

# Purchase Order Terms and Conditions

## 1. Agreement

- (a) This agreement consists of:
  - (i) the Purchase Order;
  - (ii) any terms and conditions expressly incorporated in the Purchase Order;
  - (iii) any document we attach to the Purchase Order; and
  - (iv) these Terms and Conditions.
- (b) If there is any inconsistency:
  - (i) in this agreement, it will be resolved by giving priority in the order listed in clause 1(a). This rule applies unless this agreement states that another clause takes priority; and
  - (ii) between this agreement and another agreement signed by you and us related to the Goods and/or Services, that other agreement takes priority over this agreement.
- (c) Your terms and conditions do not apply to us, this agreement or the Good and/or Services unless expressly incorporated in or attached to the Purchase Order. This includes any software licence terms.
- (d) The Purchase Order and this agreement are binding when you notify us in writing that you accept the Purchase Order or deliver, or start delivering, the Goods and/or Services to us.
- (e) You confirm you understand and accept this agreement and the risks, contingencies, site conditions and circumstances that might affect the supply of Goods and/or Services.

## 2. Performance and quality

### You must:

- ✓ Ensure **you and your Personnel**:
  - have the **resources, skills and knowledge** to deliver the Goods and/or Services; and
  - **hold all licences, accreditations and permits** required.
- ✓ **Give us all instruction manuals, warranties, third-party certifications and other documents** relating to the Goods and/or Services.
- ✓ Ensure the **Good and/or Services, and our use of them, will not infringe any third-party rights**. This includes any Intellectual Property Rights.
- ✓ **Comply with the [UNSW Supplier Charter](#)** and any other policies and procedures we give you in connection with this agreement.

### You and your Personnel must not:

- ✗ **Have any criminal convictions** involving children, dishonesty, injury or mistreatment of another person.

### The Goods and/or Services must:

- ✓ **be fit for their intended purpose.** This includes any purpose set out in this agreement or agreed in writing by the parties.
- ✓ **match the description** in this agreement.
- ✓ **match any sample or demonstration** you have given us.
- ✓ **be complete, accurate, of acceptable quality and free from defects** in design, materials or workmanship. This extends to any installation of the Goods.
- ✓ comply with the **quality standards set out in this agreement**, the Specifications and all applicable laws. If this agreement does not specify quality standards, the Goods and/or Services must be of the highest industry standards that normally apply to the Good and/or Services.

The requirements in this clause are in addition to any warranties that apply by law.

### 3. Variation

- (a) We can ask to vary the Purchase Order by giving you written notice.
- (b) You must use reasonable endeavours to comply with our variation request. If you can reasonably comply with our variation request, you must promptly provide us with changes to the Purchase Order, including any change to cost, delivery or completion times. If we approve the new Purchase Order in writing, it will replace the previous version and form part of this agreement as if it were the original Purchase Order.
- (c) Any other variation to this agreement is not effective unless it is made in writing and signed by the parties.

### 4. Delivery of Goods and Services

- (a) We can inspect the Goods before delivery. If we give you reasonable notice, you must give us access to your premises to inspect the Goods during business hours.
- (b) You must deliver the Goods:
  - (i) to the address set out in the Purchase Order;
  - (ii) by the delivery date set out in the Purchase Order;
  - (iii) adequately packaged and protected to ensure safe delivery; and
  - (iv) with a delivery document that identifies the Purchase Order number.
- (c) When a member of our staff signs a delivery document, it means we acknowledge delivery of the Goods. However, this acknowledgement does not affect our right to rectification of any defect or failure in the Goods as set out in this agreement.
- (d) Title and risk in the Goods pass to us on delivery or when we take possession of them.
- (e) You must promptly notify us if you become aware of any potential or actual delay in delivering the Goods and/or Services. If delivery is delayed, at our discretion, we can:
  - (i) grant an extension to the delivery date, if:
    - (A) the delay is beyond your reasonable control; and
    - (B) you show us that you have used your best endeavours to prevent or overcome the delay; or
  - (ii) suspend or end this agreement under clause 13 or 14.
- (f) If you are supplying Goods and/or Services that are, or may be, hazardous or dangerous, before delivery, you must provide us with detailed information and documentation:
  - (i) required by law, including in relation to dangerous goods, occupational health and safety and the environment; and
  - (ii) we reasonably require to enable us to safely receive, handle, store and use the Goods or receive the Services.

## **5. Payment**

- (a) Unless otherwise stated, the Purchase Order price is:
  - (i) fixed. It is not subject to variation, including for changes in the cost of labour, materials or exchange rates; and
  - (ii) inclusive all freight, packaging, handling, insurance, taxes (including GST), duties and charges payable in relation the Goods and/or Services.
- (b) We must pay your valid tax invoice within 30 days from the end of the month we receive it. The tax invoice must:
  - (i) include a description of the Goods and/or Services provided and how the invoice amount was calculated;
  - (ii) be for Goods and/or Services that have been provided or received as agreed; and
  - (iii) include the Purchase Order number.

## **6. Rectification during Warranty Period**

- (a) During the Warranty Period, you must promptly rectify any defect or failure in the Goods and/or Services within the time we specify and at your cost. This can be done by repair, replacement, modification or other means acceptable to us.
- (b) If you do not comply with clause 6(a), we can engage a third-party to rectify the defect or failure. The reasonable costs we incur are a debt due and payable by you. We can set off those costs against any amount payable to you under this agreement or any other agreement we have with you.

## **7. Subcontracting not permitted**

- (a) You must not subcontract your obligations under this agreement without our written consent.
- (b) If we consent, you:
  - (i) must ensure that any subcontract contains terms binding the subcontractors that are equivalent to the terms binding you under this agreement;
  - (ii) are responsible for all acts, omissions, defaults, and negligence of your subcontractors as if they were your own; and
  - (iii) remain liable to us for all your obligations under this agreement.

## **8. Intellectual Property**

- (a) All Intellectual Property Rights you create or develop in providing the Good and/or Services will be owned by us on creation. You assign those Intellectual Property Rights to us from the creation date.
- (b) You grant us a perpetual, irrevocable, non-exclusive, worldwide, transferable, fully paid licence to use all Intellectual Property Rights you own, licence or control that are required for us to enjoy the full benefit of the Goods and/or Services. This includes obtaining any sublicences from third-party service providers needed for us to enjoy the benefits of the Goods and/or Services.
- (c) You must obtain our written consent before you use our trademarks, trade names, logos or other branding.
- (d) You must do everything needed to assign rights, give or obtain consent or grant a licence under this agreement. This means you will: (i) pay your own costs for those actions; (ii) ensure your Personnel and any other person take all actions required; (iii) sign or ensure any required documents are signed; and (iv) complete any registrations.
- (e) You irrevocably consent to UNSW doing anything that may infringe your moral rights in relation to the Goods and/or Services;
- (f) Each party acknowledges that:
  - (i) the Background IP of a party remains the property of that party (or a third-party licensor). Nothing in this agreement assigns any right, title or interest in or to any Background IP of a party; and
  - (ii) this agreement does not prevent a party from commercialising its Background IP or using its Background IP to conduct research (including collaborative, contract or other external research) outside the scope of this agreement.
- (g) If a third-party claims, or we reasonably believe that a third-party is likely to claim, that our use of the Goods and/or Services infringes their Intellectual Property Rights, you must, promptly at your expense:

- (i) use best efforts to secure our right to continue using the Goods and/or Services free of any claim or liability for infringement; or
- (ii) replace or modify the Goods and/or Services so that they, or our use of them, does not infringe the Intellectual Property Rights of any other person. Any replacement or modification must not reduce the performance or quality of the Goods and/or Services.

## 9. Indemnity

- (a) Each party (**Indemnifying Party**) indemnifies the other party and its Personnel against all Loss caused by a negligent act or omission of the Indemnifying Party or its Personnel in connection with this agreement. That indemnity is reduced proportionally to the extent that any negligent act or omission of the other party caused or contributed to the Loss.
- (b) A party does not need to incur any expense or make any payment before enforcing this indemnity.

## 10. Liability Cap

- (a) To the extent permitted by law, the total liability of each party under or in connection with this agreement, whether in contract, tort (including negligence), statute or any other cause of action, is limited to the total price payable by us under this agreement, except for any Loss arising from:
  - (i) death or personal injury; or
  - (ii) damage to tangible property.
- (b) Despite any other term of this agreement, a party is not liable to any other party for any Excluded Loss under or in connection with this agreement.

## 11. Insurance

- (a) You must hold adequate insurance for the Goods and/or Services in line with industry standards. This includes:
  - (i) product liability insurance for at least \$20 million (for any single claim);
  - (ii) public liability insurance for at least \$10 million (for any single claim);
  - (iii) professional indemnity insurance for at least \$10 million (for any single claim); and
  - (iv) workers compensation insurance as required by law.
- (b) You must ensure that your subcontractors also hold the insurances required under clause 11(a).
- (c) If we ask, you must provide us with certificates of currency as proof of your insurance coverage within 7 days.

## 12. Work Health and Safety

- (a) When visiting or working at the other party's premises, the visiting party and their Personnel must comply with the host party's reasonable work health and safety and security measures including:
  - (i) the WHS Legislation;
  - (ii) any host party policies and procedures in writing; and
  - (iii) any other instructions, directions and requests made by the host party to the visiting party relating to WHS and security.
- (b) The visiting party will reasonably support any investigation into any work health and safety matter if asked by the host party. The visiting party will provide access to any relevant information, documents or Personnel.

## 13. Suspension

- (a) We can immediately suspend all or part of the Purchase Order for any reason by giving you written notice. You must comply with the suspension notice as soon as reasonably practicable.
- (b) You must also restart work as soon as reasonably practicable after we give you written notice to do so.

## 14. Termination

- (a) Either party can end this agreement:
  - (i) for convenience by giving the other party 30 days' written notice; or
  - (ii) immediately by written notice if the other party:
    - (A) materially breaches this agreement and the breach cannot be remedied;
    - (B) fails to remedy a breach within 14 days after receiving written notice; or

(C) becomes bankrupt, insolvent or has an administrator appointed.

A failure to perform any obligation by the time required in the Purchase Order is a breach of a material term or condition of this agreement.

- (b) We can end this agreement immediately by written notice to you if:
- (i) we are taking corrective action in response to a finding of serious wrongdoing or other misconduct by you or your Personnel; or
  - (ii) we believe our reputation might be harmed if we do not.
- (c) If this agreement is suspended or ended:
- (i) we must pay you for the Goods and/or Services provided under this agreement that are not the subject of the breach, including any reasonable costs you incur because of the suspension or termination, up to the date of suspension or termination. You must provide us with proof of the costs you incur; and
  - (ii) if we have paid you in advance, you must reimburse us for the Goods and/or Services not yet delivered or the subject of the breach, within 14 days.
- (d) Terminating the Purchase Order also terminates this agreement.

## 15. Data ownership and handling

- (a) We own all Intellectual Property Rights and other interests in UNSW Data.
- (b) You acknowledge that:
- (i) you have no Intellectual Property Rights or other interests in UNSW Data;
  - (ii) using the UNSW Data under this agreement does not transfer any interest in the UNSW Data to you; and
  - (iii) we will own all rights, including any Intellectual Property Rights you create or develop from the UNSW Data. You assign to us all future Intellectual Property Rights in the UNSW Data that may vest in you from creation.

### You must:



#### Only access, use, process, disclose and handle UNSW Data:

- for supplying the Goods and/or Services; and
- as set out in this agreement and our instructions.



#### Protect UNSW Data. This includes:

- complying with all security, storage, retention and disposal procedures for UNSW Data (these are set out in this agreement or will be shared by us from time to time);
- providing all appropriate protection of UNSW Data consistent with Privacy Laws and industry best practices; and
- sharing details of the systems and processes used to protect UNSW Data with us.



#### Tell us immediately if you become aware of a Data Breach or a potential Data Breach.

You must also:

- tell us immediately and share all reasonable details and any mitigation steps;
- rectify any Data Breach immediately and mitigate its effects;
- take all steps necessary to prevent any potential Data Breach;
- help us to identify any UNSW Data and any resulting data integrity issues that may have been affected by the Data Breach; and
- co-operate with any directions issued by us or our nominee to investigate, remediate and notify any Data Breach (this includes dealing with any Authority, affected individuals and the public).



### Tell us immediately if you caused a Data Breach

If you or your Personnel cause the Data Breach, you must promptly change your systems and procedures to prevent any potential or future Data Breach.

### You must not:



**Sell, commercially exploit, offer for hire, assign** rights in, or otherwise dispose of any UNSW Data.



Make UNSW Data available to a third-party subcontractor unless approved under this agreement. An approved third-party subcontractor:

- may only access UNSW Data needed to provide the subcontracted Services; and
- must be bound by legally enforceable obligations at least as strict as those under this agreement. You will hold the benefit of those obligations in trust for us.



**Access, transfer, take or send UNSW Data outside of New South Wales** without our written consent. We can withhold our consent. If we grant your request, we may apply conditions.

## 16. Confidentiality

### You must:



**Keep the Confidential Information confidential** and protect it from unauthorised use or disclosure.



**Only use the Confidential Information** to perform your obligations under this agreement.

**Return or destroy** all records of our Confidential Information (as we request) when this agreement ends. You can keep a copy of Confidential Information:



- required to comply with your legal, regulatory or reporting obligations; or
- stored electronically as part of an existing routine data backup, provided you delete it from local hard drives and do not attempt to recover it unless required by law.

### You must not:



**Disclose the Confidential Information** other than to your Personnel and legal advisors on a need-to-know basis or if such disclosure is required by law, regulation, court order or Authority request. You must give us reasonable notice before disclosing it.

## 17. Privacy

- (a) You must comply with applicable Privacy Laws and the UNSW Information Governance Policy (available at <https://www.unsw.edu.au/governance/policy/policy-hub/informationgovernancepolicy>) for any Personal Information collected, created, used, transferred or disclosed in connection with this agreement.
- (b) If you receive, collect or create Personal Information while performing the Services, then:

### You Must:



**Protect Personal Information** by taking steps to prevent loss or unauthorised access, use, modification or disclosure.



**Only use the Personal Information to perform your obligations** under this agreement or as required by law.



**Only provide access** to Personal Information to your Personnel who require access to perform your obligations under this agreement.

- ✓ **Secure your systems** by ensuring that all software used incorporates industry best practice about implementing encryption systems, anti-virus protection, patches, updates and upgrades for security purposes.
- ✓ **Segregate the Personal Information** from other data stored or processed by you or your other customers.
- ✓ **Tell us about any Data Breach** immediately that affects the Personal Information.
- ✓ **Follow our reasonable and lawful instructions** on access if someone asks to see their Personal Information held by you.

**You must not:**

- ✗ **Transmit** the Personal Information outside Australia without our written agreement.
- ✗ **Provide access to Personal Information** to your officers, employees, agents and contractors who do not require access to perform your obligations under this agreement or as otherwise required by law.
- ✗ **Disclose Personal Information** to a third-party unless you have our written consent or where required by law.

- (c) When this agreement ends, you must:
- (i) not use, copy or disclose any Personal Information you have received in connection with this agreement;
  - (ii) promptly return in an electronic readable format all copies of Personal Information, if we ask. This includes current, back up and archive information; and
  - (iii) securely destroy all copies of Personal Information, if we ask.

## 18. Modern Slavery

**You must:**

- ✓ **Ensure you and your Personnel:**
  - comply with all Modern Slavery Laws;
  - do all things required to mitigate or reduce modern slavery risks in your operations and supply chains; and
  - are entitled to end any contracts engaging Personnel in connection with this agreement if you have reasonable grounds to believe a breach of Modern Slavery Laws has occurred or is likely.
- ✓ **Tell us promptly** if you know, suspect or are aware of a breach of any Modern Slavery Laws by you or your Personnel.
- ✓ **Co-operate** with us in good faith to investigate any potential, suspected or actual breach of any Modern Slavery Laws, whether or not you gave us notice of any actual or suspected breach.
- ✓ **Help us** in connection with action under this clause or compliance with our obligations under the Modern Slavery Laws. This includes giving us access to documents and Personnel as we reasonably require.
- ✓ **Indemnify us** for liability or loss we may incur as a result of your breach of this clause. This does not limit any other clause of this agreement.

Without limitation, if you breach this clause, we are entitled to immediately terminate this agreement in whole or in part under clause 14.

## 19. Access to information

- (a) This clause applies if you will provide services to the public on our behalf under this agreement for the purposes of s 121 of the *Government Information (Public Access) Act 2009* (NSW).
- (b) If this clause applies, within 7 days of receiving a written request, you must give us immediate access to information:
  - (i) directly related to the Goods and/or Services you provide us;
  - (ii) collected from the public to whom you provide or offer the services; and
  - (iii) we gave you to enable you to provide the Goods and/or Services.You will share this information at your own expense.
- (c) For clause 19(b), information does not include:
  - (i) your financing arrangements, financial modelling, cost structure or profit margin;
  - (ii) information that is unlawful for you to share; or
  - (iii) information that, if disclosed, would be reasonably likely to place you at a substantial commercial disadvantage with us, whether at present or in the future.
- (d) If you do not comply with this clause:
  - (i) we may terminate this agreement by giving you notice in writing; and
  - (ii) you have 7 days from the date of the notice to remedy the breach or this agreement will terminate.

## 20. Public Interest Disclosures

- (a) This clause applies if you are providing services on our behalf or exercising our functions under this agreement for the purposes of section 82 of the *Public Interest Disclosures Act 2022* (NSW) (PID Act).
- (b) We promote an environment where speaking up is actively encouraged. Any person involved in providing services under this agreement will be given the same protections as our employees if they wish to speak up.
- (c) You must inform any person involved in providing Goods and/or Services under this agreement that:
  - (i) they are a public official for the purposes of the PID Act, which means they can make a voluntary public interest disclosure (**PID**); and
  - (ii) the processes to be followed to make a voluntary PID are set out in our Public Interest Disclosure (Whistleblowing) Policy and Procedure (**PID Policy**), available at <https://www.unsw.edu.au/content/dam/pdfs/governance/policy/2022-01-policies/publicinterestdisclosurepolicy.pdf>UNSW's SpeakUp portal is available at <https://www.unsw.edu.au/planning-assurance/conduct-integrity/complaints-unsw>.
- (d) You must inform us if:
  - (i) serious wrongdoing is committed or alleged by any person providing services under this agreement; or
  - (ii) a PID is made that relates to us or the person making the disclosure is known to be a public official associated with us for the purposes of the PID Act.
- (e) If there is an investigation into the serious wrongdoing, you will use your best endeavours to help if we ask. You acknowledge that we have an obligation to take corrective action under the PID Act.

## 21. Preventing and responding to Gender-based Violence

We do not tolerate any form of Gender-based Violence.

### If you are engaged to undertake work on our behalf, you must:

- ✓ comply with our GBV Policy and ensure your Service Provider Personnel do the same. This includes:
  - ensuring your Service Provider Personnel attend any training on preventing and responding to Gender-based Violence we arrange both as part of our onboarding process and at any other time we require;

- giving your Service Provider Personnel a link to our GBV Policy before they undertake work on our behalf; and
- if requested, providing us with de-identified data about any incidents of Gender-based Violence affecting your Service Provider Personnel.

- ✓ promptly notify us in writing if you become aware of any allegation of Gender-based Violence involving your Service Provider Personnel. You must also fully co-operate with any investigation or response by us. If we require, this includes:
  - directing and requiring your Service Provider Personnel to fully co-operate with our investigation; and
  - if a finding of Gender-based Violence involving your Service Provider Personnel is substantiated, jointly determine with us what sanctions will apply.

- ✓ ensure your Service Provider Personnel have all working with children and vulnerable persons checks required by any applicable law.

- ✓ keep records showing your compliance with this clause for at least 7 years after this agreement ends and give us access to those records if we ask. This clause survives the end of this agreement.





- ✓ promptly remove and replace any of your Service Provider Personnel if we reasonably require.

## 22. Anti bribery and corruption

- (a) The parties agree to:
- comply with all laws relating to this agreement. This includes all Anti Bribery and Corruption Laws;
  - take reasonable steps to ensure that its Personnel comply with all applicable laws including Anti Bribery and Corruption Laws; and
  - maintain policies and procedures to promote compliance with Anti Bribery and Corruption Laws, enforce them when appropriate and share them with the other party on request.
- (b) If either party becomes aware of any actual, reasonably suspected or anticipated breach of this clause, it must promptly give written notice to the other party with full details of the breach.
- (c) A breach of this clause 21 is a material breach for the purposes of clause 14(a)(ii)(A).

## 23. Notices

- (a) A notice must be:
- in writing and in English;
  - sent to the recipient's a set out in the Purchase Order or another address notified in writing; and
  - hand delivered or sent by prepaid express post, reputable courier service or email.
- (b) A notice given under this agreement is taken to be received as follows:

Sent by		Deemed received
	Hand delivered	On delivery.
	Express Post	Two Business Days after posting.
	Courier	On signed acknowledgment of receipt.
	Email	When the sender's system confirms the email has been sent through, and no error message comes back.

- (c) Notice given on a day that is not a Business Day (or after 5 pm on a Business Day), is taken to be received at 9 am on the next Business Day.

## 24. General

- (a) In this agreement:

- (i) words include the singular and plural;
  - (ii) includes” and “including” mean “including but not limited to”.
  - (iii) a person includes a partnership, a joint venture, an unincorporated association, a corporation and a government or statutory body or authority;
  - (iv) a party includes the party's legal personal representatives, successors, assigns and parties substituted by novation;
  - (v) \$ or dollars means Australian dollars unless stated otherwise; and
  - (vi) a party will not be disadvantaged in interpreting a clause just because they wrote, proposed or would benefit from it.
- (b) Clauses 1, 6, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 24 and 25 and survive the end of this agreement.
  - (c) Nothing in this agreement creates a relationship of partnership, joint venture employment, principal and agent or trustee and beneficiary between the parties.
  - (d) A party must not assign, novate, or otherwise deal with this agreement without the written consent of the other party.
  - (e) If a party does not require performance of an obligation under this agreement by the other party, it will not operate as a waiver of the obligation. The other party remains liable to perform all its obligations under this agreement. A waiver must be in writing.
  - (f) This agreement is the entire agreement and understanding between the parties on everything connected with the subject matter of this agreement. It supersedes any prior agreement or understanding on anything connected with that subject matter.
  - (g) The terms of this agreement are severable. Any term of this agreement that is wholly or partially unenforceable, unlawful or void is severed to the extent that it is unenforceable, unlawful or void. The rest of this agreement remains in force.
  - (h) This agreement is governed by the laws of New South Wales. The parties submit to the exclusive jurisdiction of the courts of New South Wales and the Commonwealth of Australia.

## 25. Definitions

In this agreement:

**Anti Bribery and Corruption Laws** means all Laws relating to anti bribery and corruption in the jurisdictions in which the parties operate.

**Authority** means a government, semi-government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body or other public authority or body.

**Background IP** means Intellectual Property Rights owned or controlled by a party as at the date of this agreement, or acquired or developed by a party (whether alone or jointly with any other person) during the term of this agreement but independently of the Goods and/or Services, in each case which that party makes available to the other party for or in connection with the Goods and/or Services.

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

**Confidential Information** means information disclosed by one party (Discloser) to the other party (Recipient Party), or which the Recipient becomes aware of, relating to the subject matter of this agreement, that is:

- (a) imparted in circumstances of confidence;
- (b) designated as confidential by the Discloser;
- (c) by its nature, reasonable to be considered the confidential information; or
- (d) information of a person the Discloser owes a duty of confidence.

The means of disclosure or if the disclosure is made directly or indirectly have no effect. Confidential Information does not include any Excluded Information.

**Data Breach** means any actual or reasonably suspected:

- (a) act or omission that adversely affects UNSW Data, UNSW Systems or Supplier Systems;
- (b) unauthorised use of, unauthorised interference with, or unauthorised access to, Supplier Systems or UNSW Systems used by or on your behalf;
- (c) damage to, or inability to access, UNSW Data or Supplier Systems due to a malicious use, attack or exploit of such UNSW Data or Supplier Systems;

- (d) unauthorised access to, theft or loss of UNSW Data;
- (e) unauthorised use of UNSW Data for purposes of actual or reasonably suspected theft, fraud, identity theft or other misuse;
- (f) breach of, or transmission of Harmful Code to UNSW Systems arising from, in whole or part, your act, error, or omission or of third parties acting on your behalf; or
- (g) unauthorised disclosure of UNSW Data.

**Excluded Information** means information that:

- (a) is in the public domain;
- (b) was known by the Recipient at the time of disclosure by the Discloser or is subsequently disclosed to that Recipient by someone other than the Discloser; or
- (c) is independently developed by the Recipient without reference to or reliance on, or because of the disclosure of the Confidential Information by the Discloser,

other than due to a breach of this agreement or any other obligation of confidentiality.

**Excluded Loss** means any indirect or consequential Loss arising under or in connection with this agreement. It includes any loss of profits, loss of anticipated savings or loss of reputation.

**GBV Policy** means our Preventing and Responding to Gender-based Violence at UNSW Policy, available at <https://www.unsw.edu.au/governance/policy>. It includes any replacement or updates we notify you about after the date of this agreement.

**Gender-based Violence** has the meaning given to it in our GBV Policy.

**Goods** means the goods you will provide us according to the Purchase Order.

**GST** means the tax imposed under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and related tax imposition Acts of the Commonwealth of Australia.

**Harmful Code** means any virus, malware, spyware, ransomware, computer software routine or code, having the effect (either directly or indirectly) of:

- (a) permitting unauthorised access to, or use of, UNSW Data, or either party's IT Environment; or
- (b) disabling, damaging, corrupting, erasing, disrupting, or impairing the normal operation of any part of the UNSW Data or either parties IT Environment, or your IT Environment, or allowing you or any third person to do so.

**Intellectual Property Rights** means any:

- (a) inventions, patents, trade marks, service marks, design rights, (whether unregistered, applied for or registered); and
- (b) copyright or database rights; and
- (c) trade or business names; and
- (d) all other intellectual or industrial property rights anywhere in the world; and

all associated goodwill, know how and the right to have Confidential Information kept confidential. **IT Environment** means the physical and logical information technology environment (including all systems, hardware, software and data) which is, or could reasonably be considered to be, owned, leased, or licensed by or assigned to a party.

**IT Environment** means the physical and logical information technology environment (including all systems, hardware, software and data) which is, or could reasonably be considered to be, owned, leased, or licensed by or assigned to a party.

**Loss** means liabilities, expenses, charges, claims, losses, damages and costs (including legal costs on a full indemnity basis) whether incurred by or awarded against a party.

**Modern Slavery Laws** means the *Modern Slavery Act 2018* (Cth), the *Modern Slavery Act 2018* (NSW), the *Modern Slavery Act 2015* (UK) and any relevant regulations or ancillary legislation published about the above or any similar modern slavery legislation in another jurisdiction of which we are required to comply.

**Personal Information** means personal information as defined in the *Privacy and Personal Information Protection Act 1998* (NSW).

**Personnel** means any employee, officer, principal, agent, contractor, student or volunteer of a party.

**Privacy Laws** means all applicable laws which relate to the security, confidentiality, protection, privacy or secrecy of UNSW Data or Personal Information, including the *Privacy Act 1988* (Cth), the *Privacy and Personal Information Protection Act 1998* (NSW) and the *Health Records and Information Privacy Act 2002* (NSW).

**Purchase Order** means the completed UNSW purchase order we issue to you, which identifies you as the supplier and includes a description and the price of the Goods and/or Services. It includes any documents attached to the Purchase Order by us or with our consent.

**Service Provider Personnel** means your employees, officers, principals, agents, contractors, subcontractors, students or volunteers who perform work under this agreement.

**Services** means the services you will provide us according to the Purchase Order.

**Specification** means any specification applying to the Goods and/or Services and referred to in or attached to the Purchase Order.

**Supplier**, you or your means the party providing the Goods and/or Services identified in the Purchase Order.

**Supplier Systems** means all information technology systems, software, hardware and other equipment owned by, leased or controlled by you or operated by a third-party on your behalf that uses, creates, stores, accesses, processes or transmits UNSW Data or that is connected to or otherwise interacts with UNSW Systems.

**UNSW, we, us or our** means the University of New South Wales or if the purchaser named in the Purchase Order is a subsidiary of UNSW over which it has capacity to exercise control, a reference in these Terms and Conditions to UNSW is to be taken to be a reference to that subsidiary.

**UNSW Data** means all data and information (including Personal Information) of or relating to our operations, facilities, customers, clients, students, Personnel, assets, or programs of UNSW in whatever form that data or information may exist and whether entered into, stored in, generated by, retrieved, printed, processed, produced, or accessed by you, as part of the supply of the Goods and/or Services under this agreement.

**UNSW Systems** means all information, technology systems, software, hardware and other equipment owned by, leased or licensed (other than under this agreement) to UNSW, and includes the UNSW IT Environments to which your Personnel are given access.

**Warranty Period** means one year starting on the date the Services are provided, or the Goods are delivered, unless otherwise stated in the Purchase Order.

**WHS Legislation** means all applicable work health and safety legislation, including the *Work Health and Safety Act 2011* (NSW), *Work Health and Safety Act 2011* (ACT), *Work Health and Safety Regulation 2025* (NSW) and *Work Health and Safety Regulation 2011* (ACT).