

## Purchase Order Terms and Conditions

1. These are the terms and conditions (“the Purchase order”) upon which the Institute of Environmental Science & Research Limited (“ESR”) acquires products, equipment, goods, services and advice (the “Goods and/or Services”) from any individual, corporation or other entity (“the Supplier”). All Goods and/or Services to be supplied to ESR by the Supplier are subject to these terms and conditions and are acquired only in accordance with this Purchase Order.
  2. Subject to a separate written agreement to the contrary, this Purchase order takes precedence over any terms and conditions of the Supplier. No variation will be binding without the express prior written consent of ESR.
  3. ESR will not accept responsibility for any order unless it is made in accordance with a valid, original and authorised Purchase order in this form.
  4. The Supplier shall acknowledge acceptance of this Purchase order by return confirmation in writing, and shall be deemed to have read, understood and accepted these terms and conditions. If the Supplier commences fulfilment of this order, without written notice to ESR that these terms and conditions are unacceptable, it shall be deemed acceptance of the order on the terms and conditions herein.
  5. The Supplier must deliver the Goods and/or Services to a location nominated by ESR, no later than the time(s) specified in this order. Time will be of the essence. ESR reserves the right to cancel any order wholly or in part, without redress, if it is not fulfilled by the stated delivery date, or if no delivery date is stated, within a reasonable time.
  6. The Supplier will adequately pack and protect the Goods and/or services against damage and deterioration and ESR accepts no responsibility for delivery of the Goods and/or Services, nor for any packing, freight or insurance, unless authorised by this order. Unless otherwise agreed, all international consignments must be consigned through ESR’s appointed freight forwarding agents.
  7. Risk and title to the Goods and/or Services will remain with the Supplier until the Goods and/or Services have been delivered to the location nominated by ESR. Risk will pass to ESR upon delivery. Title will pass to ESR upon payment.
  8. In addition to all warranties, terms or conditions expressed or implied by law or otherwise, the Supplier warrants that the Goods and/or Services supplied:
    - (a) are of a good quality as determined by good industry practice in which the Supplier operates;
    - (b) in respect of goods, at the time of delivery are new and unused, and are fit for their normal purpose, or any other purpose ESR has made known to the Supplier or its agents or that the Supplier has represented they are or will be fit;
    - (c) in respect of services, the Supplier shall exercise the degree of skill, care and diligence expected from competent, qualified and experience professionals;
    - (d) comply with any agreed specifications, supplied descriptions and all statutory or regulatory requirements;
    - (e) are free of any security interest, lien or other encumbrance (not disclosed to ESR), and that ESR will have undisturbed possession of the Goods and/or Services; and
    - (f) do not, and will not, infringe any intellectual property rights.
- The Supplier shall ensure that the benefit of any manufacturer’s warranties relating to the Goods and/or Services, or component parts of the Goods and/or Services, is passed on to ESR. The Supplier further warrants that it has the right to sell the Goods and/or Services to ESR, upon the terms of this order, and that, if applicable, it has complied with the approved codes of practice under the health and Safety in Employment Act 1992 and associated regulations (or any legislative or regulatory instrument superseding it).
9. In the event that the Goods and/or Services provided by the Supplier fail to comply with any of the warranties above, then ESR may, at any time, without limiting or waiving any of its other rights against the Supplier, cancel the order and return the Goods and/or Services to the Supplier, whereupon the Supplier shall refund the full purchase price of the Goods and/or Services and all reasonable costs ESR has incurred in the cancellation, including any costs associated with returning any Goods and/or Services.
  10. All intellectual property in, and relating to the Goods and/or Services, and any alterations, additions or amendments thereto, including copyright, in any patents, tools, drawings or processes supplied, commissioned or paid by ESR, will be solely owned by ESR. All intellectual property originating from the Supplier prior to this order shall remain the property of the Supplier. The Supplier grants ESR a non-exclusive, perpetual, royalty free licence to any existing intellectual property, to the extent necessary for ESR to use and commercially deal with the Goods and/or Services.

11. The Supplier hereby indemnifies and will keep ESR indemnified against all costs, damages (whether direct or indirect), proceedings, losses, liabilities or other expenses (including reasonable legal fees) incurred by ESR resulting from any failure of the Goods and/or Services, including, but not limited to, any failure to comply with the warranties above, or actual or alleged infringement of intellectual property rights.

12. Where any order includes the provision of training services or support/maintenance or installation services, the Supplier will ensure that those services and any relevant spares or parts are supplied promptly, and in accordance with industry best practice.

13. The Supplier, its officers, employees, agents and/or sub-contractors will treat any information supplied to it as confidential information and acknowledges that it will only use this information for the purposes it was supplied, and only to the extent necessary to fulfil the order. It undertakes not to disclose, cause to be published, make known to any third parties, any confidential information, details concerning the order(s), or details relating to any intellectual property material, without ESR's prior written consent. The Supplier will return the confidential information to ESR upon ESR's request, or if no request is made, upon completion or termination of the order.

14. If the Supplier has a Receiver appointed over the whole or part of its assets or if an order is made or a solution passed winding up the Supplier's business then, ESR may at its election:

- (a) Cancel the order summarily by notice in writing without compensation to the Supplier; or
- (b) Give any Receiver, Liquidator or other person the option of fulfilling the order.

15. ESR will pay the Supplier for the Goods and/or Services the price(s) quoted in this order by the 20th day of the month following the stated delivery date or completion of the order, or the 20th of the month following receipt of an appropriate tax invoice for the Goods and/or Services from the Supplier, whichever is later. Unless expressly stated otherwise, all price(s) stated in this order are inclusive of all costs associated from the Supplier, whichever is later. Unless expressly stated otherwise, all price(s) stated in this order are inclusive of all costs associated with customs agents, carrier fees, freight, insurance, tariffs, duties, taxes of any kind, assessments and other levies or expenses where those costs are incurred by the Supplier, ESR shall not be required to pay any part of an invoice that is reasonably disputed, until that dispute is resolved.

16. This order, and any related Agreements will be governed exclusively by the laws of New Zealand, and submit to the jurisdiction of the New Zealand courts.