

## PURCHASE ORDER TERMS AND CONDITIONS

### **1. CONTRACT**

- 1.1 All purchase orders placed by CDHB are subject to the following terms and conditions. Where CDHB and the Supplier have a separate signed contract, the terms and conditions of supply within the separate contract take precedence.
- 1.2 The following terms and conditions prevail over the terms contained in the Supplier's standard conditions of sale, invoices, packing slips, delivery dockets or any other communication even if at some later date CDHB sign or purport to accept those Supplier terms.

### **2. PURCHASE ORDER**

- 2.1 CDHB will confirm all orders for any good or services (Supplies) by issuing purchase orders. The Supplier will confirm in writing receipt of all purchase orders within 24 hours. CDHB will not be liable for any Supplies supplied unless ordered on CDHB's purchase order.

### **3. PRICE**

- 3.1 The Price(s) specified in this purchase order apply without variation.
- 3.2 No charge shall be made for any other item such as freight, insurance, late payment, wrapping, packaging, cartons, boxing or preparing the Supplies for shipment, unless such charge is expressly agreed in writing by CDHB in its purchase order.
- 3.3 For the avoidance of doubt, the Supplier acknowledges that:
- all Supplies are deemed to be sold free into store (FIS);
  - the Supplier's costs and expenses incurred in complying with the Supplier's obligations under this purchase order are included in the Price; and
  - CDHB's sole liability under this purchase order shall be to pay the Supplier the Prices set out in this purchase order.

- 3.4 All prices are quoted GST exclusive.

### **4. PAYMENT AND TAXES**

- 4.1 Subject to the Supplies complying with this purchase order, CDHB will pay for the Supplies in NZ dollars on the 20<sup>th</sup> of the month following the month of receipt of invoice.
- 4.2 All payments are subject to CDHB receiving a GST tax invoice complying with clause 5.1 of these terms and conditions.
- 4.3 Failure by CDHB to dispute any invoice prior to payment will not prejudice CDHB's rights to subsequently dispute the correctness of such invoice.
- 4.4 CDHB may withhold or deduct or set off the amount of any overpayment or any amount recoverable by CDHB from the Supplier under these terms and conditions from any future payment.
- 4.5 The Supplier must pay all taxes, charges and other payments including, but not limited to, payroll tax, levies, duties and assessments of every nature due in connection with the supply of the Supplies (but excluding GST which CDHB will pay).
- 4.6 In respect of all payments that CDHB is liable to make to the Supplier under this purchase order, CDHB may deduct any withholding tax required to be deducted from those payments and forward that withholding tax to the Inland Revenue Department in the manner required by New Zealand law. The net amounts paid by CDHB to the Supplier after deduction of any withholding tax shall be a complete and final discharge by CDHB of its obligation to make the relevant payment.
- 4.7 The Supplier must notify CDHB's GM Finance in writing of any change in its income tax status (GM Finance, Canterbury DHB, PO Box 1600, Christchurch 8140, Email: [MBX\\_FinanceManagement@cdhb.health.nz](mailto:MBX_FinanceManagement@cdhb.health.nz)). In the event the Supplier fails to notify CDHB and the New Zealand Inland Revenue Department imposes withholding taxes and penalties on CDHB, the Supplier must reimburse CDHB for those taxes and penalties immediately on demand and such amounts will be recoverable from the Supplier as a debt due to CDHB.

### **5. INVOICES**

- 5.1 Each GST tax invoice must meet all legal requirements and must state the following information:
- CDHB's purchase order number;
  - Supplier's legal name;
  - Supplier GST number;
  - Supplier's invoice number;
  - Description of Supplies including quantity delivered;
  - Date of delivery; and
  - NZ dollar amount to be paid plus GST (if any).
- 5.2 Invoices must be issued to CDHB on the last day of each month for all Supplies delivered to CDHB during that month at the Price plus GST.
- 5.3 All invoices must be sent to:

Canterbury District Health Board – Accounts Payable, Canterbury District Health Board, PO Box 1600, Christchurch 8140

### **6. DELIVERY**

- 6.1 Delivery must be to the address specified in the purchase order.
- 6.2 Delivery must be no later than the date specified in the purchase order. If for any reason the Supplier is unable to meet this date then it must notify CDHB immediately.
- 6.3 A Delivery Note must accompany all deliveries, and must state:
- CDHB's purchase order number;
  - Supplier's legal name and contact details; and
  - Full description of Supplies and quantity delivered.

- 6.4 The purchase order number must be quoted on all packing slips and related documents.

- 6.5 All deliveries should be accompanied by: applicable datasheets and a certificate of conformance/analysis which must include: Supplier's name and contact details, name and title of authorising signatory, material name, date of manufacture/production, batch/lot number, Supplier's item code, CDHB item code, expiry date, date of supply to CDHB, test analysis date, test/analysis results.

- 6.6 Quantities of Supplies delivered must conform to the quantities ordered by CDHB. CDHB will only accept part deliveries and interim invoices if agreed in writing by CDHB prior to delivery by the Supplier.

- 6.7 CDHB can return any Supplies incorrectly delivered. The Supplier is responsible for the cost of, and arrangements for, the return freight.

- 6.8 Risk in any Supplies will pass to CDHB upon signing of the delivery note accompanying the Supplies. The signing of a delivery note or acknowledgement of delivery of any Supplies by CDHB will not be taken as acceptance of either quantity or quality of the Supplies and acceptance by CDHB of the Supplies will be subject to subsequent inspection and use of the Supplies. Ownership in any Supplies will pass to CDHB once CDHB has paid the Supplier's invoice relating to those Supplies.

- 6.9 CDHB reserves the right to inspect Supplies during and/or after manufacture but before delivery. Any such inspection shall not constitute any acceptance or prejudice any of CDHB's rights.

### **7. PACKAGING**

- 7.1 The Supplier will ensure packaging and transit packaging are sufficient to retain the original integrity of Supplies.

- 7.2 The Supplier will ensure any pallets used to deliver goods are of a standard size, sound structure and suitable for stacking safely on the CDHB racking system (if required).

### **8. ACCESS TO ANY CDHB SITE**

- 8.1 If access to any CDHB site is necessary for the supply of Supplies to CDHB in accordance with this purchase order, CDHB will allow the Supplier access at reasonable times, as necessary.

- 8.2 Where the Supplier has access to any CDHB Site, the Supplier will comply with all legislative requirements, including the Health and Safety at Work Act 2015, CDHB's security, operational and site requirements.

- 8.3 When required by CDHB, the Supplier must complete a CDHB site specific induction programme before supplying Supplies to CDHB in accordance with this purchase order.

### **9. WARRANTY**

- 9.1 The Supplier warrants to CDHB that all Supplies are:
- of commercial standard and conform with all specifications;
  - fit for their intended purpose, of merchantable quality and comply with all laws and standards and all authority requirements relevant to the Supplies both in New Zealand and overseas;
  - free from any defect (including any latent defect);
  - new and unused (unless otherwise agreed with CDHB) and have a remaining shelf life in excess of 95% upon delivery (where applicable);
  - free from all encumbrances, adverse interest or claim by any third party; and
  - if applicable, registered in New Zealand with Medsafe.

- 9.2 The Supplier will ensure that all spare parts, accessories and consumables required for the Supplies are and will continue to be available for all Supplies until seven years after the Supplies cease to be manufactured and that sufficient stock of all spare parts, accessories and consumables will be held in New Zealand.

### **10. INDEMNITY**

- 10.1 The Supplier shall fully protect and indemnify CDHB against any claim, damage, loss, expense or liability incurred directly or indirectly by CDHB in connection with or as a consequence of the Supplier's failure to comply with its obligations under this purchase order or any act or omission by the Supplier's employees, agents or representatives. The Supplier will have and maintain insurance cover sufficient to enable it to meet its obligations under this clause 10.

- 10.2 In no circumstances will the Supplier or CDHB be liable to the other in contract or tort for any loss of profit, business, reputation, contracts, revenues or anticipated savings or for any special, indirect or consequential damage of any nature which arises directly or indirectly from any default under these terms and conditions on the part of either party.

### **11. NOTIFICATION OF HAZARDS, RECALLS AND DEFECTIVE GOODS**

- 11.1 The Supplier will notify CDHB's Clinical Technologies Manager (Private Bag 4710, Christchurch 8140, Facsimile +64 3 364 0436) and Clinical Product Coordinator (211 Blenheim Road, Private Bag 4710, Christchurch 8140, Facsimile +64 3 364 0086) if:

- any of the Supplies are recalled or if any defect notice has been issued in relation to any of the Supplies by Medsafe or other legislative body; or
- if the Supplier becomes aware of any manufacturer supplied or independently sourced reputable reports of non-compliance that affect or have the potential to affect the safety of any of the Supplies.

11.2 The Supplier will also notify Medsafe within 5 business days of the first recall or defect notice or announcement being made in any nation by the manufacturer or device regulatory body.

## **12. FAILURE TO COMPLY**

12.1 If any Supplies fail to comply with the requirements of this purchase order the Supplies may be rejected without payment. Rejected Supplies must be collected by the Supplier by the date advised by CDHB and at the Supplier's risk and expense. On such rejection or if the Supplier defaults in delivering any Supplies or if any Supplies are required to be recalled by the government or any other authority, the Supplier will use its best endeavours to provide replacement Supplies to CDHB as soon as possible, provided that CDHB reserves its right to purchase alternative Supplies elsewhere.

## **13. FORCE MAJEURE**

13.1 Neither party will be liable to the other for any delays nor non-performance of obligations under this purchase order caused by a Force Majeure, provided each party has taken reasonable steps to minimise any loss, damage or delay resulting from a Force Majeure event. A Force Majeure event includes fire, outbreaks of war, acts of hostility and acts of God. The expression does not include financial management difficulties or problems caused by contractual relations between the Supplier and its employees, agents, sub-contractors or suppliers or any risk or event the effects of which the party affected could have prevented or overcome by taking reasonable care.

## **14. INTELLECTUAL PROPERTY**

14.1 Where the Supplier makes Supplies (including intellectual property) solely for CDHB or based substantially or wholly on the CDHB's specifications, drawings, designs or property then such Supplies shall be the property of CDHB and may not be offered for sale or license by the Supplier without the prior written consent of CDHB. The Supplier must ensure that the Supplies do not breach the intellectual property rights or proprietary rights of any third party.

## **15. CONFIDENTIALITY**

15.1 All technical specifications, drawings, designs, concepts or other property or information provided by CDHB to the Supplier remain the property of CDHB and are to be treated as strictly confidential. The Supplier must ensure that its employees, agents and contractors keep that information strictly confidential on the same terms. The confidential information must be returned immediately on demand and may not be copied without CDHB's written consent. This requirement of confidentiality shall survive the term of this purchase order.

15.2 The Supplier will ensure that it and its employees, agents and contractors that access CDHB's premises will not divulge, discuss or in any way disclose any information concerning any patient or person accessing any of CDHB's premises or receiving health or disability services.

## **16. MISCELLANEOUS**

16.1 No waiver of any breach of these terms and conditions shall be deemed to be a waiver of any other or subsequent breach.

16.2 This purchase order shall not be assigned by the Supplier without the prior written consent of CDHB. CDHB may assign its rights, obligations and powers in respect of this purchase order upon written notice to the Supplier at any time.

16.3 In the event that any clause in these terms and condition is subsequently found to be unenforceable, invalid or illegal for any reason whatsoever, the other clauses will remain in full force and effect.

16.4 The Supplier acknowledges that CDHB is a Crown entity and agrees that it will always act in its dealings with CDHB and CDHB's advisors, employees and agents in a manner consistent with the highest standards of probity

16.5 The Supplier shall not in any way advertise or make statements to the media in relation to this purchase order without the prior written consent of CDHB.

16.6 For any amendments or variations of these terms and conditions to be binding they must be in writing and executed lawfully by both parties.

16.7 CDHB has the right to amend these terms and conditions at its discretion at any time.

16.8 This purchase order shall be governed by, and construed according to, the laws of New Zealand.