

Purchasing Terms and Conditions

UTS's general terms and conditions for the supply of goods and services

These Purchasing Terms and Conditions apply to Purchase Orders issued on or after 28 April 2026.

1. Application of these Purchasing Terms and Conditions

- (a) These Purchasing Terms and Conditions apply to any Purchase Order issued by UTS to the Supplier for the supply of Goods or Services.
- (b) These Purchasing Terms and Conditions do not apply if UTS and the Supplier have entered into a separate written agreement in relation to any Goods or Services, unless that agreement expressly states that these Purchasing Terms and Conditions apply.
- (c) All other terms and conditions, including any set out or referred to in the Supplier's invoices, quotations or other documents, are excluded and do not form part of these Purchasing Terms and Conditions or any Purchase Order unless expressly agreed in writing by UTS.
- (d) To the extent of any inconsistency between these Purchasing Terms and Conditions and a Purchase Order, these Purchasing Terms and Conditions prevail unless the Purchase Order expressly states that a particular term of the Purchase Order overrides them.

2. Formation of Contract

- (a) The Supplier may accept the Purchase Order by providing written confirmation to UTS or by supplying all or part of the Goods or Services.
- (b) On acceptance, a contract is formed between UTS and the Supplier for the supply of the Goods and Services on these Purchasing Terms and Conditions together with the terms set out in the Purchase Order (**Contract**).

3. Term

The Contract commences on the date the Supplier accepts the Purchase Order (or on any later date specified in the Purchase Order) and continues until the Supplier has supplied the Goods and Services as required under the Contract, unless cancelled or terminated earlier in accordance with the terms of the Contract.

4. Supply of Goods and Services

- (a) The Supplier must supply the Goods and Services to UTS in accordance with the Contract, including the Specifications and any requirements specified in the Purchase Order.
- (b) The Supplier must deliver the Goods:
 - (i) to the location and by the date specified in the Purchase Order or, if no date is specified, within a reasonable time having regard to the nature of the Goods and the requirements of the Contract; and
 - (ii) packed, marked and labelled for safe delivery to UTS and safe handling on delivery, and in accordance with any UTS instructions.
- (c) The Supplier must perform the Services:
 - (i) with due skill, care and diligence and in accordance with good industry practice;
 - (ii) using suitably qualified and experienced Personnel; and
 - (iii) by the dates or timeframes specified in the Purchase Order or, if none are specified, within a reasonable time having regard to the nature of the Services and the requirements of the Contract.
- (d) The Supplier must provide UTS with all documentation reasonably required to enable UTS to operate, fully utilise and maintain the Goods and use the Services, including manuals, instructions and warranties.

(e) If the Supplier anticipates any delay in delivery of the Goods or performance of the Services, it must promptly notify UTS in writing, explaining the reason for the delay and proposing an alternative date or timeframe. UTS may accept the proposed alternative or exercise any rights available under the Contract.

5. Access to UTS's premises

If the Supplier or its Personnel require access to UTS's premises to supply the Goods or Services, the Supplier must ensure that it and its Personnel:

- (a) access the premises only at times agreed with UTS;
- (b) comply with any conditions of entry or other site-specific requirements notified by UTS from time to time;
- (c) cooperate with UTS's Personnel and minimise disruption to UTS's operations;
- (d) take all reasonable steps to protect people and property on the premises;
- (e) act in a safe and lawful manner, including by complying with applicable work health and safety Laws; and
- (f) promptly notify UTS of any hazards, risks or incidents arising out of or in connection with the supply.

6. Subcontracting

- (a) The Supplier must not subcontract any of its obligations under the Contract without UTS's prior written approval and subject to compliance with the Contract.
- (b) The Supplier is responsible for its subcontractors and liable for their acts and omissions as if they were its own.

7. Compliance

- (a) The Supplier must:
 - (i) obtain and maintain all licences and approvals required to supply the Goods and Services;
 - (ii) comply with all Laws, the UTS Supplier Code of Conduct and any other policies, codes and standards reasonably notified by UTS in relation to the supply of the Goods and Services; and
 - (iii) ensure that it and its Personnel comply with any reasonable directions given by UTS in relation to the supply of the Goods and Services.
- (b) If a conflict of interest arises or is likely to arise in relation to the supply of the Goods and Services, the Supplier must promptly notify UTS in writing and take all action reasonably required by UTS to avoid or manage the conflict.

8. Modern slavery

- (a) The Supplier must comply with applicable modern slavery Laws and take reasonable steps to identify, assess and address risks of modern slavery practices in its operations and supply chains used to supply the Goods and Services, including slavery, forced labour, human trafficking and other exploitative practices.
- (b) If the Supplier becomes aware of modern slavery practices in its operations or supply chains, it must, as soon as reasonably practicable, notify UTS in writing. The Supplier must also provide any information or assistance reasonably required by UTS to enable UTS to meet its legal obligations under applicable modern slavery Laws.

9. Defective Goods and Services

- (a) UTS may, acting reasonably, give written notice to the Supplier if any Goods or Services do not comply with the Specifications or any other requirements of the Contract, setting out the details of non-compliance.
- (b) Within five Business Days after receiving the notice of non-compliance (or such other period agreed in writing), the Supplier must notify UTS in writing whether it accepts or disputes the notice and, if disputing, provide its reasons.

(c) If the Supplier accepts the notice of non-compliance, fails to respond within that period or it is later determined in accordance with the Contract that the Goods or Services are non-compliant, the Supplier must, at no additional cost to UTS and at UTS's election:

(i) repair, replace or re-supply the Goods or Services so that they comply with the Specifications and other Contract requirements; or

(ii) refund any amounts paid by UTS for the non-compliant Goods or Services.

(d) UTS's rights under this clause 9 are in addition to any other rights and remedies available under the Contract or at Law, including any rights under clause 17 (Warranties).

10. Title and risk

(a) Title to the Goods passes to UTS on the earlier of delivery to UTS or payment of the Price.

(b) Risk in the Goods remains with the Supplier until delivery to UTS.

11. Price and payment

(a) Subject to the Supplier's supply of the Goods and Services in accordance with the Contract, UTS must pay the Supplier the Price. The Price includes all costs and expenses incurred by the Supplier in supplying the Goods and Services and no further amounts are payable by UTS unless otherwise specified in the Purchase Order.

(b) The Supplier may issue invoices to UTS for the Price at the times specified in the Purchase Order. If no such times are specified, the Supplier may invoice UTS after the Goods and Services have been supplied in accordance with the Contract.

(c) UTS must pay the Supplier within 30 days following receipt of a correctly rendered invoice. An invoice is correctly rendered if it:

(i) claims only amounts properly due and payable under the Contract;

(ii) itemises the Goods and Services supplied in sufficient detail to enable UTS to verify the amounts, and separately identifies the GST exclusive amount, the GST component and the GST inclusive amount;

(iii) is a valid tax invoice in accordance with the GST Law;

(iv) includes the Purchase Order number (if provided by UTS);

(v) is addressed and submitted as specified in the Purchase Order; and

(vi) includes any supporting documentation reasonably requested by UTS.

(d) The making of a payment is not an acknowledgment that the Goods and Services have been supplied in accordance with the Contract.

(e) If UTS disputes any part of an invoice, UTS may withhold payment of the disputed amount until the dispute is resolved. In such case, UTS must promptly notify the Supplier in writing of the amount in dispute and the reasons for disputing it.

(f) UTS may, on written notice to the Supplier, set off any amount payable by UTS to the Supplier against any amount payable by the Supplier to UTS under or in connection with the Contract.

12. Taxes

(a) Except as specified in the Purchase Order, the Price includes all taxes, duties and charges other than GST.

(b) If GST is payable on a taxable supply made under or in connection with the Contract, UTS will pay the GST to the Supplier on receipt of a valid tax invoice.

13. Records and audit

(a) The Supplier must maintain true and accurate records of its performance of, and compliance with, the Contract in accordance with applicable Laws and relevant industry practices and standards.

(b) On prior written notice, the Supplier must provide UTS or its nominee with reasonable access to the records referred to in clause 13(a) for audit or inspection purposes. This obligation applies during the term of the Contract and for six years after its expiry or termination.

14. Intellectual property

(a) The Supplier retains ownership of all Intellectual Property Rights in the Deliverables. The Supplier grants to UTS a perpetual, royalty-free, worldwide, non-exclusive licence (including the right to sublicense) to use, reproduce, adapt, modify, communicate and distribute the Deliverables for UTS's purposes.

(b) If the Goods, Services or Deliverables incorporate, or require the use of, any material developed or owned by the Supplier independently of the Contract (**Existing Materials**), the Supplier retains ownership of those Existing Materials and grants to UTS a perpetual, royalty-free, worldwide, non-exclusive licence (including the right to sublicense) to use the Existing Materials to the extent necessary for UTS to use, maintain, support, modify and adapt the Goods, Services and Deliverables for UTS's purposes.

(c) The Supplier must not include any third party Intellectual Property Rights in the Goods, Services or Deliverables unless, at no additional cost to UTS, it procures for UTS a licence on terms no less favourable than those granted to UTS under clause 14(b) and ensures that the use of such third party Intellectual Property Rights does not constrain UTS's use of the Goods, Services or Deliverables.

(d) The Supplier must ensure that all authors of the Deliverables provide written moral rights consents permitting UTS to use, adapt, modify or otherwise deal with the Deliverables without infringing their moral rights.

15. Confidentiality

(a) Each party must keep the other party's Confidential Information confidential and only use it where required to exercise its rights or perform its obligations under the Contract.

(b) A party must not disclose the other party's Confidential Information except:

(i) with the other party's prior written consent, provided the subsequent recipient is bound by confidentiality obligations equivalent to those in the Contract;

(ii) to its Personnel, professional advisers, auditors and insurers where the disclosure is reasonably necessary in connection with the party's exercise of its rights or performance of its obligations under the Contract; or

(iii) where required by any Laws, provided that the party gives the other party prior written notice to the extent lawful to do so.

(c) As between the parties, UTS retains all right, title and interest in UTS Data, which forms part of UTS's Confidential Information. The Supplier may use UTS Data only to the extent necessary to perform its obligations under the Contract or as otherwise approved by UTS in writing.

16. Privacy

If the Supplier has access to UTS's personal information under the Contract, it must:

(a) use or disclose the information only to perform its obligations under the Contract;

(b) not transfer or allow access to the information outside Australia without UTS's prior written consent;

(c) take appropriate technical and organisational measures, consistent with accepted industry standards, to protect the information from unauthorised access, use or disclosure; and

(d) notify UTS as soon as reasonably practicable after becoming aware of any actual or suspected security incident involving the information.

17. Warranties

(a) The Supplier warrants that, during the Warranty Period:

(i) the Goods and Services will:

(A) comply with the Specifications and other requirements of the Contract; and

(B) be fit for their usual purpose and for any purpose specified in the Contract; and

(ii) the Goods will be new and free from defects in design, materials, workmanship and, where applicable, installation. Any software and electronic Goods will be free from harmful code.

(b) The Supplier further warrants that:

- (i) neither the Supplier nor its Personnel has any conflict of interest in respect of its ability to perform its obligations under the Contract; and
- (ii) the supply of the Goods, Services and Deliverables, and their use by UTS as contemplated by the Contract, will comply with all Laws and will not infringe any third party rights, including Intellectual Property Rights.

(c) During the Warranty Period, the Supplier must, at no additional cost to UTS and without prejudice to any other rights and remedies of UTS, promptly rectify, repair, replace or re-supply (as appropriate) any Goods, Services or Deliverables that do not comply with the applicable warranties. If the Supplier fails to do so within a reasonable time (having regard to the nature and urgency of the non-compliance), UTS may remedy the non-compliance and recover its reasonable costs from the Supplier as a debt due.

18. Indemnity

The Supplier indemnifies UTS and its Personnel against all Loss arising out of or in connection with:

- (a) any personal injury or death to any person, or damage to or loss of property, to the extent caused or contributed to by an act or omission of the Supplier or its Personnel;
- (b) any third party claim, demand, action or proceeding arising out of or in connection with any actual or alleged infringement of Intellectual Property Rights or moral rights in the Goods, Services or Deliverables;
- (c) any breach of the Supplier's or its Personnel's obligations under clauses 15 (Confidentiality) or 16 (Privacy); and
- (d) any fraud, recklessness or wilful misconduct by the Supplier or its Personnel.

19. Liability

(a) To the extent permitted by Laws, the aggregate liability of each party under or in connection with the Contract, whether in contract, tort (including negligence), statute or otherwise, is limited to an amount equal to two times the Price paid or payable under the Contract.

(b) The limitation in clause 19(a) does not apply to:

- (i) liability for personal injury, death or damage to property;
- (ii) any actual or alleged infringement of a third party's Intellectual Property Rights or moral rights in the Goods, Services or Deliverables;
- (iii) a breach of confidentiality or privacy obligations; or
- (iv) fraud, recklessness or wilful misconduct.

(c) Neither party is liable to the other party for any indirect or consequential loss (including any loss of profit, revenue, business opportunities, goodwill or savings).

(d) Each party's liability, including under any indemnity, is reduced proportionately to the extent caused or contributed by the other party or its Personnel.

(e) The Supplier's obligation to indemnify UTS and its Personnel against Loss under clause 18 is reduced to the extent the Loss arose due to a failure of UTS or its Personnel to take reasonable steps to mitigate the Loss.

(f) To the extent permitted by Laws, Part 4 of the *Civil Liability Act 2002* (NSW) and any equivalent statutory provisions in any other jurisdiction do not apply to the Contract.

20. Insurance

(a) Unless otherwise agreed in writing by UTS, the Supplier must hold and maintain:

- (i) workers' compensation insurance as required by Law;
- (ii) public liability insurance of at least \$10 million for any one occurrence;
- (iii) where applicable, product liability insurance of at least \$10 million for any one occurrence and in the annual aggregate; and

(iv) if the Services involve professional services, professional indemnity insurance of at least \$5 million for any one claim and in the annual aggregate, maintained for the duration of the Contract and for at least seven years afterwards.

(b) The Supplier must, on request by UTS, provide a certificate of currency or other evidence that it holds the insurance required under the Contract.

21. Dispute resolution

(a) The parties agree to resolve any dispute arising under or in connection with the Contract in accordance with this clause 21 before commencing legal proceedings, unless urgent interlocutory relief is sought.

(b) Either party may give the other party written notice of the dispute, setting out details of the matter in dispute. Within five Business Days after receiving the notice (or as otherwise agreed), senior representatives of the parties must meet and use reasonable endeavours to resolve the dispute.

(c) If the dispute is not resolved within 20 Business Days after the notice is given (or any longer period agreed in writing), either party may commence legal proceedings.

(d) Despite any dispute, each party must continue to perform its obligations under the Contract as far as practicable.

22. Cancellation and suspension

(a) UTS may, acting reasonably, by written notice to the Supplier, cancel or suspend the supply of the Goods or Services, in whole or in part, at any time before the relevant Goods are delivered or the relevant Services are completed.

(b) If a cancellation or suspension under clause 22(a) is not due to any breach, failure or delay by the Supplier, the Supplier may invoice UTS for the direct, reasonable and substantiated costs necessarily incurred by the Supplier as a result of implementing the cancellation or suspension (excluding any allowance for profit, profit component or overheads), and only to the extent those costs could not reasonably have been mitigated or avoided by the Supplier.

23. Termination

(a) UTS may terminate the Contract with immediate effect by written notice to the Supplier if:

(i) the Supplier fails to deliver or install the Goods or perform the Services by the date or within the timeframe set out in the Contract, except to the extent the failure is caused by circumstances beyond the Supplier's control or caused or contributed to by UTS;

(ii) the Supplier breaches the Contract and the breach is not capable of remedy, or is capable of remedy but is not remedied within 10 Business Days after receiving written notice from UTS specifying the breach and requiring it to be remedied; or

(iii) the Supplier becomes insolvent, bankrupt or enters into liquidation or administration, to the extent not prohibited by Law.

(b) If UTS terminates the Contract under clause 23(a), UTS is only liable to pay for any Goods or Services supplied in accordance with the Contract before the termination date, subject to substantiation by the Supplier and submission of a correctly rendered invoice.

(c) The Supplier may terminate the Contract with immediate effect by written notice to UTS if UTS breaches the Contract and the breach is not capable of remedy, or is capable of remedy but is not remedied within 10 Business Days after receiving written notice from the Supplier specifying the breach and requiring it to be remedied.

24. Consequences of expiry or termination

(a) On the expiry or termination of the Contract, the Supplier must, at UTS's election, securely return or destroy UTS's Confidential Information, UTS Data and any property provided by UTS for the purposes of the Contract, except for any information the Supplier is required by Laws to retain.

(b) The expiry or termination of the Contract for any reason will not affect or extinguish the terms which expressly or by their nature are intended to survive, including clauses 13 to 21, 24 and 25.

25. General

- (a) **Government information:** The Supplier acknowledges that UTS is subject to the *Government Information (Public Access) Act 2009* (NSW) and agrees that UTS may publish details of the Contract on its nominated website as required under that Act.
- (b) **Publicity:** The Supplier must not use UTS's name, logo, trade marks or branding without UTS's prior written consent. The Supplier must not issue any press release or make any public statement about the Contract or its performance without UTS's prior written consent, except as required by Law. The Supplier must promptly notify UTS of any media enquiry about the Contract.
- (c) **Notices:** Notices under the Contract must be in writing and sent to the addresses specified in the Purchase Order or, if no address is specified, to the party's registered office or principal place of business or as otherwise notified by the other party from time to time.
- (d) **Relationship:** The Supplier is an independent contractor. Nothing in the Contract creates a partnership, employment relationship, joint venture or any other association between the parties.
- (e) **Variation:** Any change to the Contract must be agreed in writing and signed by authorised representatives of each party.
- (f) **Waiver:** A waiver of a right or remedy under the Contract is not effective unless it is in writing and signed by the party granting it.
- (g) **Assignment:** The Supplier must not assign or novate its obligations under the Contract without UTS's prior written consent.
- (h) **Severability:** Any term of the Contract which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity or enforceability of the remainder of the Contract is not affected.
- (i) **Electronic execution:** The parties may execute the Contract electronically and in counterparts.
- (j) **Entire agreement:** The Contract is the entire agreement between the parties about its subject matter and replaces all previous agreements and understandings about that subject matter.
- (k) **Governing Law:** The Contract is governed by the Laws applicable in New South Wales. Each party submits to the exclusive jurisdiction of the courts of New South Wales and the courts entitled to hear appeals from those courts.

26. Definitions

In the Contract, unless the contrary intention appears:

Business Day means a day other than a Saturday, Sunday or public holiday in New South Wales.

Confidential Information means information that is by its nature confidential, that the recipient knows or ought reasonably to know is confidential or that relates to or comprises the financial, corporate or commercial information of a party or the affairs of a third party, but does not include information that is in the public domain other than as a result of a breach of confidence.

Deliverables means the materials, documents, data or information, in any form (including electronic), developed by or on behalf of the Supplier (if any) as part of or in connection with the supply of the Services, including any items described as Deliverables in the Purchase Order, but excluding UTS Data.

Goods means the goods (if any) described in the Purchase Order, including all related items, components or ancillary materials required for, or reasonably incidental to, their proper use.

GST means goods and services tax imposed under the GST Law.

GST Law means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Intellectual Property Rights means all intellectual property rights, including copyright, patents, designs, circuit layout rights, trade marks and any other protected or related rights, whether registered or unregistered and existing worldwide, and any other rights to registration of such rights.

Laws means any legally binding statute, regulation, by-law, ordinance, subordinate legislation, directive or mandatory code or standard in force from time to time in any relevant jurisdiction, including the Commonwealth or any State, Territory or local government, and any applicable common law and rule or principle of equity.

Loss means any loss, damage, liability, cost (including all legal and other professional costs on a full indemnity basis), charge, expense, claim, outgoing, fine or payment of any nature or kind.

Personnel means a party's employees, officers, agents, contractors and subcontractors.

Price means the amounts payable by UTS for any Goods or Services specified in the Purchase Order.

Purchase Order means any form of purchase order issued by UTS for the Goods and Services under or incorporating these Purchasing Terms and Conditions and includes any document attached to or expressly incorporated in that purchase order.

Services means the services (if any) described in the Purchase Order, including all ancillary services and any Deliverables required for, or reasonably incidental to, the proper performance or use of the Services.

Specifications means, in respect of a Good or Service:

- (a) the requirements for that Good or Service as set out or referred to in the Purchase Order, including agreed design, quality, functionality and performance standards;
- (b) any samples or demonstrations provided by the Supplier; and
- (c) all published specifications for that Good or Service from the Supplier or any relevant third party manufacturer.

Supplier means the entity identified as such in the Purchase Order.

UTS means the University of Technology Sydney.

UTS Data means any data or information provided by or on behalf of UTS to the Supplier, or created, collected or generated by the Supplier for UTS in connection with the Contract.

UTS Supplier Code of Conduct means UTS's 'Supplier Code of Conduct' available at www.uts.edu.au/supplier-code-of-conduct.

Warranty Period means one year from the date of delivery or installation for Goods or one year from the date of completion for Services, unless otherwise specified in the Purchase Order. For software, the Warranty Period is 90 days.

27. Interpretation

In the Contract, the following rules of interpretation apply unless the context indicates otherwise:

- (a) headings are for convenience only and do not affect the interpretation of the Contract;
- (b) the singular includes the plural and vice versa;
- (c) an obligation or liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally;
- (d) the words "such as", "including" and similar expressions are not words of limitation;
- (e) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;
 - (ii) a party includes its successors and permitted assigns;
 - (iii) a document includes all amendments or supplements to that document;
 - (iv) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to the Contract;
 - (v) a statute or other Law is a reference to that statute or other Law as amended, consolidated or replaced; and
 - (vi) a monetary amount is to Australian dollars unless otherwise specified;
- (f) if an act required under the Contract falls on a day that is not a Business Day in New South Wales, it is to be performed on the next Business Day in New South Wales; and
- (g) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of any part of the Contract.