

Buying goods/services

These are the only contractual provisions that apply between Fire and Emergency New Zealand and the Contractor. If any other provision is to apply or prevail it must be agreed to in writing by Fire and Emergency New Zealand in each case.

1. Delivery/price

The Contractor will deliver each good/service ordered by Fire and Emergency New Zealand how, by when, where and for the prices specified to satisfy Fire and Emergency New Zealand's requirements. Prices are all inclusive unless specified otherwise in each case. The Contractor will keep Fire and Emergency New Zealand informed about delivery progress so that there are no adverse surprises for Fire and Emergency New Zealand.

2. Variations

Fire and Emergency New Zealand may vary or cancel any of its requirements for any good or service prior to completion of delivery. The Contractor will accommodate variations by Fire and Emergency New Zealand. Fair adjustments will be made to prices and delivery requirements due to variations by Fire and Emergency New Zealand, except if the Contractor does not give Fire and Emergency New Zealand a written request for an adjustment within 3 working days after notice of each variation, no increase adjustment will be made. Fire and Emergency New Zealand will not be liable for any cancellation.

3. Compliance

The Contractor will ensure that each good/service is:

- (a) designed, manufactured, delivered and operates in compliance with applicable user requirements, specifications and standards; and
- (b) compatible with each system that it will be used with.

4. Standards/quality assurance

The Contractor must itself, and ensure that its representatives:

- (a) perform using due diligence, care and skill, using sufficient appropriately trained, qualified, experienced and supervised persons; and
- (b) have and comply with standards and a quality assurance system approved by Fire and Emergency New Zealand. If a standard is not specified, then it will be the best standard in the applicable profession/industry.

Fire and Emergency New Zealand may observe and review anything being done by anyone. The Contractor will end the involvement with Fire and Emergency New Zealand business of any of its representatives to the extent reasonably required by Fire and Emergency New Zealand (e.g. due to security or misconduct reasons).

5. Access

Subject to Fire and Emergency New Zealand's security, operational and documentation requirements, Fire and Emergency New Zealand will allow the Contractor's representatives access at reasonable times to relevant property as necessary for the delivery of each good/service. The Contractor will ensure that its representatives co-operate with other persons, and do not restrict any other person's activities during access and generally when performing this contract. The Contractor will minimise disruption, and promptly tidy up and make good any damage or problems it causes.

6. Operational requirements

The Contractor will:

- (a) itself, and ensure each of its representatives and visitors, comply with Fire and Emergency New Zealand's security, operational and documentation requirements and with applicable law;
- (b) have and comply with its own appropriate health and safety plan, and promptly notify Fire and Emergency New Zealand:
 - (i) if any hazard exists at relevant properties of Fire and Emergency New Zealand due to the Contractor's representatives or visitors; and
 - (ii) of any accident or serious harm that occurs to, or is caused by, the Contractor's representatives or visitors at relevant properties of Fire and Emergency New Zealand;
- (c) not allow any unauthorised activity, discharge of any contaminant, or making of excessive noise, by any of its property, representatives or visitors at relevant properties of Fire and Emergency New Zealand;
- (d) not supply any ozone depleting or hazardous substance to Fire and Emergency New Zealand without having the necessary exemption; and
- (e) properly label and package every dangerous good and other hazardous substance it delivers to Fire and Emergency New Zealand, and mark the good with a prominent warning and provide a Material Safety Data Sheet.

7. Insurance

The Contractor will have insurance cover to the extent reasonably required or approved by Fire and Emergency New Zealand.

8. New intellectual property

If any new intellectual property is developed during, or as the purpose of, any delivery of a good/service to Fire and Emergency New Zealand, it will belong to Fire and Emergency New Zealand only.

9. Documentation/training

The Contractor will supply, with the goods/services, appropriate documentation in English and a reasonable amount of training to enable Fire and Emergency New Zealand to independently install, operate and maintain each good/service. The Customer will promptly and freely provide Fire and Emergency New Zealand with updates of that information as it becomes available. Fire and Emergency New Zealand may freely copy any relevant information for use by Fire and Emergency New Zealand.

10. Acceptance

Fire and Emergency New Zealand may carry out any reasonable or agreed acceptance test of any good/service, component and related system. The Contractor will assist and promptly remedy any acceptance test failure at its cost. Warranty identification labels are to be attached by the Contractor and dated on completion of each servicing or supply.

11. Payment

Payment will be made by Fire and Emergency New Zealand to the Contractor by the 20th day of the month following the month in which the later of:

- (a) an acceptance certificate for the relevant good/service was given by Fire and Emergency New Zealand to the Contractor; and
- (b) Fire and Emergency New Zealand received a correct itemised tax invoice for the relevant good/service.

Fire and Emergency New Zealand may set off any amount that is or may become payable by it to the Contractor against any amount that is or may become payable by the Contractor to Fire and Emergency New Zealand.

12. Title	Where Fire and Emergency New Zealand is buying a good or output of a service, clear title passes to Fire and Emergency New Zealand at the earlier of delivery and any payment by Fire and Emergency New Zealand for it.
13. Risk	Every risk to each good/service remains with the Contractor until completion of delivery and acceptance, except when within Fire and Emergency New Zealand's possession and control. The Contractor's representatives and anything involved in delivery are provided at the Contractor's every risk and cost.
14. Support	The Contractor will ensure that Fire and Emergency New Zealand has access to the prompt supply of appropriate support (e.g. spares, maintenance services) on a reasonable basis throughout the expected life of each good/service.
15. General warranties	<p>The Contractor assures Fire and Emergency New Zealand that:</p> <ul style="list-style-type: none">(a) each good (and its components) supplied by the Contractor will be new and unused on delivery, and if a shelf life or calendar life (by time, not utilisation) or a utilisation life is applicable, at least 95% of each of those lives remain on delivery;(b) each good/service supplied by the Contractor will conform as to design, quality, quantity, configuration, functionality, the samples (if any) and specifications provided to Fire and Emergency New Zealand;(c) each good supplied by the Contractor will be appropriately packaged, packed and securely stored until completion of delivery and installation by the Contractor (if applicable) to minimise damage, deterioration and theft;(d) where applicable, each good will be properly installed and integrated into, and will be compatible with and will not damage, Fire and Emergency New Zealand's relevant systems and other property;(e) despite anything said or done by Fire and Emergency New Zealand, each good/service supplied by the Contractor will for the specified warranty periods, or to the extent not specified, for at least 12 months from the later of the date of acceptance and the date of commencement of being in service with Fire and Emergency New Zealand:<ul style="list-style-type: none">(i) be fit for the expected use and purpose; and(ii) be free from any defect (including any latent defect) in design, materials, workmanship and title;(f) ownership, possession, modification, use or resale of any good/service supplied by the Contractor will not infringe any third party rights and the Contractor will protect Fire and Emergency New Zealand from any infringement claim or proceeding;(g) no form of inducement or reward has been or will be directly or indirectly provided to any of Fire and Emergency New Zealand's representatives. <p>These are additional to any other assurances given by the Contractor or implied by custom or law. The Contractor will, to the extent possible, pass on to Fire and Emergency New Zealand the benefit of any warranty or other assurance from any other person in respect of each good/service supplied to the intent that Fire and Emergency New Zealand may have recourse against those persons through the Contractor.</p>

16. Warranty claims	<p>The Contractor will promptly remedy each warranty claim to Fire and Emergency New Zealand's satisfaction. Fire and Emergency New Zealand may require repair or replacement solutions, and a temporary solution while the claim is being remedied. Components replaced or upgraded within a warranty claim will not be charged to Fire and Emergency New Zealand. If a hard drive is not repairable at Fire and Emergency New Zealand property, Fire and Emergency New Zealand may retain or destroy it without charge for security reasons. Warranty periods are suspended while each claim is being remedied, and then start again for the remaining warranty period on completion of remedying each defect.</p>
17. Compliance with laws/authorisations	<p>The Contractor:</p> <ul style="list-style-type: none"> (a) will ensure it, and each good/service prior to acceptance, complies with all New Zealand, and each relevant jurisdiction's, laws, codes and standards; and (b) is responsible for ensuring that every necessary and prudent authorisation is obtained to ensure that it can perform this contract and Fire and Emergency New Zealand can at all times own (where intended) and freely possess, modify, use and resell unrestricted, each good and output of each service supplied by the Contractor.
18. Failure by Contractor	<p>If the Contractor:</p> <ul style="list-style-type: none"> (a) breaches, or fails to properly or promptly perform, any of its obligations and fails to remedy the situation to Fire and Emergency New Zealand's satisfaction within two working days after notice from Fire and Emergency New Zealand of the breach or failure; (b) is or becomes insolvent or bankrupt, or is in or goes into receivership or liquidation; or (c) has a change of control or ownership, or a conflict of interest with Fire and Emergency New Zealand's interests, which Fire and Emergency New Zealand considers sufficiently inappropriate; <p>Fire and Emergency New Zealand may:</p> <ul style="list-style-type: none"> (d) suspend or cancel this contract (in whole or in part) by written notice to the Contractor; and/or (e) have the requirement performed by its own personnel or anyone else and recover damages from the Contractor.
19. Indemnity	<p>The Contractor will promptly make good, and protect Fire and Emergency New Zealand and its representatives from, any damage, problem, claim or proceedings the Contractor causes in relation to this contract.</p>
20. Fire and Emergency New Zealand liability limited	<p>To the extent allowed by law, Fire and Emergency New Zealand will not be liable (in contract or tort, including negligence, or otherwise) to the Contractor for any indirect damage, loss (including loss of profits or business) or cost caused or contributed to by Fire and Emergency New Zealand, any of its representatives or visitors in relation to this contract. Each of Fire and Emergency New Zealand's representatives is also to enjoy the benefit of this provision.</p>
21. Confidentiality	<p>The Contractor will keep confidential and secure, and not misuse, any information of Fire and Emergency New Zealand which would reasonably be expected to be proprietary, or commercially or militarily sensitive or confidential. Disclosure and use of information to the extent required by law is allowed.</p>

22. No assignment/ subcontracting	The Contractor may not assign or subcontract any of its benefits or burdens in respect of this contract without Fire and Emergency New Zealand's written consent. The Contractor will keep Fire and Emergency New Zealand informed about the involvement of subcontractors on a fully transparent basis and ensure each subcontract has passed through provisions allowing Fire and Emergency New Zealand to directly benefit from and enforce it.
23. Relationships	Nothing in this document creates or evidences any legal partnership, joint venture, agency or employer/employee relationship between the parties.
24. Waiver	No delay or failure to act is a waiver. No waiver is effective unless it is in writing. A waiver of a breach is not a waiver of any other breach.
25. Disputes	If a party believes there is a dispute, it will promptly notify and give written details to the other party. If the dispute is not resolved within 10 working days by senior representatives of the parties, it will be promptly submitted to arbitration if requested in writing by Fire and Emergency New Zealand.
26. Governing law	New Zealand law governs. New Zealand courts have non- exclusive jurisdiction.
27. Interpretation	Unless the context otherwise requires or it is specifically otherwise stated: (a) "good" and "service" include any form of deliverable; (b) if the Contractor comprises more than one person, each of those person's liability to Fire and Emergency New Zealand is joint and several; (c) references to a party or a person includes any form of entity and their respective successors, assigns and representatives; (d) amounts are in New Zealand dollars; and (e) time is of the essence.
