schedule.
- (d)

16. WARRANTIES

16.1 General warranties

You represent and warrant, on a continuous basis during the Term, that:

- (a) You have full power, capacity and authority to execute and perform Your obligations under this Agreement;



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One NZ Standard Purchase Terms

- (b) You hold all consents, approvals, permits, licences and accreditations necessary to perform Your obligations under this Agreement; and
- (c) the Supply by You, and receipt, possession and/or use by One NZ in accordance with this Agreement, of the Deliverables and Services will not infringe the intellectual property rights of any person;
- (d) You and Your Personnel have the competence, experience, skills, expertise and resources to perform Your obligations under this Agreement; and
- (e) all information and representations, whether oral or in writing, that You have provided or made to One NZ, as to Your and/or Your Personnel's qualifications, experience and capacity to provide the Deliverables and/or Services, are true, complete and not misleading.
- 16.2 Deliverables**
You represent and warrant that the Deliverables:
- (a) are new and unused;
- (b) where the Specific Terms provide that you are required to install the Deliverables, the Deliverables will be properly installed at the relevant One NZ premises;
- (c) during the Warranty Period:
- (i) conform in all respects to their description, with any sample provided by You to One NZ and with the relevant One NZ Requirements and/or Specification;
- (ii) be fit for any purpose expressly identified in this Agreement or otherwise agreed in writing;
- (iii) be free from Defects, whether actual or latent and whether in design, material or workmanship; and
- (iv) comply in all material respects with all relevant legislative requirements and standards issued from time to time by the International Organisation for Standards (ISO), ITU-T and any other applicable organisation or recognised standards body,
- (d) the Documentation and information provided by You will be of such a standard as to enable suitably experienced One NZ Personnel to understand, install, operate and maintain the Deliverables to a level of competence sufficient for One NZ's business purposes.
- 16.3 Services**
You represent and warrant to One NZ that:
- (a) Your Personnel will use the skill, care and diligence as would be expected from a skilled and experienced supplier engaged in the same type of business as You and will be performed by Personnel possessing the appropriate accreditations, skills and experience for all tasks assigned to them;
- (b) Your Personnel will carry out the Services in such a way as:
- (i) not to cause any damage to any One NZ property or the Deliverables;
- (ii) not to cause any material interruption to One NZ's business (other than any agreed downtime and unavoidable interruption which is required in order to perform the Services in a proper and efficient manner);
- (iii) to work in a co-operative manner with One NZ and One NZ's suppliers (where the provision of the Services requires interaction with services of such other suppliers);
- (c) the Services will meet or exceed any applicable Service Levels and conform in all material respects to the relevant One NZ Requirements and/or Specifications;
- (d) when providing the Services You will not knowingly or negligently introduce any Disabling Code to One NZ's Environment; and
- (e) the Services will comply with all Applicable Law as well as standards issued from time to time by any applicable organisation or recognised standards body and expressly referenced in the Specification or relevant Statement of Work.
- 16.4 Manufacturer's warranties**
You undertake that You will obtain all usual and customary trade warranties from manufacturers and suppliers of Deliverables (if applicable, including any raw materials used in the manufacture of the Deliverables) and ensure that One NZ will have the benefit of those warranties.
- 16.5 Non-exclusive**
Deliverables and Services will comply with all other implied conditions, warranties and statutory guarantees, including those contained in the Fair Trading Act 1986, the Contract and Commercial Law Act 2017 and the Consumer Guarantees Act 1993.
- 17. TERM AND TERMINATION**
- 17.1 Term**
(a) This Agreement will commence on the Effective Date and remain in full force and effect:
- (i) where an Initial Term is specified in the Specific Terms, for the Initial Term, provided that One NZ may renew this Agreement for successive periods of 12 months (each a Renewal Term) by giving notice in writing to You at least 20 Working Days prior to the expiry of the Initial Term or the then-current Renewal Term, as the case may be; or
- (ii) where no Initial Term is specified in the Specific Terms, indefinitely,
- unless or until (as applicable) it is terminated by either Party in accordance with the terms of this Agreement, **(Term)**.
- (b) Each Statement of Work will commence on its Statement of Work Start Date and will expire on the end date of the Statement of Work Term, unless terminated earlier in accordance with the terms of this Agreement.
- (c) If One NZ terminates this entire Agreement pursuant to this clause 17, all Statements of Work and Purchase Orders will automatically terminate at the same time unless One NZ specifies in the termination notice that one or more Statements of Work and/or Purchase Order/s are to continue, and in such case the Agreement will survive to the extent relevant to such Statement/s of Work and/or Purchase Order/s.
- (d) If a Statement of Work is terminated or is cancelled by One NZ pursuant to this clause 17, all Purchase Orders relating to that Statement of Work will automatically terminate at the same time as the Statement of Work.
- (e) If this entire Agreement is terminated by You pursuant to this clause 17 or expires, this Agreement will survive, at One NZ's election, to the extent relevant to any:
- (i) Statement of Work that has not been terminated or expired; and/or
- (ii) Purchase Order that has not been terminated and been fulfilled,
- as at the date of expiry.



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17.2 Without cause termination

- (a) One NZ may terminate this Agreement by giving You not less than 20 Working Days' written notice at any time.
- (b) You may terminate this Agreement (but excluding any Statement of Work or Purchase Order) by giving One NZ not less than 20 Working Days' written notice at any time, provided that You may not terminate this Agreement during the Initial Term (where applicable).

17.3 Termination for cause

Either Party may terminate this Agreement or one or more Statements of Work immediately by written notice to the other Party (defaulting Party) if the defaulting Party:

- (a) breaches any Warranty or material obligation under this Agreement, or repeatedly or persistently breaches any obligation under this Agreement or causes the terminating Party to breach any Applicable Law, and the breach is not capable of being remedied, or is capable of being remedied and the defaulting Party fails to remedy the breach to the non-defaulting Party's reasonable satisfaction within 14 days following receipt of notice in writing requiring such breach to be remedied; or
- (b) suffers an Insolvency Event.

You making any statement or committing any act or omission indicating that You do not intend to (or cannot) perform Your obligations under this Agreement or one or more Statements of Work will be deemed to be an irremediable material breach for the purposes of clause 17.3(a).

17.4 Cancellation of Purchase Orders

Subject to clause 17.5, One NZ may cancel or postpone any Statement of Work and/or any Purchase Order, in whole or in part, at any time, by notifying You in writing at any time.

17.5 Consequences of early termination

(a) If One NZ terminates a Statement of Work in accordance with clause 17.4 during the relevant Statement of Work Term or You terminate a Statement of Work in accordance with clause 17.3, then One NZ will reimburse You for such amount as is specified in the relevant Statement of Work or, if no amount is specified, then:

- (i) if You hold materials that have been sourced or produced solely for the purposes of the Statement of Work, One NZ shall reimburse You for any committed and substantiated costs reasonably incurred by You in relation to such materials prior to termination upon delivery by You of the relevant materials to One NZ, provided that You used your reasonable endeavours to re-purpose or use those materials for other customers; and/or
- (ii) if You have incurred costs in direct anticipation of performing the Services pursuant to the Statement of Work, One NZ shall reimburse You for any substantiated costs reasonably incurred by You prior to termination, provided that You used your reasonable endeavours to mitigate such costs.

(b) If One NZ cancels a Purchase Order in accordance with clause 17.4 on less than 20 Working Days' notice and You have accepted the relevant Purchase Order, then:

- (i) if You hold materials that have been sourced or produced solely for the purposes of the Purchase Order, One NZ shall reimburse You for any committed and

substantiated costs reasonably incurred by You in relation to such materials prior to termination upon delivery by You of the relevant materials to One NZ, provided that You used your reasonable endeavours to re-purpose or use those materials for other customers; and/or

(ii) if You have incurred costs in direct anticipation of performing the Services pursuant to the Purchase Order, One NZ shall reimburse You for any substantiated costs reasonably incurred by You prior to termination, provided that You used your reasonable endeavours to mitigate such costs.

17.6 Consequences of termination and expiry

Upon the termination or expiry of this Agreement or a Statement of Work:

(a) You will cease to be entitled to any further amounts and promptly refund any portion of the Price paid by One NZ that relates to the period after expiry or termination (if any);

(b) each Party will:

(i) cease use of the other Party's Confidential Information and tangible property that has been made available by the other Party in relation to the terminated or expired Statement of Work or this Agreement (as applicable);

(ii) return or destroy (at the other Party's option) all such Confidential Information and tangible property in its possession or control as soon as reasonably practicable; and

(iii) where requested by the other Party, provide written confirmation of compliance with this clause 17.6;

(c) in the case of Services, You will provide reasonable assistance, information and cooperation to One NZ in order to support the seamless transition of the Services from You to One NZ and/or a successor service provider and to minimise any negative impact on One NZ Customers.

17.7 Survival

Expiry or termination of this Agreement or a Statement of Work will not affect:

(a) any rights, remedies, obligations or liabilities of either Party that have accrued prior to expiry or termination; or

(b) any provisions of this Agreement that are expressed to, or by implication are intended to, survive expiry or termination, including clauses 10, 15, 18, 19, 20, 21, 22, 22, 24, 25 and 25.

18. INDEMNITY

18.1 General indemnity

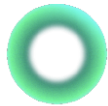
You will indemnify One NZ (and its Personnel) on demand against any Loss (including as a result of a third party claim) suffered or incurred by One NZ (and its Personnel) to the extent caused by any:

(a) loss of or damage to tangible property caused by You or Your Personnel;

(b) breach by You of Applicable Law;

(c) breach by You of Your obligations under the Privacy Schedule (if applicable); or

(d) use by You of One NZ's Confidential Information or the One NZ Inputs or the One NZ Brand other than in compliance with this Agreement;



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except to the extent that such Loss is directly attributable to a Relief Event.

18.2 IPR indemnity

You will indemnify One NZ (and its Personnel) on demand against any Loss suffered or incurred by One NZ (and its Personnel) to the extent caused by any claim that the possession and/or use of the Deliverables or receipt of the Services by One NZ infringes the intellectual property rights of a third party (each an **IP Claim**).

18.3 Responding to IP Claims

If an IP Claim is made:

- (a) One NZ shall:
 - (i) inform You of it;
 - (ii) provide You (at Your expense) with such assistance as You may reasonably require in connection with defending the same; and
 - (iii) make no admission of liability without Your prior written consent (such consent not to be unreasonably withheld); and
- (b) You shall:
 - (i) replace the infringing material with non-infringing material that functions and performs at least as well as the infringing material and complies with any relevant Specifications or other requirements of this Agreement; or
 - (ii) obtain the right for One NZ lawfully to possess and use in accordance with the provisions of these One NZ Standard Purchase Terms all the relevant Deliverables and to exercise the rights granted under this Agreement.
- (c) In the event that You are unable to provide either of the remedies set out in clause 18.3(b) to One NZ's reasonable satisfaction, then One NZ may terminate this Agreement or affected Statement of Work and You shall promptly refund to One NZ a fair and reasonable proportion of any amounts paid for the affected Deliverables(s) to take account of benefits not received under this Agreement.

18.4 Excluded events

You will not be liable for any IP Claim that arises solely and directly from:

- (a) Your use of Confidential Information disclosed by One NZ or the One NZ Inputs; or
- (b) modification of the Deliverables by One NZ where such modification is not authorised by You or otherwise contemplated by this Agreement.

19. LIABILITY

19.1 Categories of unlimited liability

Nothing in this Agreement shall exclude or limit the liability of:

- (a) either Party for:
 - (i) death or personal injury caused by its negligence;
 - (ii) wilful misconduct;
 - (iii) breach of clause 23 (Confidentiality);
 - (iv) breach of Applicable Law; or
 - (v) fraud or any other liability that may not be excluded or limited by Applicable Law;
- (b) Your liability under clause 18.1 or 18.2; or
- (c) One NZ's obligation to pay the Price when due.

19.2 Excluded categories of liability

Subject to clause 19.1, and other than to the extent provided for in the Specific Terms or a Statement of

One NZ Standard Purchase Terms

Work, neither Party shall be liable to the other for any indirect or consequential loss, irrespective of whether such loss was foreseeable or whether the Party has been advised of the possibility that such loss may be incurred.

19.3 Limitation of Your liability

Subject to clause 19.1 and clause 19.2, the aggregate liability of either Party to the other under this Agreement for all Loss in each Contract Year shall be limited to the greater of:

- (a) \$1,000,000 (or such other number as may be specified in the Specific Terms); or
- (b) 125% of the aggregate Price paid or payable by One NZ under this Agreement in the relevant Contract Year (or if the liability arises in the first Contract Year, the average monthly amount paid or payable multiplied by 12).

19.4 Relief Events

Your liability for any failure or delay to perform Your obligations under this Agreement (including under any indemnity and including in respect of any failure to meet relevant Service Levels) will reduce proportionately to the extent that such failure has been directly caused by a Relief Event, provided that You must use reasonable endeavours to:

- (a) promptly (and in any event within 15 Business Days of becoming aware of the Relief Event) provide One NZ in writing with full details of the Relief Event and its impact on Your obligations; and
- (b) eliminate or avoid the Relief Event and, in all cases, mitigate its effect.

19.5 Basis of liability

The limitations and exclusions of liability in this clause 19 will apply irrespective of how liability arises, whether in contract, equity, tort (including negligence), breach of statutory duty or otherwise.

20. INSURANCE

20.1 Maintenance of cover

You will (and will ensure that any permitted subcontractor will) maintain in force during the Term and for at least 2 years following termination or expiry of this Agreement, with a reputable insurer, all insurances (and with a minimum insured amount), which a commercially prudent business would obtain to cover the liabilities that may arise in connection with this Agreement. Such insurance will include cover for:

- (a) the matters, and at least the minimum insured amounts, specified in the Specific Terms; and
- (b) except to the extent lower amounts are provided in the Specific Terms then such insurance will cover:
 - (i) professional liability with a minimum insured amount of \$10,000,000 per claim;
 - (ii) product liability (where appropriate) with a minimum insured amount of \$10,000,000 per claim; and
 - (iii) public liability with a minimum insured amount of \$10,000,000 per occurrence

in each case without limit as to the number of claims during the period of insurance (the **Required Insurance**).



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20.2 Certificate

You must, within 10 Working Days of a receipt of a request from One NZ from time to time, provide a certificate evidencing the Required Insurance.

extent required for provision of the Deliverables and/or Services, and strictly in accordance with One NZ's written instructions and brand guidelines (as notified to You from time to time).

21. IPR AND THE ONE NZ BRAND

22. FORCE MAJEURE

21.1 Background IPR

(a) You or Your licensors (as applicable) will own all IPR in the Supplier Materials.

(b) One NZ or its licensors (as applicable) will own all IPR in the One NZ Inputs, One NZ Data, One NZ Information and One NZ Brand.

22.1 Procedure for Force Majeure Event

(a) If a Force Majeure Event affects a party (the affected party), then that party will, as soon as commercially practicable after it becomes aware of the occurrence of that Force Majeure Event, serve written notice on the other party (a Force Majeure Notice) giving full particulars of the Force Majeure Event.

(b) During the occurrence of a Force Majeure Event the affected party will use commercially reasonable endeavours to avoid or mitigate the impact of the Force Majeure Event.

21.2 Developed Intellectual Property

Unless otherwise set out in the Specific Terms. One NZ will exclusively own all right, title and interest in and to all IPR in Deliverables which are not Supplier Materials (together, the **Developed Intellectual Property**) upon creation. To the extent such ownership does not vest, You agree to take all such actions and to execute all such documents (and procure any relevant third party to take such actions and execute such documents) as may be necessary to assign such rights to One NZ.

22.2 Consequences of Force Majeure Event

(a) A party will not be liable under or in connection with this Agreement for any delay or failure to perform any of its obligations under this Agreement (other than any payment obligations), to the extent that the delay or failure is caused by a Force Majeure Event.

(b) One NZ is relieved of its payment obligations to the extent that payments correspond with goods and/or services that the Supplier does not provide as a result of a Force Majeure Event.

(c) If a Force Majeure Event occurs and affects a party's performance of its obligations under this Agreement for either (i) a continuous period of not less than three months; or (ii) one month followed by a further period or periods of not less than two months in total in the twelve month period, from the date of service of the Force Majeure Event notice, either party may give written notice of termination of this Agreement and termination of this Agreement will occur on the date for termination specified in that notice.

21.3 Licence to One NZ

Subject to clause 21.5 and the Software Licence Category Terms (which shall apply to the licensing of Proprietary Software Deliverables), and unless otherwise set out in the Specific Terms and/or relevant Statement of Work, You hereby grant to One NZ an irrevocable, non-exclusive, perpetual, worldwide, transferable, sublicensable and royalty-free licence to use, copy, install, maintain, modify, enhance and adapt:

(a) any Supplier Materials; and

(b) any other IPR in a Deliverable to the extent that such IPR does not vest in One NZ, including any Third Party IPR,

together the **Licensed IPR** so as to allow One NZ to obtain the full benefit of the Deliverables and Services. One NZ may also sub-license any third Party to whom it outsources the operation of a part of its operations or business to use the Licensed IPR (or any part thereof) provided such third Party's use, copying, installation, maintenance, modification, enhancement and adaptation is solely for the purpose of providing a service to One NZ or One NZ's customers.

23. CONFIDENTIALITY

21.4 Licence to Supplier

One NZ grants to You a licence to use the One NZ Inputs strictly as necessary to provide the Deliverables and/or Services during the Term or relevant Statement of Work Term (as applicable).

23.1 Confidential Information

Each Party must:

(a) maintain as strictly confidential and implement those security measures, if any, as are specified in the Specific Terms or relevant Statement of Work, or if no such measures are specified, use at least the same degree of care as it applies to its own confidential information and no event less than a reasonable degree of care; and

(b) not disclose any Confidential Information of the other Party except:

(i) to its Personnel, Related Companies or professional advisers to whom disclosure is reasonably necessary for the purposes of carrying out that Party's obligations or exercising its rights under this Agreement;

(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority; or

(iii) as agreed by the Party whose information is to be disclosed.

21.5 Third Party IPR

(a) You must notify One NZ in writing prior to incorporating any Third Party IPR into any Deliverable.

(b) Where the Specific Terms or relevant Statement of Work include or reference a separate licence agreement for an item of Third Party IPR, then the terms of such separate licence agreement will replace the licence granted under clause 21.3 for the relevant Third Party IPR (and One NZ agrees to be bound by such licence terms).

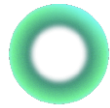
23.2 Personnel to maintain confidentiality

Each Party will ensure that any of its Personnel to whom it discloses the other Party's Confidential Information:

(a) comply with this clause 23; and

21.6 One NZ Brand

You shall not make any use of the One NZ Brand without the express prior written approval of One NZ, in which case You may only use the One NZ Brand for such period as is authorised by One NZ, to the



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(b) are bound by confidentiality obligations at least as protective as the terms set out in this clause 23.

24. ANNOUNCEMENTS AND PUBLICITY

Subject to clause 23.1(b)(ii), You shall not make any announcement relating to this Agreement or its subject matter without the prior written approval of One NZ (which may be withheld at One NZ's sole discretion), except as required by law or regulatory authority.

25. DISPUTE RESOLUTION

25.1 Process

If a dispute, difference or question arises between the Parties out of or in connection with this Agreement or the subject matter of this Agreement (a **Dispute**), the process for resolving the Dispute will be as set out in this clause 25 and no Party may commence court proceedings relating to the Dispute (unless that Party is seeking urgent interlocutory relief).

25.2 Notice of dispute

A Party claiming that a Dispute has arisen must give written notice to the other Party specifying the matter in dispute (**Dispute Notice**).

25.3 Negotiation

After a Party has given a Dispute Notice, the Parties must use their reasonable endeavours to resolve the Dispute within 20 Working Days of the date of that Dispute Notice, including by making available for a meeting (in person, or via videoconference if the Parties are in different cities) representatives with authority to settle the Dispute.

25.4 Alternative dispute resolution

If the Dispute is not resolved under clause 25.3 then this dispute resolution process shall be deemed exhausted, provided that the Parties may still agree to refer the Dispute to mediation, arbitration or expert determination, in which case the Parties will also agree, subject to clause 25.5, forum and the choice of mediation(s), arbitrator(s) or expert (as applicable), the relevant dispute resolution rules and whether or not the determination is to be binding upon the Parties.

25.5 Arbitration

If the Parties agree to refer the dispute to arbitration under clause 25.4 the following will apply:

- (a) the arbitration will be in accordance with the New Zealand Dispute Resolution Centre (NZDRC) Rules for Expedited Commercial Arbitration ECA60;
- (b) the arbitration will be by a sole arbitrator to be agreed between the Parties. If the arbitrator is not agreed between the Parties within 10 Working Days of the notice referring the Dispute to arbitration, the arbitrator will be appointed by NZDRC upon the application of either Party;
- (c) the arbitration will take place in Auckland, New Zealand and all proceedings and submissions will be in English; and
- (d) the award in the arbitration will be final and binding on the Parties, subject only to Articles 33 and 34 of the First Schedule, and the right to appeal on questions of law under clauses 5.1(b) and (c) of the Second Schedule to the Arbitration Act 1996.

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25.6 Urgent interlocutory relief

Nothing in this clause 25 precludes either Party from seeking urgent interlocutory relief from the courts.

25.7 Continuing obligations

Notwithstanding the Dispute, each Party will continue to perform its obligations under this Agreement as far as possible as if no Dispute had arisen, pending the final resolution of the Dispute.

26. ASSIGNMENT AND SUB-CONTRACTING

26.1 This Agreement is personal to You and You may not assign, transfer or sub-contract all or any part of your rights or obligations under this Agreement without One NZ's prior written consent (except to any subcontractors specified in the Specific Terms). A change in the effective Control of You or any parent company of You will be deemed to be an assignment of this Agreement, requiring the consent of One NZ. Any permitted assignment, transfer or sub-contracting by You will not relieve You of Your responsibility for due performance of this Agreement in accordance with its terms.

26.2 One NZ may novate, transfer or sub-contract all or any part of its rights or obligations under this Agreement without the consent of the other party to:
(a) a Related Company; and/or
(b) a buyer of all or any part of One NZ's, or a Related Company of One NZ's assets.

27. NOTICES

27.1 Form of notice

(a) Notices or other communications given by one party to the other in connection with this Agreement are to be in writing and sent by personal delivery, post, or email to the address of the relevant party set out in the Specific Terms or such other address as notified to the other party from time to time.

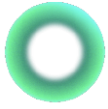
(b) Any notice or other communication is deemed to be received and sufficiently served:

- (i) if personally delivered, on receipt;
- (ii) if posted by pre-paid official postal service, on the third Business Day after posting (or seven Business Days after posting if sent from one country to another); and
- (iii) if sent by email, when it passes the point in the sender's computer system that the communication could not be stopped by the sender from being transmitted (unless the sender receives an automated message that delivery failed) or, if that occurs after 5.00 pm, on the next Business Day.

(c) Any Dispute Notices issued by You to One NZ must be marked for the attention of One NZ's Chief Transformation Officer.

28. RELATIONSHIP OF PARTIES

The relationship of You to One NZ is that of an independent supplier to its customer. Except as expressly provided in this Agreement, nothing in this Agreement is intended to constitute a relationship of employment, trust, agency, joint venture, partnership or any other fiduciary relationship between the



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parties. No party has authority to bind or incur debts on behalf of the other party.

29. RIGHTS CUMMULATIVE

Except as expressly stated otherwise in this Agreement:

- (a) the rights, powers and remedies provided in this Agreement are cumulative and are not exclusive of any rights, powers or remedies under this Agreement or existing at law; and
- (b) the exercise of any of the rights, powers and remedies provided in this Agreement will not prejudice the exercise of any other right, power or remedy under this Agreement or existing at law.

30. WAIVER

A waiver of any breach of this Agreement or any right, power or remedy under, or in connection with, this Agreement (including a right of termination) is not effective unless that waiver is in writing and is signed by the party granting the waiver. A failure to exercise, a delay in exercising, or a partial exercise of, any right, power or remedy under, or in connection with, this Agreement does not operate as a waiver of such right, power or remedy. A waiver of any breach is not, or is not deemed to be, a waiver of any other or subsequent breach.

31. SEVERABILITY

If any provision of this Agreement is illegal, invalid or unenforceable then:

- (a) where that provision can be modified to give it a valid and enforceable operation of a partial nature, it must be modified to the minimum extent necessary to achieve that result; and
- (b) in any other case the provision must be severed from this Agreement, in which event the remaining provisions of this Agreement operate as if the severed provision had not been included.

32. AMENDMENTS OR VARIATIONS

Without limiting One NZ's right to alter the terms of a Purchase Order under clause 6(c), no amendment or variation of this Agreement is effective unless it is in writing and signed by both Parties.

33. FURTHER ASSURANCES

Each party must, at its own expense, do all things and execute all documents as reasonably necessary to give full effect to this Agreement and the transactions contemplated by it and use reasonable endeavours to cause any relevant third parties to do the same.

34. DISCRETION OF EXERCISE OF RIGHTS

Unless expressly required by the terms of this Agreement, a party may exercise a right or remedy or give or refuse its consent, approval or costs arising out of the negotiation, preparation, execution and performance of this Agreement.

35. COUNTERPARTS

This Agreement may be executed in any number of counterparts (including by scanned copy or electronic signature) all of which, when taken together, will be treated as making up the one document. The date on which the last counterpart is executed will be the date of the Agreement.