

# GENERAL TERMS AND CONDITIONS OF PURCHASE OF CALDIC NEW ZEALAND LTD.

All purchases of Goods and Services by Caldic are governed by these terms unless a separate written contract is established. Caldic reserves the right to modify these terms at its sole discretion, with any changes applying to Orders placed after the date of the modification, or immediately if there is no existing Order.

## 1. Defined terms

**"Agreement"** means these terms, together with each Order (if any) sent to you.

**"Business Day"** means any day not being a Saturday or Sunday, or a public holiday observed in Auckland.

**"Caldic"** means Caldic New Zealand Limited (NZBN: 9429030375581) having its registered office at 3 Ceres Court, Mairangi Bay, Auckland.

**"Conflict of Interest"** refers to any scenario in which your or your personnel's personal or business interests or duties either conflict, could potentially conflict, or appear to conflict with your responsibilities under this Agreement, thereby compromising or calling into question your or your personnel's independence, objectivity, or impartiality.

**"Goods"** refers to the items (and any other outcomes of the Services) that you are to supply, as specified in an Order.

**"Group Company"** means Caldic any of its subsidiaries, or any other company who is wholly owned by the same 'holding company' as that term is defined by the Companies Act 1993.

**"HSW Act"** means the Health and Safety at Work Act 2015 and any regulations made under it.

**"Order"** refers to any order, email, or other document issued by Caldic to you, detailing aspects such as the Goods, Services, and price.

**"Party"** means either Caldic or the Supplier; together the Parties.

**"Services"** means the services to be performed by you, including as set out in an Order.

**"Supplier or You"** means you as a supplier of goods and services to Caldic in accordance with this Agreement.

## 2. Duration

These terms are applicable for the duration specified in any Order, or otherwise for the period during which you supply Goods or Services to Caldic.

## 3. Payment

You may issue invoices (which must be valid for tax purposes) at the times specified in any Order. Otherwise, invoices may be issued when the Goods or Services have been provided to Caldic's satisfaction, as communicated by Caldic to you. Except to the extent Caldic reasonably disputes an invoice, Caldic will pay you by the 20th day of the month following the month in which Caldic receives the invoice.

## 4. Title, risk, and delivery

The risk in the Goods will transfer to Caldic upon the later of delivery or payment. The title to the Goods will transfer to Caldic upon the earlier of delivery or payment. If Caldic informs you in writing that the Goods are unsatisfactory, acting reasonably and in good faith and having regard to the quality and standard specifications that Caldic communicated to the Supplier in writing at or prior to Caldic placing the applicable Order, the Goods will be held by Caldic until the Supplier (no later than 15 days of receipt of such written notice) collects the Goods and issues a refund. The risk in the Goods will transfer back to you upon the earlier of either the Goods being collected, or the refund being provided.

Goods must be shipped and delivered within the timeframes specified in the Order, or otherwise within 15 days of Caldic placing the order. If these timeframes are not met, Caldic may, without limiting its other rights, cancel any unfulfilled part of the

purchase. Caldic is not obligated to accept partial or incomplete deliveries. Receiving a part of a purchase does not bind Caldic to accept future deliveries. Neither Caldic's receipt of a delivery nor any signature provided at the time will imply that the Goods or Services are satisfactory to Caldic.

## 5. Warranties

You warrant that:

- (a) The Goods will conform in all aspects to the samples and the specifications provided by Caldic in writing at or prior to any applicable Order or otherwise contemplated at time of an applicable Order;
- (b) The Goods will be adequately packaged and securely stored until delivery;
- (c) The Goods will be free from any defects, including latent defects;
- (d) Caldic will obtain clear title to the Goods in accordance with clause 4;
- (e) If you install the Goods, they will be properly installed and integrated into Caldic's systems and property, and will be compatible with them without causing damage;
- (f) The Goods will meet Caldic's requirements, be suitable for Caldic's notified intended use and purpose, and meet Caldic's specified specifications provided to the Supplier in writing at or prior to the applicable Order;
- (g) Caldic's use of the Goods and receipt of the Services under this Agreement will not infringe upon the rights of any other person;
- (h) You possess all necessary consents, licenses, and authorities to provide the Goods and Services;
- (i) The Services will be performed promptly with due diligence, care, and skill by appropriately trained, qualified, experienced, and supervised individuals;
- (j) All information provided by you in connection with this Agreement is accurate, complete, and truthful;
- (k) You do not have any conflicts of interest related to this Agreement.

These warranties are in addition to any other warranties and guarantees implied by law.

## 6. Health & Safety & Security

You are required to:

- (a) Consult, cooperate, and coordinate with us to ensure that both parties comply with the HSW Act as it pertains to this Agreement;
- (a) Ensure compliance, and ensure that your personnel comply, with their obligations under the HSW Act;
- (b) Adhere to all reasonable directives from us regarding health, safety, and security; and
- (c) Promptly report to us any health and safety incidents, injuries, near misses, or notices issued under the HSW Act that pertain to or impact this Agreement.

## 7. Employment standards

You must:

- (a) comply with the Employment Relations Act 2000, Minimum Wage Act 1983, Wages Protection Act 1983, Holidays Act 2003 and the Parental Leave and Employment Protection Act 1987; and
- (b) Notify us of any instances where you are under investigation by the Labour Inspectorate, or where

you have been found by the Labour Inspectorate, Employment Relations Authority, or the Employment Court to have violated any of the legislation mentioned in clause 7(a).

## 8. Access, security, and conduct

Caldic will grant your personnel access to its premises as needed for the provision of Goods and Services. You are responsible for ensuring your personnel adhere to Caldic's security and operational requirements, code of conduct, and other applicable policies and procedures, as communicated to you periodically. Caldic reserves the right to deny access to your personnel if they fail to meet these requirements. You must promptly notify Caldic in writing if you become aware of any of the following within such premises:

- (a) any hazard, potential hazard, situation or potential situation where harm may result;
- (b) any accident or serious harm to any person (in such case you must promptly notify Caldic);
- (c) any improvement or prohibition notice is likely to be or has been issued.

## 9. Confidentiality

Each Party will keep confidential the other's confidential information except:

- (a) pursuant to applicable law;
- (b) where the information becomes part of the public domain through no fault of the Party receiving the information.

## 10. Intellectual property

Ownership of intellectual property existing prior to this Agreement remains unaffected by this Agreement. All intellectual property created or discovered by you in performing this Agreement will automatically belong to Caldic upon creation. For intellectual property provided to Caldic that is not owned by Caldic, you grant Caldic a non-exclusive, worldwide, royalty-free, perpetual, irrevocable, and sublicensable license to use, copy, distribute, sublicense, reproduce, modify, adapt, publish, transmit, translate, create derivative works from, display, and perform that intellectual property, whether publicly or otherwise.

## 11. Liability

If Caldic is liable to you under or in connection with this Agreement (including in contract, tort, or equity), Caldic's maximum liability to you is limited to the total payments made to you under this Agreement, unless any such claims, demands, costs, expenses are caused by Caldic.

## 12. Force Majeure

Neither Party will be held liable for failure to fulfill its obligations due to events beyond its reasonable control, excluding strikes and labor disputes. The Party affected by such an event will make every reasonable effort to prevent or eliminate its cause and fulfill its obligations.

## 13. Termination

### 13.1. Termination for convenience :

At any time during the term of this Agreement, either party may terminate this Agreement by giving not less than 10 Business Days written notice to the other party.

### 13.2. Caldic's termination for cause:

Without limiting any other rights, Caldic may terminate this Agreement by written notice if:

- (a) There is a material breach of this Agreement by the Supplier;
- (b) An event as described in clause 12 persists for more than 5 days; or
- (c) In Caldic's reasonable opinion, the Supplier is experiencing or is likely to experience a significant financial issue.

### 13.3. Consequences of termination:

At the conclusion of this Agreement, each Party will return all property and information belonging to the other Party, save that

any Order submitted prior to termination must be fulfilled in accordance with the terms of this Agreement and all other relevant terms will continue to apply thereto, including the obligation to make payment. Termination of this Agreement will not prejudice any rights that have accrued prior to termination or that, by their nature, survive termination.

## 14. Communication with Caldic

All notices to Caldic in connection with this Agreement must be directed to:

- Chief Operations Officer, Caldic New Zealand Limited, 3 Ceres Court, Mairangi Bay, 0632, New Zealand

## 15. Subcontracting

The Supplier shall not subcontract any part of this Agreement to another party without the prior written approval of Caldic.

The Supplier remains responsible for delivering the Goods/Services under this Agreement even if certain aspects of the Agreement are subcontracted.

The Supplier must ensure that:

- (a) each subcontractor is paid promptly;
- (b) each subcontractor is aware of the relevant Caldic policies;
- (c) each subcontractor is fully aware of the Supplier's obligations under this Agreement; and
- (d) any subcontract it enters into is on terms that are consistent with this Agreement.

## 16. Protecting Personal Information

*Personal Information* has the same meaning as defined in the Privacy Act 2020 and codes developed under the Privacy Act 2020. The Supplier agrees:

- (a) to use or disclose Personal Information solely for the purposes of delivering Goods/Services and complying with this Agreement, including reporting obligations;
- (b) not to engage in any actions that would violate an information privacy principle as defined in the Privacy Act, which, if performed or engaged in by an agency under the Privacy Act, would constitute a breach of that information privacy principle
- (c) to otherwise comply with the Privacy Act and any code established under the Privacy Act;
- (d) to promptly notify Caldic if the Supplier becomes aware of any breach or potential breach of the Privacy Act, whether by itself or any of its subcontractor;
- (e) to ensure that all personnel of the Supplier who handle Personal Information for the purposes of this Agreement are informed about and adhere to the obligations outlined in this clause 16; and
- (f) this clause 16 survives the expiration or earlier termination of this Agreement.

## 17. Resolving disputes

- (a) A party claiming that a breach of this Agreement (Dispute) has arisen must notify the other party to the Agreement, within 10 Business Days of that Dispute arising, giving details of that Dispute (Dispute Notice).
- (b) Within 10 Business Days of a Dispute Notice being issued, the Parties must meet (in person, on the telephone or otherwise) and use their best endeavours, acting reasonably and in good faith, to resolve any disputes or differences that may arise under this Agreement through direct negotiation.
- (c) If negotiation between the parties under clause 17(b) fails to resolve the Dispute, within 10 Business Days, either Party may initiate mediation within 10 Business Days by providing written notice to the other party.
- (d) If agreement is not reached following mediation under clause 17(c), after a period of 10 Business Days either party may take any steps they choose.
- (e) Each party will bear their own costs associated with resolving the dispute.

**18. General**

- (a) You may not assign any of your rights under this Agreement to a third party.
- (b) You must maintain complete and accurate records of all matters related to this Agreement and provide them to Caldic upon request.
- (c) No waiver under this Agreement is effective unless it is in writing.
- (d) Nothing in this Agreement establishes a partnership, agency, or employer/employee relationship.
- (e) This Agreement constitutes the entire agreement between the parties concerning the Goods and Services.
- (f) This Agreement will be governed by New Zealand law, and the parties agree to the non-exclusive jurisdiction of the New Zealand courts.
- (g) This Agreement does not grant the Supplier any rights to be the sole or exclusive supplier to Caldic.
- (h) Caldic may assign or transfer its obligations under this Agreement, either in whole or in part, to any Group Company or third party if it has first provided written notice to the Supplier of its intention to transfer such rights and obligations under the Agreement. In such circumstances, the Supplier may, at its discretion, terminate the Agreement by providing 28 days written notice to Caldic. Termination of the Agreement under this clause 18 is without prejudice to any right or obligation under this Agreement that arose before termination, or that is intended to survive termination, and clause 13 will continue to apply with respect to the consequences of termination.