



The General Terms and Conditions of Purchase of Utrecht University were adopted by the Executive Board by resolution of 1 June 2021 and filed at the Registry of the Court in Utrecht on 13 August 2021 under number 158/2021.

#### Article 1: Definitions

- Supplier: the party that undertakes to perform the Agreement vis-à-vis Utrecht University.
- Delivery: the goods to be delivered and services and/or work to be performed by the Supplier on the basis of the Agreement.
- Offer: an offer by the Supplier to deliver goods and/or perform services and/or work at a certain price and/or of a certain quality.
- Agreement: the agreement, including subsequent agreements, between Utrecht University and the Supplier to deliver goods and/or perform services and/or work. This also includes the offers accepted by Utrecht University.
- Parties: Utrecht University and the Supplier.
- Personnel: the staff members and/or auxiliary persons to be engaged by the Supplier to perform the Agreement, who will be working under its responsibility.
- Utrecht University: a legal entity governed by public law pursuant to Section 1.8 of the Higher Education and Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek, WHW*), with its registered office in Utrecht, including the faculties, service departments and other organisational divisions.
- Confidential Information: all information, including sensitive company information that Utrecht University provides to the Supplier as part of the Agreement or that becomes otherwise available to the Supplier, and which is clearly marked as 'confidential' or which the Supplier should understand to be confidential.
- Terms and Conditions: these General Terms and Conditions of Purchase of Utrecht University.

#### Article 2: Applicability

1. These Terms and Conditions apply to the Agreement concluded and form part of the Agreement.
2. Any general terms and conditions of the Supplier or other third parties, under whatever name, are explicitly not applicable.
3. If the Agreement conflicts with these Terms and Conditions, the Agreement takes precedence.
4. The Parties may only deviate from these Terms and Conditions if they agree to do so in writing.
5. If one or more provisions of these Terms and Conditions are invalid or voided, the remaining provisions will remain in effect. The Parties will enter into consultations to agree on new provision(s) to replace the invalid or voided provision(s), whereby the aim and purport of the invalid or voided provision(s) will be taken into account as much as possible.
6. If the Dutch text of these Terms and Conditions conflicts with translations thereof, the Dutch text will always apply.

#### Article 3: Formation of the Agreement

1. An Agreement may only be entered into by persons authorised to do so on behalf of Utrecht University.
2. An Agreement is concluded by an offer from the Supplier and acceptance thereof by Utrecht University, after which the agreements will be set out in writing and signed by both Parties.
3. In the event of an oral Agreement, the performance of the Agreement will be suspended until the moment that the Agreement entered into orally is confirmed in writing by both Parties.
4. If processing of personal data of Utrecht University by the Supplier is part of the Agreement, a processing agreement in accordance with the model of Utrecht University must be concluded at the same time as the Agreement is concluded.

#### Article 4: Contents of the Agreement

The Agreement describes what the Parties have agreed. This includes:

- the project name, project number and/or order number;
- the nature and scope of the Delivery by the Supplier;
- the price referred to in Article 6, including any price indexation;
- the invoice data referred to in Article 7;
- the duration of the Agreement;
- the notice period;
- the location and time of the Delivery;
- the Parties' contact persons;
- the reporting method and frequency, if applicable;
- any appendices, including drawings, models, specifications, instructions, inspection regulations and suchlike made available by Utrecht University or approved by it;



- the declaration of applicability of these Terms and Conditions.

**Article 5: Changes**

1. Changes to the scope and/or quality of the Delivery are only permitted if this has been agreed in writing.
2. Unless otherwise agreed in the Agreement, without the prior written permission of Utrecht University the Supplier is not entitled to temporarily or permanently replace the Personnel charged with the performance of the Agreement. Utrecht University will not refuse this permission on unreasonable grounds, and has the right to attach conditions to this permission.
3. If Utrecht University wishes other persons to perform the Agreement, it will notify the Supplier of this in writing, stating its reasons. The Supplier will arrange for immediate replacement, with due observance of Article 13.1.

**Article 6: Prices**

1. The prices stated in the Agreement are fixed, unless the Agreement states the circumstances that may lead to a price adjustment and determines the manner in which the adjustment takes place.
2. The prices are in euros, exclusive of VAT, and include all costs related to compliance by the Supplier with its obligations under the Agreement.

**Article 7: Invoicing and payment**

1. Invoices must comply with the requirements set out on the following website:  
<https://www.uu.nl/en/organisation/practical-matters/finance/information-for-suppliers>.
2. Utrecht University will pay the Supplier's invoice within thirty (30) days of receipt of the invoice, provided that the invoice meets the requirements referred to in paragraph 1.
3. If Utrecht University discovers a shortcoming in the Delivery, it will be entitled to suspend all or part of the payment, in so far as this is justified by the shortcoming.
4. Payment by Utrecht University does not constitute in any way a waiver of rights.

**Article 8: Delivery and inspection**

1. Goods will be delivered at the agreed location and the agreed time or within the agreed period and will be Delivered Duty Paid (DDP). The interpretation of delivery conditions is subject to the most recent version of the Incoterms issued by the International Chamber of Commerce.
2. The Supplier must immediately notify Utrecht University in writing of any imminent delay in delivery and must indicate what measures will be taken to prevent and/or limit any loss.
3. If Utrecht University informs the Supplier in good time that it is unable to accept the Delivery at the agreed time, the Supplier will, at its own expense, store the goods for a maximum of one month, secure them and take all reasonable measures to prevent any deterioration in their quality. This will never entitle the Supplier to increase the agreed price.
4. Delivery also includes delivery of all parts, auxiliary materials, accessories, tools, spare parts, technical documentation, operating instructions and instruction manuals that are necessary to achieve the objective stated in writing by Utrecht University, even if they are not referred to as such. All accompanying documentation will be in the Dutch or English language.
5. Return packaging will remain the property of the Supplier. Return packaging must be clearly marked as such by the Supplier. Return packaging must be returned at the risk and expense of the Supplier to a destination to be specified by it. The Supplier will, at its own risk and expense, take back and destroy the other packaging material, or recycle or reuse it.
6. Inspections and/or checks by Utrecht University or by persons or bodies appointed for this purpose by Utrecht University may take place prior to the Delivery as well as during or after the Delivery. The Supplier is authorised to be present at the inspection and/or check.
7. The Supplier will grant access to the locations where the goods are produced or stored and will cooperate in the desired inspections and checks. In addition, the Supplier will inform Utrecht University in good time of the time at which the inspection and/or check can take place.
8. Utrecht University will notify the Supplier in writing if the Delivery is wholly or partially rejected during the inspection and/or check. In the event of rejection, the Supplier will be obliged to reimburse all costs incurred by Utrecht University in connection with the Delivery.
9. If the goods do not comply with the provisions of Article 9, the Supplier will repair or replace the goods at its own expense, unless Utrecht University prefers to terminate the Agreement in accordance with the provisions of Article 20.
10. If the Supplier does not collect the rejected goods within ten (10) working days of the date of the written notification, Utrecht University will be entitled to return the goods to the Supplier at the Supplier's expense. Utrecht University also has the right to have any goods already invoiced credited.



11. If it must reasonably be assumed that the Supplier cannot or will not repair or replace the goods, or do so in time or properly, Utrecht University will be entitled to carry out the repair or replacement itself or have it carried out by third parties at the Supplier's risk and expense.

**Article 9: Guarantee**

The Supplier guarantees that the delivered goods and, if applicable, the installation/assembly thereof:

- correspond to what has been agreed, are free of defects and are suitable for the purpose for which they are intended;
- comply with the highest legal requirements, other government regulations and the highest requirements of the safety, quality and environmental standards applicable within the sector;
- are unencumbered, free of attachments, and will not infringe any applicable intellectual property rights of third parties and/or suppliers; and
- are ready for use.

**Article 10: Risk and transfer of ownership**

1. The ownership and risk of the goods will pass to Utrecht University when the goods are delivered and after they have been approved and accepted by Utrecht University.
2. If Utrecht University makes materials, such as raw materials, auxiliary materials, tools, drawings, specifications and software available to the Supplier for the fulfilment of its obligations, these will remain the property of Utrecht University. These materials will be kept separately from goods belonging to the Supplier or to third parties. The Supplier will, at its own risk and expense, mark them as the property of Utrecht University, keep them in good condition and insure them against all risks and use them exclusively for the purpose for which they have been made available.
3. Changes to the materials referred to in paragraph 2 are only permitted with the prior written consent of Utrecht University.
4. As soon as materials of Utrecht University are processed into goods of the Supplier that are delivered to Utrecht University, they will be considered new goods, the ownership of which belongs to Utrecht University.

**Article 11: Documentation and parts**

1. Utrecht University is free to use the documentation forming part of the Delivery, including making copies for its own use.
2. The Supplier is obliged to keep spare parts of the delivered goods in stock during the usual service life of the delivered goods.

**Article 12: Obligations of the Supplier**

1. The Supplier is responsible for carrying out the Delivery independently in accordance with the latest technical standards and for achieving a good result under its own responsibility.
2. The Delivery must be carried out properly and soundly and in accordance with the provisions of the Agreement. The Supplier may be asked to report on progress in the interim.
3. Any connections to systems (water, electricity, etc.) must always be made in consultation with Utrecht University.
4. Utrecht University reserves the right to prohibit the use of resources that cause nuisance and that are not necessary for the Delivery during the performance of the Delivery.
5. If power units, fire alarms and/or other facilities must be temporarily disconnected in connection with the Delivery, this will only be done in consultation with Utrecht University.
6. In performing its work for Utrecht University, the Supplier will not put up any prominent advertising signs without the express permission of Utrecht University.
7. The Supplier will ensure that its Personnel, or persons acting on its behalf, conduct themselves properly towards students, employees and visitors of Utrecht University and other suppliers.

**Article 13: Personnel**

1. Personnel must meet the special requirements set by Utrecht University and, in their absence, the general requirements of professional competence and expertise.
2. All obligations and charges relating to Personnel will be borne by the Supplier.
3. The Supplier is deemed to be familiar with the provisions of the Foreign Nationals (Employment) Act (*Wet arbeid vreemdelingen*) and will comply with the provisions of this Act.
4. Utrecht University will at all times be entitled to pay the Supplier the employed persons' insurance contributions, VAT and wage tax, including national insurance contributions, owed by the Supplier with regard to the contracting of work and supplying of Personnel, for which Utrecht University, as an organisation creating tangible works as part of its regular operations (*eigenbouwer*), could be jointly and severally liable pursuant to the Wages and Salaries Tax and National Insurance Contributions



(Liability of Subcontractors) Act (*Wet Ketenaansprakelijkheid*), by payment into the Supplier's blocked account within the meaning of this Act.

5. In the cases referred to in paragraph 4 of this article, Utrecht University will be granted discharge towards the Supplier by payment of these amounts in so far as these amounts are involved.

#### **Article 14: Confidentiality**

1. The Supplier will not refer to the Agreement in publications or advertisements and will not use the name and logo of Utrecht University as a reference without the prior written permission of Utrecht University.
2. The Supplier guarantees that all Confidential Information available to the Supplier in the context of the Agreement will be kept confidential and will not be disclosed without the prior written permission of Utrecht University. This duty of confidentiality applies to the Supplier itself, its Personnel and third parties involved in the performance of the Agreement.
3. The duty to maintain confidentiality with regard to the Confidential Information will not apply or will no longer apply if:
  - the Confidential Information is generally known or becomes generally known through no fault of the Supplier and without any duty of confidentiality being violated;
  - the Supplier is obliged to disclose the Confidential Information pursuant to laws or regulations applicable to it or a decision of a competent authority. If the Supplier is obliged to disclose the Confidential Information, it must immediately inform Utrecht University of this obligation so that Utrecht University, in consultation with the Supplier, can limit the degree of disclosure as much as possible.

#### **Article 15: Intellectual property rights**

1. Drawings, models, calculations, specifications, instructions and suchlike provided by Utrecht University to the Supplier, or created or purchased by the Supplier for and on the instructions and at the expense of Utrecht University, will remain or become the property of Utrecht University and all intellectual property rights to them will be vested in Utrecht University. These resources will be clearly marked by the Supplier as the property of Utrecht University and may not be multiplied, copied or made available to third parties by the Supplier or used in any other way than exclusively for the performance of the Agreement. The Supplier will cooperate if a transfer of ownership of these resources and intellectual property rights is necessary.
2. Goods and working methods developed by the Supplier in cooperation with or on the instructions of Utrecht University will belong exclusively to Utrecht University and may not be made available to third parties without the prior written permission of Utrecht University.
3. If the Agreement relates to the development of software especially for Utrecht University, the Supplier will, in so far as required by law, transfer to Utrecht University in advance all intellectual property rights to the software concerned and to the associated documentation. Should Utrecht University so request, the Supplier will cooperate in the fulfilment of any formalities required in this respect.
4. If the Agreement relates to the modification of the Supplier's standard software specifically for Utrecht University, the Supplier will grant Utrecht University exclusive licence rights to this modification. If the Supplier wishes to grant a licence to third parties with regard to the modification, it will only be entitled to do so after prior written approval from Utrecht University. Utrecht University has the right to attach conditions to its approval. In such a situation the Supplier undertakes to cooperate in the creation of a licence for third parties.
5. If the Supplier retains the intellectual property rights relating to the Delivery on the basis of the Agreement, the Supplier will cooperate in the creation of an escrow arrangement should Utrecht University so request.
6. The Supplier fully indemnifies Utrecht University against all consequences of claims that a third party has against Utrecht University on account of infringement of the intellectual property rights vested in that third party with regard to the Delivery.
7. If it becomes apparent that the Supplier infringes or has infringed an intellectual property right of a third party, the Supplier will be obliged to:
  - a) acquire a licence from the third party concerned for the benefit of University Utrecht in respect of the relevant item of property and/or service; or
  - b) replace the relevant item of property and/or service by an equivalent and similar item of property and/or service that does not infringe those rights; or
  - c) cancel the Delivery made and refund the payment.

#### **Article 16: Transfer of obligations to third parties**

1. The Supplier is not entitled to transfer to third parties any or all of the rights and obligations arising from the Agreement without the prior written permission of Utrecht University.



2. Without the prior written permission of Utrecht University, the Supplier is prohibited from assigning, pledging or otherwise transferring to third parties any claims that the Supplier may have or will acquire on the grounds of the Agreement. With regard to the claims referred to in the previous sentence, transferability is excluded as referred to in Section 83(2) of Book 3 of the Dutch Civil Code, which only has effect under property law.
3. Utrecht University is entitled to attach reasonable conditions to its permission.
4. Permission granted by Utrecht University as referred to above will not discharge the Supplier from its obligations under this Agreement.

**Article 17: Safety and sustainability**

1. The Supplier, its Personnel and third parties engaged by it are obliged to observe all applicable government regulations and the applicable legal and other regulations in the field of safety, health, work and the environment.
2. Prior to performing the Agreement, the Supplier and its Personnel must familiarise themselves with the circumstances on the premises and in the buildings of Utrecht University and the applicable rules and regulations.
3. The Supplier will ensure that its presence and the presence of its Personnel on the premises and in the buildings of Utrecht University do not impede the undisturbed continuation of the activities of Utrecht University and third parties.
4. Utrecht University has the right to inspect and check all materials and equipment to be used by the Supplier in the performance of the Agreement and to identify Personnel involved by the Supplier in the performance of the Agreement.
5. The Supplier must make existing safety data sheets of goods available in digital form.
6. The Supplier must report contingencies and incidents to the contact person of Utrecht University as soon as possible.
7. The Supplier will make every effort to ensure that the Agreement is performed as sustainably and in as environmentally friendly a manner as possible.

**Article 18: Liability**

1. The Supplier will be liable for all loss suffered by Utrecht University or third parties by or related to the attributable failure of the Supplier, including its employees or those involved by it in the performance of the Agreement, in the fulfilment of its obligations under the Agreement.
2. The liability for loss will be limited to an amount three (3) times the total value of the Agreement, including any extensions thereof.
3. The limitation of liability set out in paragraph 2 will lapse:
  - (a) in the case of claims from third parties to compensation as a result of death or injury;
  - (b) in the case of wilful misconduct or gross negligence on the part of the Supplier and/or its Personnel;
  - (c) in the event of infringement of intellectual property rights and/or duty of confidentiality.
4. The Supplier will ensure that it is adequately insured and will remain so during the entire term of the Agreement, against business liability and, where applicable, also against professional liability.
5. The Supplier indemnifies Utrecht University against claims by third parties for compensation of loss on the grounds of liability as referred to in the first paragraph of this article. Should Utrecht University so request, the Supplier will effect a settlement with such third parties, or defend itself in court, instead of or jointly with Utrecht University - all this at the discretion of Utrecht University - against claims as referred to above.

**Article 19: Failure in the performance**

1. If the Supplier fails to comply with one or more of its obligations under the Agreement, the statutory regulation of default will apply to that situation, in so far as compliance has not already become permanently impossible. In the event of a notice of default, the term for performance set out in the notice of default will be a strict deadline.
2. The failure of Utrecht University to require compliance with one or more provisions of the Agreement at any time does not in any way affect the rights of Utrecht University to require compliance by the Supplier at a later date.

**Article 20: Termination**

1. In addition to what is stipulated in the Agreement or in these Terms and Conditions, either Party will be entitled to terminate all or part of this Agreement out of court by registered letter if the other Party fails to comply with its obligations or if compliance has become permanently or temporarily impossible.
2. Utrecht University is entitled, without any demand or notice of default being required and without being obliged to pay any compensation, to terminate this Agreement out of court with immediate effect by registered letter if:



- the Supplier applies for or is granted a moratorium, whether provisional or otherwise;
  - the Supplier files a winding-up petition or is declared insolvent;
  - the Supplier's business is wound up;
  - the Supplier ceases its business operations;
  - an attachment is levied on a significant proportion of the Supplier's assets;
  - any advantage, in any form whatsoever, is promised, offered or provided by or on behalf of the Supplier, its representative(s) or Personnel to employees of Utrecht University;
  - in other respects, the Supplier is no longer deemed capable of complying with the obligations under the Agreement.
3. If it is established in or out of court that the Agreement has been effected in violation of the applicable (European) procurement regulations, Utrecht University will be entitled, without being obliged to pay any form of compensation, to terminate all or part the Agreement without further notice of default or judicial intervention by means of a written notification to the Supplier.

**Article 21: Force majeure**

1. In the event of force majeure, the Supplier will immediately notify Utrecht University in writing, stating the cause of the force majeure, and compliance by the Supplier of the obligation to which the force majeure relates will be partially or wholly suspended for the duration of this force majeure.
2. If as a consequence of force majeure the Supplier is unable or fails to comply with its obligations under the Agreement for a period of more than thirty (30) days, Utrecht University will have the right to terminate all or part of the Agreement with immediate effect out of court by registered letter, without this resulting in any right of the Supplier to compensation.
3. Force majeure will in any case not include: a shortage of Personnel, strikes, illness of Personnel, late delivery or unsuitability of goods required for the performance of the work, failure in the performance of or non-compliance with the obligations of third parties engaged by the Supplier, and/or liquidity or solvency problems on the part of the Supplier or the third parties engaged by it.

**Article 22: End of the Agreement**

1. Upon the termination or expiry of the Agreement, the Supplier will be required to hand over to Utrecht University and/or a new supplier, if applicable, without delay all information, documents and materials relating to the Agreement should Utrecht University so demand. In addition, upon termination or expiry of the Agreement the Supplier will be obliged, free of charge, to do everything that is reasonably necessary to facilitate a responsible transfer of the work under the Agreement to another supplier.
2. Obligations or articles which by their nature are intended to continue in effect after the termination or expiry of the Agreement will remain in effect even after the termination or expiry of the Agreement.

**Article 23: Disputes and applicable law**

1. The Agreement will be governed exclusively by Dutch law. The Vienna Sales Convention does not apply.
2. In the event of disputes concerning or arising from the Agreement, the Parties will endeavour to resolve them in amicable consultation. Initially the consultations will take place between the contact persons of both Parties. If these consultations do not resolve the matter, consultations may be held between the management boards of the Parties.
3. If the consultations referred to in the second paragraph of this article do not lead to a solution, the Parties may decide to submit the dispute to the competent court, being the District Court of Midden-Nederland in Utrecht.