

F-F13 TERMS AND CONDITIONS OF PURCHASE FOR SERVICES

This Purchase Order is subject to the following conditions and/or such terms and conditions as may be listed, attached or included by reference as detailed in this Purchase Order (collectively referred to as the 'Terms'). No amendment or variation to the Terms shall be valid unless agreed to in writing by NDA Group Limited or any of its subsidiaries (hereinafter referred to as "the Buyer") in this or a subsequent Purchase Order. The Terms supersede all previously issued terms and conditions and prevail over and cannot be superseded, amended or varied by any terms and conditions contained or referred to in a document supplied by the Supplier or sought to be imposed by the Supplier whether or not such documents expressly provide that they override, amend or vary these Terms; unless such amendment, or variation is agreed to in writing by the Buyer.

1. The Buyer will not be liable for any goods, materials or services supplied ('Services') unless ordered on the Buyer's Purchase Order.
2. The prices specified in this Purchase Order shall apply without variation or escalation unless such variation or escalation is authorised by the Buyer in writing.
3. No charge shall be made for delivery and transit costs or for expenses in relation to preparing the Services for delivery unless authority for such charge is expressly incorporated in this Purchase Order.
4. **Performance:**
 - a. Performance of the Services shall be made to the place and in the manner and by the date specified in the Purchase Order. If no such dates are specified, then performance shall be made within a reasonable time after receipt of this Purchase Order by the Supplier. The time or times for delivery or completion of this Purchase Order is a stipulation the performance of which is essential to the Buyer.
 - b. The Services must be performed at the address specified in the Purchase Order, or such other address as notified by the Buyer to the Supplier.
 - c. The performance of the Services shall include providing any documentation as reasonably requested by the Buyer in the Purchase Order.
5. The Supplier agrees that acknowledgement of performance of any Services in the Purchase Order is not to be taken as acceptance of the quality of the Services performed. The Buyer has no obligation to inspect or test the outcome of the Services provided. However, if the Buyer does inspect or test the Services, the Supplier's obligations under these Terms will not be affected nor will the Buyer's rights to claim under or in respect of any warranty or indemnity in these Terms be affected. If the Buyer becomes aware of a defect or non-delivery, the Buyer shall promptly notify the Supplier of such defects, non-performance and/or non-delivery and, notwithstanding the Buyer's right to cancel the contract for the provision of the Services and to such other or further relief as may be available to it at law or equity, the Buyer may:
 - a. Withhold any payment due to the Supplier for the Services, which shall be a sum of money representing the reasonable costs of having the defect in the Services rectified by a third party at commercial rates, or a reasonable estimate thereof; and/or
 - b. Permit the Supplier to rectify the defects notified to it within a reasonable time, in which case the Buyer will, upon the defect being satisfactorily rectified, remit any monies retained in terms of clause 5(a) above to the Supplier less any costs, expenses or losses incurred due to the defect in the Services; and/or

- c. Have the defects rectified by a third party supplier at commercial rates and deduct the cost of same from any monies retained under clause 5(a) above, together with, any additional costs or losses incurred by reason of the defects. The balance (if any) shall be remitted to the Supplier.
6. The Supplier warrants in relation to all work to be done and all Services to be performed for the Buyer, as the case may be, that
 - a. The Buyer is not liable to pay to the Supplier more than a reasonable price for the work or Services in any case where the price for the work or Services is not determined by the Purchase Order or corresponding confirmation by the Supplier, or is left to be determined in a manner agreed to by the parties, or left to be determined by the course of dealing between the parties; and
 - b. The Supplier will ensure that work and Services will be carried out with reasonable care and skill; and
 - c. Any product resulting from work or the Services provided will be of acceptable quality, fit for all the purposes for which the product is supplied, acceptable in appearance and finish, free from defects, safe and durable; and
 - d. The Services will be completed within a reasonable time where the time for the service to be carried out is not fixed by this Purchase Order, left to be fixed in a manner agreed by the parties, or left to be determined by the course of dealing between the parties; and
 - e. Any work or service will conform to all specifications forming part of this Purchase Order
 7. **Intellectual Property:**
 - a. All Intellectual Property (together with, but subject to clause 7(b) in the case of the Supplier, all modifications, adaptations or developments to such Intellectual Property) which is owned by, or is proprietary to, a party at the date of the relevant Purchase Order shall remain owned by that party unless otherwise agreed in writing by the parties.
 - b. Any new Intellectual Property (including, in the case of the Supplier, any modifications, adaptations, or developments to the Supplier's Intellectual Property as contemplated by clause 7(a)) which is created, modified, adapted or developed as a result of, or in connection with, the provision of Services to the Buyer (including, without limitation, as they come into existence, all reports, results, outcomes, processes, data, notes, drawings, records, memoranda and other writings, computer programs, graphics or data in whatever form or format (including supporting data) related to the Services) shall be owned by the Buyer, and shall not be used by the Supplier for any purposes other than to comply with the Supplier's obligations under a Purchase Order without the prior written consent of the Purchaser.
 - c. Nothing in clause 7 confers on a party any right or interest in, or licence to use, or permit to be used, any of the other party's Intellectual Property, except that each party shall have a non-exclusive licence to use the other party's Intellectual Property to the extent required to meet that party's obligations under any Purchase Order. Any licence granted pursuant to this clause will expire immediately on delivery of the Services pursuant to the Purchase Order.
 - d. 'Intellectual Property' means, in respect of a party, all intellectual and industrial property rights and interests (including common law rights and interests) held by that party, or lawfully used by that party, including without limitation:
 - i. Patents, trademarks, trade secrets, copyright, registered designs, trade names, symbols and logos;
 - ii. Applications to register patents, trademarks, service marks and designs; and

- iii. All formulae, methods, plans, data, drawings, specifications, characteristics, algorithms, source and object code, equipment, designs, inventions, discoveries, improvements, know-how, experience, software products, trade information, trade secrets, price lists, costings, brochures and their information.
 - e. All technical specifications, drawings, designs, concepts or other property provided by the Buyer to the Supplier or created for and paid for by the Buyer as part of this Purchase Order remain the property of the Buyer and are to be treated as confidential. Such property must be sent immediately on demand and may not be copied without the Buyer's written consent. The provisions of this clause 7 and the requirement of confidentiality shall survive following the delivery of the Services pursuant to the Purchaser Order or the termination of this Purchase Order.
- 8. By accepting this Purchase Order the Supplier agrees to indemnify, protect and save harmless the Buyer, its successors, assigns, customers and the users of its Services and the Buyer's officers, employees, agents, contractors and subcontractors ('Representatives') against all suits, at law or equity and from all damage claims, and demands, for actual or alleged infringement of any intellectual property rights of any person in connection with the Purchase Order. If a finding in any such action is made against the Supplier in a court of competent jurisdiction then the Purchase Order may forthwith be cancelled by the Buyer. The Buyer holds this indemnity on trust for its successors, assigns, customers and Representatives.
- 9. All warranties and indemnities provided in these Terms survive the performance of the Services pursuant to the Purchase Order or the termination of the Purchase Order.
- 10. The Supplier shall not be responsible for delays or defaults in providing the Services nor the Buyer for failure to receive the Services if the delay or default is due to something outside of the reasonable control of that party including war, strike, fire, pestilence, act of god or event of terrorism, riot or civil commotion.
- 11. In the event that either party is placed in voluntary or involuntary liquidation, bankruptcy or insolvency or has a receiver appointed over its assets or makes or endeavors to make any composition assignment or other arrangement for the benefit of creditors or breaches any essential term hereof including the warranties given by the Supplier the other party shall be entitled to terminate this contract forthwith. Upon termination, the Supplier's sole and exclusive right in respect of the termination is limited to the payment of the price for any Services which have been completed in accordance with these Terms and delivered to the Buyer up to the date of termination.
- 12. The Supplier has taken out and will maintain all insurance required by law as well as sufficient public liability and goods, works, service liability or professional indemnity insurance (as applicable).
- 13. The contract shall not be assigned by the Supplier without the prior written consent of the Buyer.
- 14. The Supplier shall not, without first obtaining the written consent of the Buyer, in any manner advertise or publish the fact that the Supplier has contracted to furnish the Buyer the Services herein mentioned. The Buyer shall also be entitled to approve the form and content of any such advertisement prior to its publication.
- 15. The Supplier will comply with all applicable tax, duty and levy legislation pertaining to the supply of Services pursuant to this Purchase Order, including any goods and services tax or other value added tax legislation, in whatever jurisdiction may apply.
- 16. The remedies herein reserved shall be cumulative and additional to any other or further remedies provided in law or equity. No waiver of a breach of provision of the contract shall constitute a waiver of any other breach or of such provision.
- 17. These Terms are governed by the laws of that country or region in which the party receiving the Services on behalf of the Buyer is located and the courts of that country or region shall have exclusive competence and jurisdiction to hear any application in respect of this Purchase Order.

18. Service of any Court or other documents may be effected on either party, unless agreement is reached to the contrary regarding service, by sending the same by ordinary or registered mail, fax or delivery to the address (whether in New Zealand or overseas) recorded on delivery or other documentation provided by either party at the time of providing the Services in terms of this Purchase Order, or in the absence thereof to the party's last known address whether in New Zealand or overseas, and shall be deemed to have been received five New Zealand working days after being sent, faxed or dispatched for delivery as the case may be.
19. Subject to clause 21 below, any dispute arising out of or in connection with this Purchase Order including any question regarding its existence, validity or termination shall be referred to a single arbitrator, to be appointed by the parties. If the parties cannot agree on the identity of the arbitrator, either party may apply to the President or holder of such similar office for the time being of the relevant national or regional Law Society or other national or regional association of lawyers of the country or region where the party receiving Services on behalf of the Buyer is located (irrespective of where the Purchase Order was sent from) to appoint an arbitrator. The place for arbitration shall be the nearest capital city to where the party receiving Services on behalf of the Buyer is located and the arbitration shall be conducted according to the Rules of Arbitration of the International Chamber of Commerce in force at the time of the application for arbitration. In all cases the language of such arbitration shall be English.
20. If the Supplier is located in China, any dispute arising out of or in connection with this Purchase Order including any question regarding its existence, validity or termination shall be submitted to arbitration in Shanghai, China before the China International Economic and Trade Arbitration Commission ("CIETAC") in accordance with CIETAC Arbitration Rules in force at the time of the application for arbitration. The arbitration tribunal shall consist of three arbitrators, one appointed by each party, provided that if either of the parties fails to appoint an arbitrator within the time specified in the CIETAC Arbitration Rules, the Chairman of CIETAC shall make such appointment. A third arbitrator ("Presiding Arbitrator") shall be appointed by agreement between the Parties, provided that if the Parties fail to jointly appoint the Presiding Arbitrator within the time specified in the Arbitration Rules, the Chairman of CIETAC shall make such appointment.