

1. HOW THESE TERMS WORK

Unless you have entered into a separate contract with the Purchaser that is expressly referred to in a Purchase Order, these Terms, together with the Purchase Order, any Statement of Work (**SOW**) and any Specifications we have agreed, form the **Contract** between you (the Supplier), and Thryv, or a Thryv Related Company (the Purchaser).

- These terms permit the use of SOWs and Specifications to record important Contractual details. Neither an SOW nor a Specification can override these terms unless one of the Purchaser's procurement officers agrees in writing and signs the amending document.

This means we cannot (and do not) accept your 'standard terms', regardless of how they are described (eg 'credit application', 'invoice' or 'delivery terms'), or limitations imposed by your suppliers. If this is a problem, raise it in writing with the Purchaser before your authorised representative agrees the Purchase Order.

Terms that are capitalised are defined in the Dictionary at the end of this document.

2. PERFORMING THE CONTRACT

2.1. Payment and service levels

By beginning to perform the Contract, the Supplier signifies their acceptance of its terms.

The Supplier will provide the Supplies in accordance with the Contract, and the Purchaser will pay the Fee or Price.

The Supplier must give the Purchaser an invoice in accordance with clause 3 in order to be paid.

Payments may be:

- reduced if the Supplier does not meet any Contract service levels; or

- delayed if Goods or Services do not pass Contracted acceptance tests.

2.2. Delivery or place of performance

Delivery must occur by the Completion Date.

2.3. Acceptance

Goods or Services must pass any Contracted acceptance testing.

2.4. Title

Full and unencumbered title to Goods passes to the Purchaser on the earlier of:

- payment of the relevant invoice by the Purchaser; or
- Delivery.

2.5. Shipping and risk

Goods must be lawfully shipped in suitable packaging by the Supplier.

Risk of loss or damage to the Goods only passes to the Purchaser upon Delivery – even if title in the Goods has passed earlier.

3. PRICE AND PAYMENTS

Unless we have agreed something different in the Contract, the following terms apply:

3.1. GST excluded

All amounts stated exclude GST.

3.2. Incidental Costs

The Price or Fee includes all Incidental Costs. The Supplier must not charge or invoice Incidental Costs separately.

All amounts stated in the Contract and any associated tax invoice must be in New Zealand currency.

The Price or Fee is fixed regardless of changes in exchange Rates or the Supplier's costs.

3.3. Presentation of invoices

The Supplier must render a **valid tax invoice** that includes the following additional information:

- each Supply listed separately; and
- the relevant Purchase Order number; and
- the Supplier's New Zealand bank details.

Where there are multiple Supplies, invoice frequency should be once per month or longer.

3.4. Payment Terms

Unless otherwise stated on the Purchase Order, the Purchaser will initiate payment of the undisputed part of a Supplier's complying invoice on or before forty-five (45) days from the end of the month in which the Payment Start Date falls.

The Payment Start Date is the latest to occur of the following:

- a date identified as such on the Purchase Order;
- Delivery; or
- the date of receipt by the Purchaser of a complying invoice.

Late payment does not entitle the Supplier to any additional payment however expressed or calculated.

3.5. GST

If GST is payable on the supply of any Goods or Services, subject to first receiving a valid tax invoice, the Receiving Party must pay the GST Amount when it is liable to provide the consideration.

4. DOCUMENTATION

The Supplier must deliver one copy of the Documentation to the Purchaser with each Delivery.

Documentation must be delivered in machine-readable format provided the means by which it can be read is available at no cost to the Purchaser.

5. THE IMPORTANCE OF TIME

Delivery by the Completion Date is an essential term of the Contract.

If Delivery is delayed by more than 7 days from the agreed Completion Date, the Purchaser may do one or more of the following:

- terminate the Contract, with no obligation to make any further payments to the Supplier;
- reject the delayed Supplies;
- reject any Supplies that have already been Delivered to the Purchaser; and
- deduct from the Price or recover from the Supplier any liquidated damages specified in the Contract.

The Purchaser must notify the Supplier before exercising any of the rights in this clause.

6. YOUR FAILURE TO PERFORM

The Purchaser does not have to pay for any Services until they are rendered in accordance with the Contract.

The Supplier must fix any defects, or correctly re-perform defective Services if asked to do so by the Purchaser. The Purchaser must allow a reasonable time for the Supplier to do this.

If the Supplier cannot:

- fix the defects; or
- re-perform the Services,

at all (or within the reasonable time specified by the Purchaser), then the Purchaser may pay a third party to perform the Services or remedy the defect and charge the Supplier the reasonable cost of doing so.

The Purchaser's rights under this clause continue even after a Contract is terminated.

7. GUARANTEES ABOUT THE GOODS AND SERVICES

The Supplier warrants that:

- it is duly authorised to enter into and be bound by this Contract;
- the Goods and Services provided by Supplier will meet, function and perform in accordance with the Specifications;
- it will perform its obligations under this Contract in accordance with Good Industry Practice and will ensure that its personnel performing any Services are suitably qualified and have the requisite skills, expertise and experience;

- it will not supply to the Purchaser or introduce into the Purchaser's systems or environment any viruses, Trojan horses, malware, bugs, or other device, code designed to damage, disable, disable or impair the full use of any computer program, data, or technology systems, products and/or environments;

The Supplier's warranties above will continue for a period of at least the Guarantee Period.

The Supplier guarantees that it will:

- comply with all applicable laws; and
- maintain all necessary authorisations, licences and permits,

while it is making Supplies or is required to meet any guarantee in the Contract.

8. INDEMNITIES, LIMITATIONS AND INSURANCE

8.1. Indemnity for wrongful acts of Supplier

The Supplier indemnifies the Purchaser (and each of its employees, officers and agents) for all loss, cost, liability or expense they incur as a result of any unlawful, wilful or negligent act, error or omission of the Supplier, its employees, officers, and agents.

8.2. Exclusion for consequential loss

Subject to the exceptions in the second paragraph of this clause, neither the Purchaser nor the Supplier shall be liable to the other for any loss (**Excluded Loss**), other than for direct loss. Specific types of Excluded Loss are (without limitation), loss of profits, loss of contract and opportunity.

The exclusion in the first paragraph of this clause 8.2 does not apply to the indemnities given under clauses 8.1, 9.4 and 11.2.

8.3. Insurance

The Supplier must take out, maintain and pay for insurance policies on terms usual for its trade or profession in the following classes:

- those required by law (eg workers compensation insurance);
- public and products liability insurance with a limit not less than \$10,000,000

each occurrence and in the annual aggregate;

- (if it supplies Services) professional liability or errors and omissions insurance with a limit not less than \$20,000,000 each claim and in the annual aggregate.

The Supplier must provide evidence of its compliance with this clause 8.3 when requested by the Purchaser.

9. PRIVACY AND DATA

9.1. Compliance with Privacy Laws and Policies

Supplier must:

- comply, and assist Purchaser to comply, with all Privacy Laws and Policies in relation to Personal Information, whether or not Supplier is an organisation bound by the Privacy Act;
- not do or omit to do anything that would cause Supplier or Purchaser to breach or be taken to breach Privacy Laws and Policies;
- collect, store, use, disclose or otherwise deal with Personal Information as directed by us and only for the purposes of performing your obligations under the Contract;

9.2. Protection of Personal Information

Supplier must

- take all reasonable steps to ensure that Personal Information is protected against misuse, interference and loss, and from unauthorised access, modification or disclosure, and is up-to-date, complete and relevant;
- not disclose any Personal Information to any third party (including you or a Related Company) outside New Zealand without our prior written consent;
- ensure that any person to whom Personal Information is disclosed under this Contract, does not do or omit to do anything which, if done or omitted to be done by Supplier, would constitute a breach of this clause;

9.3. Breach notification

If Supplier becomes aware or suspects that it has breached its obligations under this clause

9, including in the event of any unauthorised disclosure or loss of Personal Information, the Supplier must:

- immediately notify Purchaser;
- comply with Purchaser's reasonable directions with respect to remedying that breach; and
- not disclose to any third party (including to the extent permitted by law, any government agency or regulatory authority) the existence or circumstances of the breach without Purchaser's prior written approval.
- assist Purchaser in the event that the Purchaser is required under Privacy Laws and Policies to notify a government agency or regulatory authority or any data subjects of a data breach or loss of Personal Information

The Purchaser's assessment of the severity (including the risk of serious harm to persons whose Personal Information has or may have been disclosed) of a data breach or loss of Personal Information is conclusive.

9.4. Acts that result in liability for Purchaser

The Supplier must indemnify the Purchaser for any loss, cost, liability or expense it suffers as a result of a breach by the Supplier (or any third party to whom it discloses Personal Information) of its obligations in this clause 9.

9.5. Audit and location

The Supplier must give the Purchaser all information and access to the Supplier's staff, premises, processes and systems reasonably required by the Purchaser to enable it to assess or audit the Supplier's compliance with this clause.

The Supplier:

- represents and warrants that it carries on business in New Zealand or an external territory; and
- will not disclose or transmit any Personal Information outside New Zealand without the Purchaser's prior written consent.

10. INTELLECTUAL PROPERTY

10.1. Guarantee about infringement of Supplies

The Supplier guarantees that the Supplies, and the Purchaser's reasonably foreseeable use of them, will not infringe any intellectual property right or moral rights of any third party.

10.2. IP Indemnity

The Supplier indemnifies the Purchaser against breach of this guarantee.

10.3. IP ownership, assignment and licensing

Unless otherwise agreed in an SOW, the Purchaser will own all intellectual property rights created by performance of the Services. The Supplier hereby assigns such rights to the Purchaser and agrees to execute any document reasonably required by the Purchaser to prove or perfect such ownership.

The Supplier licences to the Purchaser all intellectual property rights owned by the Supplier and not assigned under the preceding paragraph, to enable it to use, modify, maintain and repair the Goods and enjoy the benefit of the Services.

11. CONFIDENTIALITY

The Supplier must ensure that its officers, employees, contractors and agents keep confidential all information of the Purchaser or relating to the Contract, and not use or disclose that information except to fulfil its obligations under the Contract.

Each party undertakes to keep all Confidential Information confidential, and to use the Confidential Information solely for the performance of its obligations under the Contract.

12. TERMINATION

12.1. Termination upon notice

The Purchaser may terminate the Contract (or any individual Purchase Order or SOW issued under the Contract) by giving the Supplier 14 days' written notice.

Upon issue of a valid notice, the Purchaser will be liable to pay all reasonable amounts due in accordance with clause 3 for:

- Services actually performed by the Supplier; and/or
- Goods that have been dispatched, up to the termination date.

Purchaser is not liable for any costs that Supplier incurs or has incurred in expectation of this Contract continuing for the term.

Supplier must by the termination date deliver to the Purchaser:

- all Goods, and/or
- outputs of Services,

for which the Purchaser is liable to pay.

12.2. Termination for breach

Each party may immediately terminate the Contract (or any individual Purchase Order or SOW issued under the Contract) by written notice if:

- the other party commits a material breach of the Contract and fails to remedy such breach within 10 days of receiving notification from the non-breaching party of the breach;
- the other party becomes bankrupt or unable to pay its debts as and when they fall due, or
- any steps are taken towards its winding up, dissolution, liquidation or the appointment of a receiver, administrator or other controller over the other party.

12.3. Consequences of termination

Upon termination of the Contract pursuant to this Section 12 (or any individual Purchase Order or SOW issued under the Contract), the Purchaser may recover from the Supplier all money paid to it for Services and/or Goods not yet completed or provided, and Supplier shall at its cost immediately deliver to the Purchaser all materials, Confidential Information and any other property of the Purchaser in its possession or control.

13. GENERAL TERMS

13.1. Assignment

The Supplier may not transfer, assign, charge, mortgage or encumber any of its rights under the Contract without the Purchaser's prior written consent.

13.2. Subcontracting

The Supplier must not subcontract any of its obligations under the Contract without the Purchaser's prior written consent. The Supplier will remain responsible for the acts or omissions of any approved subcontractor or any employee or agent of the subcontractor as if they were the acts or omissions of the Supplier or the employees or agents of the Supplier.

13.3. Notices

Notices (such as termination notices) must be given in writing and (if given to the Purchaser), they should be addressed to the Purchaser's procurement manager, and (if given to the Supplier), to the contact nominated in the Contract. Postal notices will be deemed to have been delivered 3 Business Days after dispatch.

Email notices will be deemed to have been delivered on the next Business Day after the date of transmission, provided the sender has received no intimation (human- or computer-generated) that the notice has not been received.

13.4. Severability

If any part of the Contract is illegal or unenforceable, the rest may be enforced to the fullest extent commercially possible.

13.5. Entire agreement

The Contract constitutes the entire agreement between the parties related to the subject matter of the associated Purchase Order and/or SOW. Any prior statements, representations, discussions or negotiations between the parties are of no effect.

13.6. Survival of certain clauses

Clauses 5,7,8,9, and 11, and any other guarantees and indemnities provided for under the Contract and any transition arrangements agreed to under an SOW survive termination or expiry of the Contract.

13.7. Waiver

A waiver by either party in respect of a breach of a provision of the Contract by the other party will not constitute a waiver in respect of any other breach of that or any other provision.

13.8. Dispute Resolution

The Contract is governed by the laws of the New Zealand. Subject to clause 15, each party submits to the exclusive jurisdiction of the courts of New Zealand. If a dispute arises out of or relates to the Contract or as to any claim in tort, equity or pursuant to applicable law (**Dispute**) then:

- a party claiming that a Dispute has arisen, must give written notice to the other party specifying the nature of the Dispute;
- on receipt of the written notice of Dispute, the Dispute will promptly be referred to a senior representative of each party who must seek to resolve the Dispute;
- if the Dispute is not resolved by the senior representatives within 30 days of receipt of the Dispute notice, then the Dispute will be promptly escalated by each party to its Chief Executive Officer (or equivalent) who must seek to resolve the Dispute;
- if the Dispute is not resolved within 15 Business Days of the escalation to the Chief Executive Officers (or equivalent) (or within such further period agreed in writing by the parties), either party may, by giving written notice to the other party, require the Dispute to be determined by the arbitration of a single arbitrator. The arbitrator will be appointed by the parties or, failing agreement within 5 Business Days of the notice requiring arbitration, by the President of the New Zealand Law Society on application of either party. The arbitration will be conducted as soon as possible and in accordance with the provisions of the

International Chamber of Commerce Arbitration Rules and the Arbitration Act 1996 (NZ). The seat of any arbitration will be Auckland, New Zealand.

13.9. Variation

The Contract cannot be varied except in writing signed by both parties.

13.10. Precedence

The documents listed in the definition of "Contract" will take precedence in the order in which they are listed, in the event of inconsistency.

13.11. Counterparts

The Contract may be signed in counterparts, and all counterparts are together taken to form constitute the whole Contract.

14. ARBITRATION (OVERSEAS SUPPLIERS ONLY)

If the Supplier's address is a place outside New Zealand, then this clause 15 applies. Any dispute, controversy or claim arising out of or in connection with the Contract (including its validity) shall be submitted to arbitration and conducted as soon as possible and resolved in accordance with the provisions of the for International Chamber of Commerce Arbitration Rules and the Arbitration Act 1996 (NZ). The arbitrator will be appointed by the parties or, failing agreement within 5 Business Days of the notice requiring arbitration, by the President of the New Zealand Law Society on application of either party. The seat of the arbitration shall be Auckland, New Zealand and the language of the arbitration shall be English.

15. THE EXISTENCE OF, PROCEEDINGS BEFORE AND ANY DOCUMENTS OR EVIDENCE PROVIDED TO AN ARBITRAL TRIBUNAL PURSUANT TO THIS CLAUSE SHALL REMAIN CONFIDENTIAL. DICTIONARY

15.1. Defined terms

Business Day means a day other than a Saturday, Sunday or public holiday in Auckland, New Zealand.

Completion Date means by 4pm on the date (or dates) specified in the Contract by which

Goods or the Services under the relevant Purchase Order must be Delivered by the Supplier.

Consideration includes non-monetary consideration, in respect of which the parties must agree on a market value, acting reasonably.

Contract means the contract between the Supplier and the Purchaser consisting of:

- the Purchase Order;
- these Terms and Conditions;
- any relevant SOW; and
- the Specifications.

Confidential Information means any technical, commercial, financial or other information of, about or in any way related to the Purchaser including any information the Purchaser designates as confidential, which is communicated to the Supplier. Confidential Information does not mean information:

- that is in, or enters the public domain other than as a breach of these Terms;
- that the Supplier can prove it possessed before the date of the Contract;
- that the Supplier can prove it independently developed; or
- that the Supplier lawfully obtains from another person entitled to disclose such information.

Documentation means:

- written material (whether provided by the manufacturer or otherwise) containing sufficient information to enable the Purchaser to safely operate, to make full use of and to maintain the Supplies; and
- any other documentation specified in the Contract.

Delivery means:

- delivery of Products to; or
- satisfactory completion of the Services at,

the place specified in the Contract.

Fees means the fixed fee specified in the Purchase Order payable to the Supplier for the Services.

GST means a goods and services tax payable under the GST Act.

GST Act means the New Zealand Goods and Services Tax Act 1985.

GST Amount means an amount equal to the GST payable in respect of a supply.

Good Industry Practice means exercising the skill, diligence, care and foresight expected of a highly skilled and experienced person in the same or similar circumstances.

Goods means any item or material the Supplier must provide under the Contract.

Guarantee Period means the period of 24 months commencing on the date of Delivery of the Supplies or 12 months from the date on which the Service is performed (as applicable), unless otherwise specified in the Purchase Order.

Guarantees means the Goods Guarantees and the Services Guarantees (as applicable).

Incidental Costs means costs the Supplier incurs supplying and Delivering Supplies, including without limitation freight, insurance, customs duties, GST and other taxes.

Personal Information means information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not and whether the information or opinion is recorded in a material form or not, which is received or learnt by a party from any source as a consequence of or in the performance of its rights and obligations under this agreement.

Privacy Act means the Privacy Act 2020.

Privacy Laws and Policies means the Privacy Act, the Unsolicited Electronic Messages Act 2007, any Privacy Act Code issued by a regulatory authority that binds a party, the Privacy Policy issued and amended by Thryv from time to time (<https://corporate.thryv.com/privacy>) and any other legislation, principles, industry codes and policies relating to the handling of Personal Information.

Price means the amount specified as the price for the Goods in the Purchase Order.

Purchase Order means the document with that title that incorporates these terms and forms part of the Contract.

Purchaser means Thryv or its Related Company.

Rates means the rates used by the Supplier to calculate the Fee for Services.

Related Company has the meaning given under section 2(3) of the Companies Act 1993, except that “company” shall mean a company wherever incorporated.

Thryv means Thryv New Zealand Limited.

Services means the services specified in a Purchase Order to be provided by the Supplier under the Contract.

Specifications means the relevant Supplier Specifications, the Standards, warranties and any other specifications, including without limitation the purposes, requirements and service levels, stated in the Purchase Order or SOW.

SOW or Statement of Work means a written document with that title in the Purchaser’s standard form signed by both parties containing terms governing the provision of the Supply under these Terms.

Standards means any governmental regulations and standards applicable to the Supplies and any other Standards specified in the Purchase Order.

Supply/Supplies means any Good or Service listed in the Purchase Order to be provided by the Supplier under the Contract.

Supplier means the party identified in the Purchase Order as the supplier of the Supplies.

Supplier Specifications means the Supplier's published descriptions of and technical specifications for the Supplies.

You/your means the Supplier.