



# NZX ENERGY DATA PRODUCTS ORDER FORM

Name of organisation

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Organisation address details

Contact Name

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Address

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City

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Country

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Postcode

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Phone

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Email

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Billing address

(if different from above)

Address

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City

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Country

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Postcode

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Phone

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Email

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Payment Details

Tick ✓

Monthly Invoice

Yes

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Quarterly Invoice

Yes

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Annually Invoice

Yes

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Order Number

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By signing this subscription order form you confirm and acknowledge that you have understood and agree to be bound by the Terms and Conditions of Subscription for Business Use attached.

Signature of applicant:

Date signed:

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Signature of witness:

Date signed:

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Witness name:

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Witness address:

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**PLEASE SEND THIS COMPLETED FORM TO NZX ENERGY:**

NZX Energy - NZX Limited

PO Box 2959, Wellington

Email [rm@nzx.com](mailto:rm@nzx.com)



# PRODUCT PRICE LIST AND USER SCHEDULE

Prices effective 16 May 2022

Electricity Market Reports		
<b>Format:</b> PDF/Excel	<b>Delivery:</b> Email	<b>Tick</b> ✓
Daily Report	Free	
Pricing Manager Weekly Report	Free	

Hydrological Data Request		
<b>Format:</b> PDF	<b>Delivery:</b> Email	<b>Tick</b> ✓
Daily Hydrological Summary	\$650 per month + GST	

Hydrological Database Access		
<b>Format:</b> PDF + Excel	<b>Delivery:</b> Email + Online platform	<b>Tick</b> ✓
NZX Energy Hydrological Database Access (includes Daily Hydrological Summary and Data File)	\$3,500 per month + GST	

Custom Data Request		
<b>Delivery:</b> Email		<b>Tick</b> ✓
Custom Data Request (as quoted)*	\$200 per hour, min \$500 + GST	
Enter details of data required:		

\*A quote will be provided based on the details of the data required

For enquiries regarding Reconciliation data, please contact [rm@nzx.com](mailto:rm@nzx.com) or (64) 04 498 0044.

For enquiries regarding other products & subscriptions, please contact [energy.data@nzx.com](mailto:energy.data@nzx.com) or 0800 426 648.

## TERMS AND CONDITIONS OF SUBSCRIPTION FOR BUSINESS USE

### 1. Definitions and Interpretations

In this Agreement the following definitions shall apply (unless the context otherwise provides):

**Agreement** means this agreement;

**Authorised User** means the Subscriber's employees or contractors authorised to receive and use the Content as identified by the Subscriber in its Subscription Form, the number of which is set out in the Subscription Form and which may be varied in accordance with clause 8.1 of this Agreement;

**Content** means the content provided by NZX and nominated by the Subscriber on the Subscription Form;

**Employee** means an employee (as defined under the Employment Relations Act 2000) of the Subscriber;

**End User** means any person or entity that receives an extract of the Content from the Subscriber in accordance with clause 4.1(d) of the Agreement

**Fees** mean the fees set from time to time by NZX for the access and use of the Content;

**Licence** means the licence granted in clause 4.1 of the Agreement;

**Subscriber** means that person or entity that has completed and returned the Subscription Form for the subscription of Content which has been approved by NZX;

**Subscription Form** means the form provided by NZX for the subscription of NZX Content by Subscribers;

**NZX** means NZX Limited; and

**Unauthorised Recipient** has the meaning set out in clause 9.1 of this Agreement.

### 2. Term

2.1. This Agreement will come into force on the date that NZX receives an Agreement executed by the Subscriber or such other date as agreed between the parties and will continue until terminated in accordance with this Agreement.

### 3. Ownership of Content

3.1. The Content provided to the Subscriber by NZX, as indicated in the Subscription Form, including without limitation, all information, text, materials, graphics, tools, results, advertisements, names, logos and trademarks used in the Content is protected by copyright, trade mark and other intellectual property laws unless expressly indicated otherwise. All rights, title and interest in and to the Content is owned, licensed or controlled by NZX or the other party accredited as the owner of the Content.

3.2. The Subscriber acknowledges and agrees that NZX retains all right, title and interest in the Content. The Subscriber obtains no right, title and/or interest in the Content other than as expressly set out in this Agreement. The Subscriber agrees not to claim rights in or to the Content.

### 4. Permitted use of Content

4.1. Subject to the terms and conditions of this Agreement, NZX grants the Subscriber, and any Authorised User of the Subscriber, a non-exclusive and non-transferable licence for the term of this Agreement to:

- (a) access, store and process the Content in the Subscriber's computer system;
- (b) use and reproduce the Content for internal business purposes consistent with this Agreement including interrogation, retrieval, analysis, manipulation, recompilation and report preparation;
- (c) use and reproduce the Content for the Subscriber's own internal business applications, information, reports, presentations, analytics, formulae, graphs, algorithms and other uses and publications which incorporate, utilise or display the Content; and
- (d) subject to NZX's copyright, provide excerpts from the Content in any medium or format (including orally, in writing, electronically or otherwise) to the Subscriber's clients as part of a report, provided the Subscriber has obtained the prior written consent of NZX to such publication and has paid any applicable fees to NZX.

4.2. Except as specifically permitted by this Agreement, the Subscriber, and any Authorised User of the Subscriber, may not:

- (a) reproduce or redistribute unprocessed or raw Content to any third party, or otherwise engage in the systematic retransmission or commercialisation of the Content;
- (b) distribute the Content in any form of service for which the End User pays periodic or usage based fees for access to the Content;
- (c) reproduce or redistribute unprocessed or raw Content to any third party in a way that undermines the commercial activities of NZX;
- (d) authorise end users to do anything that the Subscriber is not permitted to do under this Agreement;
- (e) use the Content for an illegal purpose or otherwise in breach of any applicable laws in the jurisdiction in which the Subscriber operates; or
- (f) use the Content in any manner other than as expressly permitted by this Agreement.

## **5. Use of Content in Reports**

5.1. In using the Content in reports pursuant to clause 4.1(d), the Subscriber shall cause each screen display (if the report is in electronic form) and each copy transferred to a client to bear NZX's proprietary and copyright notice, with the appropriate year, as set forth below: Source: NZX © Copyright [Year] NZX Limited. All Rights Reserved.

## **6. Fees**

6.1. The Subscriber shall pay NZX the fees as set by NZX by the due date and advised to the Subscriber from time to time. Any such fees paid are non-refundable.

6.2. The Vendor must pay NZX all goods and services tax payable under the Goods and Services Tax Act 1985 in respect of Fees payable under the Agreement.

6.3. All payments under this Agreement are to be made without any deduction or withholding for or on account of any taxes. If any deduction or withholding is required by law, then the payer must pay such additional amount to ensure that the other party receives the full amount that the party would have received had no such deduction or withholding been required.

6.4. Fees are payable by the due date set out on the invoice. Failure to pay by the due date may result in termination under section 11.2.

## **7. Audit and inspection**

7.1. The Subscriber must retain records which enable NZX to verify the number of Authorised Users that have access to the Content in the current and immediately preceding year.

7.2. NZX may at any time and from time to time audit the Subscriber to ensure that any fees payable to NZX are accurate. The Subscriber shall provide access to NZX to all of its records, accounts and all other information, including without limitation, access to its premises and employees, reasonably required by NZX to undertake an audit under this clause 7. The Subscriber shall permit NZX to take copies or extracts and, on demand, supply copies or extracts of such records, accounts or other information.

7.3. If, after completion of an audit under clause 7.2, all fees payable to NZX are found to be correct, NZX shall bear all of its costs and expenses associated with undertaking that audit. If, after completion of an audit under clause 7.2, any fee paid to NZX is found not to be correct, the Subscriber shall pay to NZX:

- (a) the amount of any discrepancy as determined by an audit;
- (b) interest calculated on the amount of such discrepancy at 2% per annum above the 90 day bank bill rate as published by the Reserve Bank of New Zealand (as at the due date for payment of the relevant GST tax invoice), with such interest being payable for the period from the due date for payment of the relevant GST tax invoice, until the date that payment (including any interest owing) in full is made; and
- (c) all reasonable costs and expenses of NZX associated with undertaking that audit.

## **8. Reporting**

8.1. Access to, and use of, the Content is limited to the number of Authorised Users set out in the Subscriber's Subscription Form. The Subscriber must obtain the prior written consent of NZX to vary the number of Authorised Users. Upon obtaining such consent, the Subscriber is liable for all fees associated with the varied number of Authorised Users.

## **9. Security**

9.1. The Subscriber must ensure that its processing, transmission and communications equipment and software are arranged and protected so that, as far as reasonably possible, no person or entity other than the Subscriber and the Authorised Users (an "Unauthorised Recipient") can obtain access to the Content.

9.2. If, in NZX's sole discretion, NZX determines that an Unauthorised Recipient has access to the Content, the Subscriber shall take all steps necessary, and must provide such evidence to NZX as NZX determines, to alter the manner of receipt and use of the Content. If NZX determines that any action taken by the Subscriber to preclude access by such Unauthorised Recipient to the Content is not adequate, the Subscriber shall immediately comply with any written instructions from NZX to discontinue using the Content by the inadequately secured means. The remedy available to NZX under this clause 9.2 is without prejudice to any other right or remedy NZX may have at law, in equity or otherwise.

9.3. The Subscriber must use all reasonable endeavours to ensure that no Unauthorised Recipient obtains the Content from the Subscriber or from equipment or software used by the

Subscriber. If an Unauthorised Recipient does so obtain the Content, the Subscriber must use its best endeavours to ascertain the source and manner of acquisition or access to the Content.

## **10. Indemnity**

10.1. The Subscriber shall indemnify and hold harmless and defend NZX, its subsidiary companies and their directors, officers, employees and agents against all loss, actions, proceedings, costs, expenses (including legal fees), claims and damages incurred or suffered by any of them arising from:

- (a) any breach by the Subscriber or Authorised User of this Agreement;
- (b) reliance upon, or use by, the Subscriber of the Content;
- (c) reliance upon, or use by, any person accessing the Content from the Subscriber of the Content; and
- (d) reliance upon any advice given by the Subscriber derived in whole or in part from the Content.

## **11. Termination**

11.1. Either party may terminate this Agreement by providing 30 days written notice to the other party at their nominated address. For the avoidance of doubt, if the Subscriber terminates this Agreement under this clause 11.1 any fees paid or payable up to the date of termination shall be non-refundable.

11.2. NZX may terminate this Agreement immediately, if the Subscriber:

- (a) fails to pay any fees due to NZX on the due date for such payment and has not remedied that failure after receiving 7 days written notice from NZX requesting remedy of that failure;
- (b) breaches any clause of this Agreement and has not remedied that breach after receiving 7 days written notice from NZX requesting the remedy of that breach; and/or
- (c) is adjudged bankrupt, enters into liquidation or any arrangement or composition with its creditors or if a receiver is appointed to any part of the Subscriber's assets and not discharged within 14 days or if any judgement against the Subscriber remains, in the opinion of NZX, unsatisfied for more than 7 days.

11.3. Upon termination of this Agreement, the Subscriber's right to receive and use the Content will cease.

11.4. The remedies set out in clauses 11.1 and 11.2 do not prejudice NZX's rights to seek all other remedies available to it in law, equity or otherwise.

## **12. Force Majeure**

12.1. Neither NZX or the Subscriber shall be liable for delay or failure in performance resulting from causes beyond either parties reasonable control, including but not limited to Acts of God, acts of war, fire, flood, or other disaster, act of government, strike, lockout, communications line or power failures.

## **13. Not Investment Advice**

13.1. The Content provides general information only. It is not intended as investment advice and must not be relied upon as such. The Subscriber, any Authorised User or End User should

obtain professional investment advice tailored to the Subscriber's, Authorised User's or End User's specific circumstances and needs prior to making any investment decision.

13.2. The Subscriber agrees and acknowledges that neither NZX, its subsidiary companies nor any of their officers, employees and agents or licensors:

- (a) has passed on the merit of any of the securities or financial products referred to in the Content;
- (b) endorses or sponsors or has endorsed or sponsored, any securities or financial products referred to in the Content;
- (c) makes or has made any recommendation regarding the advisability of investing in securities or other financial products made available by any of the companies identified in the Content; or
- (d) makes or has made any recommendation regarding the advisability of investing in securities or other financial products generally or for any particular individual.

13.3. The Content does not, and must not, be construed as an offer of securities or other financial products and is not an invitation to the Subscriber to take up securities or other financial products.

#### **14. Disclaimer and Limitation of Liability**

14.1. The Content is derived from various sources believed to be accurate and current as at the date specified in the relevant Content. However, due to the number of sources from which materials may be obtained and, where the Content is received in electronic form, the inherent hazards of electronic distribution, NZX and its directors, officers, agents, employees or contractors do not give any representation or warranty as to the reliability, accuracy or completeness of the Content.

14.2. Neither NZX, its subsidiaries, nor their officers, employees or agents shall under any circumstances be liable in any way for any loss of direct, consequential, incidental, indirect or special damages of any kind or any other damages howsoever arising (whether in negligence or otherwise) out of or in connection with the Content and/or any omission from the Content, including, without limitation those arising from:

- (a) any decision made or action taken by the Subscriber in reliance upon the Content;
- (b) loss of use, data or profits whether arising from use of or inability to use any Content;
- (c) contingencies outside the control of NZX, its subsidiaries, their officers, employees or agents; or
- (d) any other cause;

except where liability is made non-excludable by legislation. Any clause, or part thereof, declared invalid shall be deemed servable and not affect the validity or enforceability of the remainder.

14.3. In the case of goods or services supplied or offered by NZX, its subsidiaries and their officers, employees and agents, liability for breach of any implied warranty or condition which cannot be excluded is limited at NZX's option to either:

- (a) the supply of the goods (or equivalent goods) or services again; or
- (b) the payment of the cost of having the goods (or equivalent goods) or services supplied again.



## **15. General**

15.1. The Subscriber may not assign any of its rights under this Agreement without the prior written consent of NZX. NZX may assign its rights under this Agreement.

15.2. Except as provided in this Agreement, no variation of this Agreement shall be binding on NZX unless it is in writing and signed by a duly authorised representative of NZX.

## **16. Governing Law**

16.1. The terms of this Agreement and the use of the Content by the Subscriber is governed by and shall be construed and enforced in accordance with the laws of New Zealand without regard to the conflicts of law principles hereof. Any dispute arising from or in connection with the terms of this Agreement shall be subject to the exclusive jurisdiction of the courts of New Zealand.