

Standard Terms and Conditions for Supply of Products and Services

(HR44)

1 Supply of Products and Services

1.1 Agreement for Products and Services

- a Tardis agrees to provide, and the Customer agrees to obtain, the Products and Services upon the terms and conditions contained in the Agreement.
- b The "Agreement" consists of these Standard Terms and Conditions and an Order Form prepared or accepted by Tardis. If there is any conflict or discrepancy between these Standard Terms and Conditions and the Order Form, the terms of the Order Form will prevail.
- c The Agreement records the entire agreement between the parties relating to the matters dealt with in the Agreement and supersedes all previous arrangements, whether written, oral or both, relating to such matters. Any additional, conflicting or inconsistent Customer terms (whether set forth in a request for proposals, purchase order, or in any other document) are expressly rejected by Tardis and are not part of the Agreement.
- d The Agreement does not apply to any software supplied by Tardis and any such software is governed by a separate End User Licence Agreement.

1.2 Maintenance and Support

Unless specifically included in an Order Form, the Agreement does not include any future versions or upgrades or updates to the Products or Services, nor any support services.

1.3 Authorised Representative

The Customer must have one or more authorised representatives who each are duly authorised to make all decisions on behalf of the Customer and act as the Customer's agent and primary contact person in relation to the Agreement.

1.4 Scope of Work

The Products and Services are confined to the work specified in the Order Form. Alterations to the proposed scope of work due to scope changes or delays beyond Tardis' control will be the subject of an additional fee which either will be agreed or will be charged in accordance with Tardis' then applicable current charge rates.

1.5 Reliance on Customer Information

The Customer acknowledges that Tardis may be required, in the course of providing the Products and Services, to make assessments based on information supplied either by the Customer, or compiled by others. Tardis will rely on that information and not verify its accuracy and completeness. The Customer agrees that Tardis will not be liable for any loss or damage the Customer or any other person sustains, directly or indirectly, in connection with Tardis' reliance on that information. ;

2 Customer's Obligations

The success of the Services requires the Customer's timely co-operation. The Customer agrees to:

- a Provide any Customer materials that Tardis requires to carry out the Services, and staff to work with Tardis;
- b Provide necessary communications access and infrastructure to facilitate remote access by Tardis, if requested by Tardis to provide the Services;
- c Arrange access to third parties where applicable;
- d Ensure that appropriate back-up, security and virus checking procedures are in place for any computer facilities provided by the Customer;
- e Provide a suitably qualified or informed representative(s), who shall be available to Tardis to advise on access, use of Customer resources and any other matter within the Customer's knowledge or control which may assist Tardis in complying with its obligations under the Agreement;
- f Make necessary staff available for consultation on request;
- g Provide reasonable working facilities for Tardis if Tardis is working on site;
- h Make decisions promptly, to facilitate the performance of the Services;
- i Provide any other assistance or information set out in the Order Form
- j Ensure the availability of necessary information and resources for the Project, and provide these promptly upon request by Tardis; and
- k Ensure that Tardis' employees and contractors have full and safe access to the Customer's site, equipment, and data at all reasonable times for purposes associated with the supply of the Services.

3 Tardis Obligations

Subject to (and reliant upon) the Customer's performance under the Agreement, Tardis shall:

- a Provide the Products and Services in accordance with the Order Form;
- b If working on site at the Customer's premises, comply with all health and safety rules and procedures that are notified in writing to Tardis; and
- c Cooperate with the Customer and its agents, employees or contractors involved in any activities related to the Services.

4 Warranties

4.1 Services Warranty

- a Tardis will use reasonable skill and care in providing the Services.
- b Tardis warrants that the Services will be substantially free from defective workmanship when delivered. Tardis shall not be responsible for Service failure as a result of accident, misuse or user error, modification undertaken by anyone other than Tardis, any data loss or corruption or personal information data breach, or any alleged defects in the Services that arise from Tardis' compliance with any designs, criteria or requirements provided by or through the Customer. This warranty does not apply to any Products supplied by Tardis. If this warranty is breached, then Tardis' entire liability and the Customer exclusive remedy for breach of that warranty shall be, at Tardis' option, either:
 - i Resupplying the Services;
 - ii Paying for the Services to be resupplied by a third party; or
 - iii Refunding the price paid for the defective Services.
- c In the absence of notice being given to Tardis during the 90-day period following the date of supply of the Services, the Customer shall be deemed to have accepted the Services.

4.2 Product Warranty

The Product Warranty attached as Schedule 1 shall apply to the Products.

4.3 Third Party Goods

Unless otherwise expressly agreed in writing, Tardis does not provide any warranties for Third Party Goods sold, supplied or arranged by Tardis, and the Customer acknowledges and agrees that:

- a It relies solely on the manufacturer's warranty (if any);
- b The manufacturer's standard license/supply terms will apply;
- c Tardis shall provide reasonable assistance with any Customer warranty claims arising for Third Party Goods, provided however that the Customer shall be solely responsible for compliance with the manufacturer's warranty registration and claims processes; and
- d Tardis may receive commissions for, and apply margins on, Third Party Goods.

4.4 Intellectual Property Warranty

Tardis warrants that it is:

- a The duly authorised owner or licensee of the Suppliers Intellectual Property and has the right and authority to licence the Suppliers Intellectual Property to the Customer on the terms of the Agreement; and
- b There are no existing restrictions or constraints on this right and authority to license the Suppliers Intellectual Property to the Customer on the terms of the Agreement.

4.5 No other warranties provided

Except as expressly provided for in clause 4 of these Standard Terms and Conditions, Tardis accepts no liability for, and disclaims, any representations, warranties or undertakings, whether express or implied, as to any matter relating to the Products or Services or any consequences or benefits to be obtained from their use or as to the merchantability or fitness for any particular purpose of the Products or

Services, or any results to be gained from the Products or Services, or otherwise. The remedy described in clauses 4.1(b) (Services) and the Product Warranty attached as Schedule 1 shall constitute the sole remedy of the Customer for breach of warranty, with Tardis having no further liability to the Customer under the Agreement or otherwise.

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Payments

- a The Customer shall make payments when due according to the payment schedule set out in the Order Form. Where no payment schedule is specified in the Order Form, then payment shall be made by the 20th of the month for Products and Services supplied in the prior month.
- b Subject to any alternative arrangement set out in the Order Form, Tardis' fees are calculated on the basis of time spent on the Services at the applicable current charge. Tardis' current charge rates, which it may vary from time to time, can be obtained on request. Out of pocket expenses reasonably incurred must also be reimbursed to Tardis.
- c In the event that payment is not made by the due date, then the Customer shall pay Tardis interest at the Default Interest Rate from the due date up until the date on which full payment is made.
- d Changes to the scope of the Project may incur additional charges pursuant to clause 1.4.
- e Unless expressly recorded otherwise in the Order Form, Tardis' fees and other charges are exclusive of goods and services tax, other tax, tariffs, duties or impositions of a similar nature imposed by any government or other authority.

6

Services

- a Tardis shall provide the Services specified in the Order Form.
- b Where the Services are requested without a written Order Form, the Services shall be provided on these Terms and Conditions.
- c Unless otherwise agreed, the Services will be charged on an hourly basis in accordance with Tardis' current commercial pricing.
- d Subject to otherwise complying with its obligations under the Agreement, Tardis shall exercise its independent discretion as to the most appropriate and effective manner of providing the Services and of satisfying the Customer's expectations of those Services.
- e In providing the Services, Tardis shall comply with all reasonable directions given by the Customer as may be lawfully given from time to time as to the nature and scope of the Services to be provided, provided that this shall not affect Tardis' right to exercise its own judgment and utilise its own skills as it considers appropriate in order to comply with the Customer's directions or otherwise to discharge its obligations under the Agreement.
- f Tardis shall supply the Services in accordance with the Agreement, including:
 - i Any minimum days or hours per week specified in the Agreement;
 - ii At the locations, including the Customer's place of business, specified in the Agreement; and
 - iii Remotely, as reasonably available on other days.
- g Tardis does not warrant that it will be capable of attending the Customer's premises or provide the Services at specific times requested by the

Customer, except to the extent agreed in an Order Form.

7 Products

- a Risk in the Products (if any) passes on delivery to the Customer.
- b Title to Products passes when Tardis receives full payment. Until full payment, Tardis reserves all ownership rights to the Products.
- c Tardis may substitute the Products (or any component of the Products) prior to delivery without consultation with the Customer, and may in any other respect modify the Products if, in the reasonable opinion of Tardis, such substitution or modification will not:
 - i Adversely affect the performance or capacity of the Products;
 - ii Alter the configuration of the Products in any material respect; or
 - iii Otherwise materially affect the obligations of Tardis or prejudice the rights of the Customer under the Agreement.
- d If a substitution or modification is made under subclause (c) above, Tardis shall notify the Customer on or prior to delivery.
- e Tardis shall use reasonable endeavours to deliver the Products to the location on the delivery date (as specified in the Order Form) during normal business hours. If the Customer requests that the delivery date be postponed or advanced, Tardis shall use its reasonable endeavours to re-schedule delivery accordingly, but shall otherwise be under no obligation to comply with the Customer's request.
- f Where delivery occurs before payment, then the parties agree that:
 - i Tardis has a registrable first-ranking security interest in the Products supplied; and
 - ii The Customer shall ensure that the Products are fully insured (replacement value) and that Tardis is recognised as an additional insured on the Products' insurance policy (a copy of the Customer's insurance policy shall be supplied to Tardis upon request),

Until the Products are paid in full. The Customer agrees that nothing in sections 114(1)(a), 116, 117(1)(c), 119, 120(2), 121, 125, 127, 129, 131, 132, 133 and 134 of the Personal Properties Securities Act 1999 will apply to the Agreement. The Customer agrees to waive its right to receive a copy of the verification statement confirming registration of a financing statement or a financing change statement relating to any security interest that may be created by the Agreement (s148).

8 Confidentiality

8.1 Confidential information

The parties shall, at all times, keep the following information ("Confidential Information") in whatever form (including electronic) confidential (whether disclosed before or after the commencement of the Agreement):

- a The terms of the Agreement;
- b All information exchanged between the parties or provided by either party on request by the other;
- c All records, documents and reports in relation to the Services, Customer and Supplier Intellectual Property or the Project. The working papers for any Services engagement, including electronic documents and files, are Tardis' property and are

included in the definition of Confidential Information; and

- d Other information from a party or its business partners relating to the Agreement or the party's business.

8.2 Restrictions on use

- a The parties must not use any of the Confidential Information supplied by the other party for any purpose other than the performance of the Agreement. Confidential Information must be returned or deleted upon termination of the Agreement or otherwise upon request of the party that supplied the information.
- b The Customer shall ensure that any party to which the Confidential Information is disclosed (including prospective and engaged business partners, employees, technical personnel, agents, contractors, sub-contractors and sub-licensees, internal or external directors, board members or trustees, or any party as may be specified by Tardis from time to time) is covered by obligations of confidentiality no less strenuous than the obligations set out in the Agreement prior to the disclosure of that Confidential Information, and the Customer will enforce those obligations in the event of any misuse of Confidential Information (where that use would be a breach of the Agreement, if undertaken or permitted by the Customer) .

8.3 Exceptions

The obligations in subclauses 8.1 and 8.2 shall apply except:

- a As authorised in writing by the party that supplied the information;
- b As reasonably required on a "need to know" basis to officers, employees, and professional advisers of the party, for the purposes of implementing and performing the Agreement, provided such persons have agreed to keep the Confidential Information confidential;
- c As required by law; or
- d To the extent that any Confidential Information is already or becomes public knowledge, otherwise than as a result of a breach by the party,

provided that where information or material relates exclusively to one party, nothing in the Agreement shall require that party to maintain confidentiality in respect of that information or material.

9 Intellectual Property

- a Customer Intellectual Property remains the property of the Customer and/or its licensors. The Customer grants Tardis a non-exclusive, non-transferable licence to use the Customer Intellectual Property for the sole and exclusive purpose of the Project. This licence does not convey title or grant any rights of ownership in Customer Intellectual Property to Tardis.
- b Supplier Intellectual Property remains the property of Tardis and / or its licensors. Tardis grants the Customer a non-exclusive, non-transferable licence to use the Supplier Intellectual Property for the sole and exclusive purpose of the Project, for the Term of the Agreement. This licence does not convey title or grant any rights of ownership in Supplier Intellectual Property to the Customer. Tardis may, at its sole discretion, create new or derivative Supplier Intellectual Property, or amend, modify, alter, add to, or remove from, the Supplier Intellectual Property when providing the Services.
- c Except as expressly provided in these terms and conditions, neither party shall have any right to

use, copy, modify, reverse engineer, transfer, licence, distribute, lease or otherwise deal with any Intellectual Property supplied by the other party.

10 Term and Termination

10.1 Term

The Agreement shall commence when both parties have signed or otherwise accepted the Order Form (including if Tardis is asked to commence providing the Products or Services) and shall expire at the end of the Project unless terminated earlier in accordance with this clause 10.

10.2 Suspension

Tardis may suspend the supply of Products or Services, in whole or in part, if the Customer fails to comply with the terms of the Agreement, until the non-compliance is remedied.

10.3 Termination for breach

Notwithstanding anything else in the Agreement, either party ("A") may immediately terminate the Agreement by notice to the other party ("B"):

- a If B materially breaches the Agreement, and the breach is not capable of remedy or, if the breach is capable of remedy, is not remedied within fifteen (15) days of the A's written demand to do so; or
- b If B becomes insolvent, commits an act of bankruptcy, has a receiver appointed over all or any part of the assets of the B (whether appointed by B or any other person), makes or is likely to make an arrangement with its creditors, has a liquidator (provisional or otherwise) or administrator appointed, is placed under statutory or official management, or commences winding up.

10.4 Consequences of termination

Upon termination of the Agreement:

- a Tardis shall cease supply of the Products and Services, and cease use of any Customer Intellectual Property;
- b The Customer shall return all Tardis property (including any Products where ownership has not transferred to the Customer);
- c The Customer will pay all amounts owing at termination to Tardis; and
- d Clause 8 (Confidentiality) and this clause will continue in full force and effect following termination of the agreement, together with clauses 4, 5(c), 6 and 9 – 12 and any incidental terms and conditions.

11 Disputes

- a The parties agree to use their best efforts to resolve any dispute which may arise under the Agreement through good faith negotiations.
- b Either party may raise a dispute by written notice to the other party.
- c On receipt of a dispute notice, the parties' authorised representatives shall meet (or otherwise communicate, if a meeting is not practicable) and attempt to resolve the dispute through good faith negotiations on a 'without prejudice' basis.
- d If a resolution to the dispute cannot be achieved within 5 Working Days following the commencement of negotiations between the parties' respective representatives, then the dispute shall be escalated to the parties' respective chief executives (or equivalent).

e Where escalation occurs, the parties' respective chief executives (or equivalent) shall meet (or otherwise communicate, if a meeting is not practicable) and attempt to resolve the dispute through good faith negotiations on a 'without prejudice' basis.

f Neither party shall commence any arbitration or litigation in relation to the Agreement unless 10 Working Days has passed since the parties' respective chief executives (or equivalent) have met (or otherwise communicated) and endeavoured in good faith to resolve the dispute on mutually acceptable terms.

g Any disputes which cannot be resolved by negotiation shall be referred to Arbitration pursuant to the Arbitration Act 1996, before a single arbitrator at Auckland. In the event that the parties cannot agree upon an arbitrator within 10 Working Days, then an arbitrator shall be appointed by the President of the New Zealand Law Society.

h Nothing in this clause 11 shall preclude either party from taking immediate steps to seek urgent equitable relief.

12 Limitation of Liability

- a If Tardis is liable for any loss, damage or injury arising directly or indirectly from the Products or Services or any other cause arising from or relating to the Agreement, the aggregate total liability of Tardis (whether in tort (including negligence), contract or otherwise) for all claims made or available to the Customer shall not exceed the amounts paid by the Customer to Tardis for the Products and Services in the six-month period immediately preceding the event giving rise to the liability.
- b Except as provided in clause 4 or 12(a), and notwithstanding anything else in the Agreement, Tardis shall not be liable for any loss, damage or injury whatsoever (including special, consequential or indirect damages, loss of profits, loss of use, loss of income, business interruption, or other pecuniary loss) arising directly or indirectly from the Products or Services or any other cause arising from or relating to the Agreement, or arising from or in relation to any act, default or negligence on the part of Tardis or of an employee, agent or contractor of Tardis, even if Tardis is advised of the possibility of such damages.
- c Tardis shall not be liable for any deterioration, destruction or other damage to Products, or any property damage, personal injury or other harm, arising in connection with improper storage or handling of the Products following delivery.
- d No claim arising out of the Agreement, regardless of form, may be brought by the Customer more than 12 months after the event that gave rise to that right of claim.
- e The Consumer Guarantees Act 1993 and Sections 9, 12A and 13 of the Fair Trading Act 1986 shall not apply to the Agreement or the supply of Products or Services.

13 General

13.1 Relationship between the parties

The parties are independent contractors only. Nothing expressed or implied in the Agreement shall constitute either party as the partner, agent, fiduciary, employee or officer of, or as a joint venture with, the other party and neither party shall make any contrary representation to any person.

13.2 Waiver

- a No failure or delay by any party to exercise any power, remedy or right in relation to the Agreement shall prejudice, limit or affect or operate as a waiver of that power, remedy or right or be deemed to waive any default or breach of any obligation, liability or agreement by any other party.
- b The exercise or partial exercise of any power, remedy or right shall be without prejudice to that party's right to exercise that or any other power, remedy or right at the same time (except the exercise of any power, remedy or right is inconsistent with the exercise of any other power, remedy or right) or in the future.

13.3 Variations

Any modification to or variation of the Agreement must be in writing and signed by an authorised representative of each party.

13.4 Indemnity

The Customer shall at all times indemnify and hold harmless Tardis and its employees, agents, consultants, contractors, nominees and similar from and against any claims, losses, damages, costs (including legal fees on a solicitor – client basis) or liability incurred or suffered where such claim, loss, damage, cost or liability was caused by a breach by the Customer of its obligations under the Agreement (including a failure to pay money when due).

13.5 Partial Invalidity / Severability

Every provision of the Agreement remains binding unless it is held to be illegal, invalid, unenforceable or void, in whole or part, in which case such provision or part of such provision shall be severed from the Agreement, which will otherwise continue in full effect.

13.6 Subcontractors

Tardis reserves the right to engage subcontractors, and any reference to its staff includes subcontractors. Subject to the Agreement, Tardis will remain liable to the Customer for any of the Services that are provided by any subcontractor.

13.7 Assignment

- a The Customer may assign its rights and obligations under the Agreement to a reputable third party with the prior written consent of Tardis (which shall not be unreasonably withheld).
- b Tardis may assign its rights and obligations under the Agreement to a reputable third party by written notice to the Customer.

13.8 Authority

The Customer, and those signing on its behalf, warrants that the Customer has full authority to enter into and perform all obligations arising under the Agreement.

13.9 No Reliance

The Customer acknowledges that it has had the opportunity to take its own specialist advice on the Agreement, the Project, the Products and the Services (including technical and legal advice) and relies solely on its advisors, save for any documented representations made by Tardis in the Agreement. Tardis accepts no liability for any claim relating to or arising from any representations, warranties, conditions or agreements made by any agent or representative of Tardis, which is not expressly confirmed by Tardis in the Agreement.

13.10 Time for Delivery

Tardis shall use all reasonable endeavours to meet any times for delivery specified in the Order Form (if

stated), although delivery usually depends on external factors including availability of Customer resources and network access, site access, third party suppliers and other factors beyond the control of Tardis. Delivery times therefore cannot be guaranteed and shall not be a representation or condition of the Agreement. The Customer may delay payment until after the relevant Products or Services are supplied, but otherwise shall not be relieved of any obligation to accept or pay for the Products or Services by reason of any delay in delivery.

13.11 Force majeure

Neither party will be liable for any failure or delay in performing an obligation under the Agreement that is due to causes beyond its reasonable control, such as (but not limited to) natural catastrophes, terrorist acts, governmental acts or omissions, restrictions on site or network access, confiscation or seizure, laws or regulations, labour strikes or difficulties, transportation stoppages or slowdowns or the inability to procure parts or materials. These causes will not however operate to excuse or limit an obligation to pay money.

13.12 Further Assurances

Each party will do, sign, execute and deliver (and procure that each of its employees and agents does, signs, executes and delivers) all deeds, documents, instruments and acts reasonably required of it by notice from the other party effectively to carry out and give full effect to the Agreement and the rights and obligations of the parties.

13.13 Notice

Any notice required to be given by the Agreement shall be given in writing either personally, by post, or by email to the party's last-known email address for the recipient's nominated contact person (which may be updated by written notice from time to time). Any notice required to be given to the Customer may be given to a person nominated as a representative under clause 1.3.

13.14 Governing Law and Jurisdiction

The Agreement is governed by and shall be construed in accordance with the law of New Zealand (but expressly excluding sections 202 – 206 of the Contract and Commercial Law Act 2017 (United Nations Convention on Contracts for the International Sale of Goods)) The Customer irrevocably submits to the non-exclusive jurisdiction of the New Zealand courts.

13.15 Non-solicitation

For the duration of the Agreement, and for 12 months after the termination or completion of the Agreement, the Customer will not employ or engage, or procure a third party to employ or engage, any Tardis employee or contractor who has taken part in the supply of Products or Services. In the event of breach resulting in the departure of a Tardis employee or contractor, the Customer and Tardis agree that, as a reasonable estimate of the damage to Tardis and not a penalty, the Customer shall pay liquidated damages to Tardis equal to the annual salary of the solicited employee or contractor.

13.16 Non-exclusivity

Tardis will not be prevented or restricted by anything in the Agreement from providing services for other customers. Tardis will take steps to ensure that Confidential Information communicated to it during the course of the Services will be maintained confidentially and separate from partners and staff assigned to other projects in which there is a manifest competing interest of another customer.

14 Definitions

In the Agreement, unless the context requires otherwise:

Agreement	means these Terms and Conditions and the Order Form;
Customer	means the party named as customer in the Order Form;
Customer Intellectual Property	means all pre-existing Intellectual Property of the Customer, including Intellectual Property in Customer data, records, documents, reports, systems information, business process information, and other proprietary Intellectual Property of the Customer;
Default Interest Rate	means 1.5% per month;
Intellectual Property	means patentable material, patents, copyright, trademarks, designs, rights in software and designs, and any other right granted by operation of law which confers protection on any written or artistic work created by intellectual effort and all associated intangible assets created as a by-product (including brands, trade names, services, techniques, configurations, know-how, methods, concepts, ideas);
Tardis	means Tardis Limited, a duly incorporated Company having its registered offices at Christchurch.
Order Form	means an order form, engagement letter, statement of work, proposal or similar recording the Services and/or Products to be supplied by Tardis, in any form (including email or verbal);
Products	means goods (including hardware and Third Party Goods, but excluding software) supplied by Tardis by agreement between the parties, including products listed in the Order Form;
Project	means the project for which Tardis has been engaged to supply Products and/or Services to the Customer;
Services	means the services described in the Order Form, including but

not limited to installation, programming and configuration;

Supplier Intellectual Property

means all Intellectual Property forming part of, or arising from or in relation to, the Products and Services, excluding Third Party Goods and Customer Intellectual Property;

Third Party Goods

means all property (including hardware and software) manufactured by persons or entities other than Tardis;

Working Days

- a means any day of the week other than: Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, Waitangi Day, Matariki day, and Any Anniversary Day celebrated in the Customer's region; or
- b A day in the period commencing with the 23rd day of December in any year and ending with the 7th day of January in the following year.

14.2 General rules of interpretation

- a Singular words include the plural and vice versa, and where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- b References to any party shall mean and include a reference to that party, its successor, executors or personal representatives (as the case may be), and transferees;
- c Where more parties than one are covenanting parties, the covenants expressed or implied in the Agreement bind the covenanting parties jointly and each of them severally;
- d Any reference to legislation, statute, regulation, ruling, code, rules or ordinance includes reference to any modification, substitute for, consolidation or re-enactment of it and any regulation, order in council or other instrument from time to time made or issued under such legislation, statute, regulation, ruling, code, rules or ordinance;
- e Headings are for convenience only and do not affect the interpretation of the Agreement except for use as cross-references;
- f Any covenant not to do anything shall also constitute an obligation not to suffer, permit, cause or assist any other person to do that thing.

