## GENERAL TERMS AND CONDITIONS FOR THE PURCHASE OF services AND SUPPLIES

# Seller

Name:

Legal status:

Address:

Business Register:

VAT number:

Legal representative(s):

# Article 1 : Presentation

The University of Luxembourg is the public university of the Grand Duchy of Luxembourg. It pursues teaching and research missions under the conditions provided for by the amended law of 27 June 2018 on the organisation of the University of Luxembourg. Its registered office is located 2, Place de l’Université, L-4365 Esch-sur-Alzette. It is registered with the Registre du commerce et des sociétés (Trade and companies register) under the number J20.

# Article 2 : Definitions

« Contract » means both :

1. the documents bearing the signatures of the University and of the Seller with the purpose to agree on the order of one or more Supplies and/or the provision of Services ; and
2. unilateral orders of Supplies and/or the provision of Services made by the University.

« Personal data» means in accordance with article 4 of the Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016, any information relating to an identified or identifiable natural person ; is deemed to be an « identifiable natural person » a natural person who can be identified, directly or indirectly, more specifically by reference to an identifier, as for instance a name, identification number, location data, online identifiers or one or more specific elements relating to such person’s physical, physiological, genetic, psychic, economic, cultural or social identify.

« Supplies » means, in accordance with article 3 (1), d) of the amended law of 8 April 2018 on public procurement, one or more products, which can be the object of a transaction.

« Services » means, in accordance with article 3 (1), e) of the law of 8 April 2018 on public procurement, the availability of one or more technical or intellectual capacities not relating to the performance of works or the production of a piece of work.

« Subcontractor » means any natural person or legal entity, to whom the Seller would assign, under the Seller’s responsibility and control, all or part of the works entrusted to the Seller by the University through a Contract.

« Seller » means any natural person or legal entity, of Luxembourg or foreign nationality, with whom the University has entered into a contract for the purpose of obtaining one or more Services and/or Supplies.

« University » means the entity as specified in article 1.

# Article 3 : Scope

### 1) Principle

The present general terms and conditions are intended to be applied for the performance of all Contracts by which the University places an order for Services or Supplies with a Seller.

The present general terms and conditions are automatically applicable to any Service and Supply Contract entered into by the University, in the absence of an express clause to the contrary included in the Contract.

Any order placed orally, by phone, by computer, by fax or by any other means is and will be exclusively governed by the present terms and conditions, even if the documents or invoices issued by the Seller on this occasion would include other general terms and conditions.

Any derogation to the present terms and conditions is only valid if expressly accepted in writing by the University.

The Seller expressly waives any reference to his own general and/or special terms and conditions in any dealings with the University.

### 2) Exception

If the purchase is made in the context of a public procurement (current tender), the contractual clauses of the call for tender shall prevail over the present general terms and conditions.

# Article 4 : Signature binding the University

The University may only be contractually bound by the signature of a person having the power to financially bind the University.

# Article 5 : Price

The prices, including discounts of any type, will be determined by mutual agreement.

Prices are to be provided in Euro. Any applicable VAT must be specified at the appropriate rate.

Prices are considered fixed and final.

Price adjustments are subject to the express acceptance by the University.

# Article 6 : Delivery

### 1) Delivery address

Deliveries are made to one of the sites of the University (Campus of Belval, Kirchberg or Limpertsberg), in accordance with the delivery address specified in the Contract.

If no delivery address is specified in the Contract, deliveries will be made to the address of the University, provided in article 1 of the present terms and conditions.

### 2) Specificities for the delivery of Supplies

Supplies must be correctly packaged and labelled and must arrive at destination in pristine state. At the time of delivery, the following information must be specified on the packaging of Supplies:

* the name and address of the Seller ;
* the name of the recipient (department and/or contact person) ;
* the reference of the order ;
* the reference of the tender or procurement;
* the identification of the Supplies ;
* the delivery date;
* the number of packages.

The Seller is liable for any loss or damage, which would occur during transport.

The Seller undertakes to deliver the Supplies at the exact location specified in the Contract.

The Seller is in charge of installing and/or assembling the delivered Supplies unless written instruction to the contrary by the University. The University may not be held liable for damages caused during the assembling and/or installation.

By default, the Seller is bound by the Incoterm Delivered Duty Paid (DDP).

# Article 7 : Deadlines and penalties for delays

### 1) Deadlines

In absence of a deadline specified in the Contract, the provision of Services or the delivery of Supplies are subject to a usual turnaround time not exceeding thirty (30) calendar days as of the signature of the Contract (or, in absence of the signature of a Contract, the placing of the order).

Any delay must immediately be notified in writing to the University. The Seller must specify the reasons and the foreseeable time of the delay. The University and the Seller will then jointly decide if and how the resulting situation can be solved to the satisfaction of the University. The University may decide to terminate the Contract under the terms provided in article 17 of the present terms and conditions.

### 2) Penalties

In the event of non-compliance with the delivery deadline, to be acknowledged by the recipient department of the Supplies or the Services, the Seller may be subject, without prior notice and on the mere acknowledgment of the delay by a person habilitated to represent the University, to a penalty equivalent to five percent (5%) of the amount of the Contract per day of delay.

Penalties shall not impact any right of the University, including the right to claim the fulfilment of the Contract or the payment of additional damages from the Seller.

In the event of a Contract signed with a group of Sellers that are jointly bound for the fulfilment of the order, penalties will be charged at the discretion of the University.

# Article 8 : Subcontractors

### 1) Use of Subcontractors

No Subcontractor may intervene without the previous approval of the University. Possible Subcontractors of the Seller must be provided in the Contract. After the order was placed, the Seller may only use a new Subcontractor or change Subcontractor with the previous approval of the University.

### 2) Responsibilities of the Seller

The Seller shall make sure that the Subcontractors comply, at the conclusion of the Contract and during the entire time of its performance, with the legal provisions referring to the object of the Contract in accordance with article 28 (2) of the law of 8 April 2018 on public procurement.

The Seller will check that there is no reason for the exclusion of Subcontractors at the conclusion of the Contract. In case a ground for exclusion arises during the fulfilment of the Contract, the Seller shall, as soon as he has knowledge thereof, submit a replacement proposal for the Subcontractor to the University. In accordance with article 8 (1) of the present general terms and conditions, the Seller shall then obtain the authorization of the University to replace the Subcontractor as provided in article 29 (7) of the law of 8 April 2018 on public procurement.

The Seller shall make sure that Subcontractors comply with any applicable obligations in environmental, social and labour matters, as provided by the European Union, national and international law, in accordance with article 12 (2), paragraph 2 of the law of 8 April 2018 on public procurement.

The Seller will be fully liable for the tasks entrusted to the Subcontractor.

# Article 9 : Transfer of ownership

**1) Transfer of ownership for Supplies**

The ownership and the risks relating to Supplies are transferred to the University at the time the delivery is performed under the terms specified in article 6 (1) to (3).

**2) Transfer of intellectual property**

Intellectual property rights relating to Supplies or Services developed or paid by the University are deemed to belong to the latter as of the signature of the Contract.

The Seller warrants that the Supplies or Services provided are free of any privilege and that the University is legally free to transfer them. The Seller must make sure that this guarantee is also complied with by his suppliers and Subcontractors.

# Article 10 : Reception

If Services or Supplies are compliant with the order, any person habilitated to represent the University can sign the delivery document. Upon request, the University may also issue a certificate of performance. This document may however only be issued upon request of the Seller and must be signed by a person habilitated to represent the University, after approval of the Service Achats (Procurement department) of the University. This certificate does not imply any waiver of the warranty for any hidden defects of the Supplies.

The University reserves the right to refuse, at delivery, any non-compliant Supplies or Services. As regards Supplies, the Seller must then take them back at his costs and risks.

Non-compliance may result more specifically from a lack of conformity of the Supplies or the Service with the specification provided in the Contract, a lack of conformity of the Supplies for the intended use or else the defective nature of the Supplies that were delivered. As regards Supplies, non-compliance may result from a defect. In the event the University notes the existence of a defect, it shall inform the Seller by registered letter within ten (10) business days :

1. after the delivery, if at the time of delivery such defect is apparent or easily identifiable ;
2. after such defect was discovered, if the non-compliance or the defect are discovered at a later stage.

In case of non-compliance, the University may set a deadline for the Seller to put the Supplies or the Service in compliance with the content of the Contract.

It may adjust the price up to the amount of the unfulfilled part of the Contract or terminate the Contract.

# Article 11 : Insurance

The Seller shall subscribe and keep in effect any insurance policies that are necessary to cover his liability in the context for the performance of the Contract. The Seller shall submit any justifying documents regarding the subscription of such insurance policies.

# Article 12 : Liability and warranty

The University has any rights with regard to any failure in the provisions of Services or defects of the Supplies delivered by the Seller. Legal deadlines shall apply.

### 1) Supplies

The Seller warrants that the delivered Supplies correspond to the contractual agreements and specifications.

The Seller warrants that the Supplies comply with all legal requirements and provisions in Luxembourg, and that they meet the safety and quality requirements as well as the environmental requirements applicable in the relevant industry at the time of delivery.

In the event the Seller delivers Supplies needing spare parts and/or consumables, he shall warrant that he is able to deliver such spare parts and consumables for these Supplies for a period of a least five (5) years from the date of delivery.

The starting point of the warranty is the delivery date or installation date (in the event installation is required). If a certificate of performance was issued by the University in accordance with article 10, paragraph 1 of the present terms and conditions, the applicable delivery or installation date is the date provided on said certificate.

### 2) Provision of Services

The Seller warrants that the Services are provided as required by state of the art rules and that they meet the strictest standards of the relevant industry applicable at the time such Services are provided.

The starting point of the warranty is the end date of the provision of the Services. If a certificate of performance was issued by the University in accordance with article 10, paragraph 1 of the present terms and conditions, the applicable date is the date provided on said certificate.

# Article 13 : Billing

Starting from March 18, 2023, the European directive on electronic invoicing has come into effect for all service providers working with a public entity. All the explanations regarding its implementation and implications can be found on the Luxembourgish government's portal dedicated to electronic invoicing at <https://efacturation.public.lu/fr.html>. Online information sessions are also available to guide you through the process.

When sending your invoice via the PEPPOL network, choose the PEPPOL ID of the University of Luxembourg: 9938:lu19805732.

If you have any questions, you can contact the dedicated service at the Ministry of Digitalization (+352 247 72155).

Invoices are only due if the delivery was completed and performed to the satisfaction of the University. The University reserves the right to send any invoice for correction, which would not correspond to the specifications of this article, as well as in case of partial non-compliance.

In case of late payment, the University may not be subject to interests for late payment that are higher than the legal interest rate.

# Article 14 : Contract Renewal

Contracts signed with the University are not subject to tacit renewal. Any new Contract, even with identical terms, requires a new approval or a new order from the University.

# Article 15 : Terms of payment

The payment period is thirty (30) calendar days from the date the invoice was received by the Service Finances et Comptabilité (Finance and Accounting Department) of the University, if and only if the provision of the Services or the delivery of the Supplies were declared satisfactory by the University.

# Article 16 : Modification during the Contract

Subject to the right for termination of the University as provided in article 15 of the present terms and conditions, the Contract may not be amended unilaterally by either party.

# Article 17 : Termination

The University may, without formality or prior intervention of the courts and without any additional amount than the one specified in the Contract being due to the Seller, unilaterally cancel the order :

1. in case of non-compliance by the supplier or the service provider with any of their obligations, not remedied within ten (10) days of a formal notice sent by registered letter ;
2. in case of bankruptcy, dissolution or foreclosure of the assets of the supplier ;
3. in case of non-compliance with the delivery deadline of an order ;
4. in case of the assignment or sub-contracting of the Contract without the prior written approval of the University.

Only the amount for the Services already provided at termination date will be due by the University. For Supplies, only the amount for the Supplies already covered by a delivery document signed by the University will be due by the University. The amount of any other Supplies (even discharged) will not be due by the University.

# Article 18 : Confidentiality

Any information regarding the Services provided by the Seller, the forecasts, know-how, specifications, procedures, requirements and other commercial or technical information and data disclosed in relation with the Contract must be kept confidential and may not be disclosed to any third party without the previous and written approval of the other party.

# Article 19 : Third-party rights

The Seller warrants that neither the Services specified in the Contract, nor their provision are in breach or violation with third-party rights. The Seller will release and hold harmless the University against any proceedings, damages, losses and expenses arising from the violation of third-party rights. The Seller shall, at his own expense, if the University so requests, defend the University against claims, proceedings or disputes.

In the event the Supplies would be subject to legal actions or claims for violation of intellectual property rights, the Seller shall, after consultation with the University, either obtain the right for the University to buy the Supplies, or change or replace the Supplies so as to put an end to said violation, without changing the compliance of the Supplies with the order and their price.

# Article 20 : Personal Data

In the context of the contractual relationship with the University, the Seller undertakes to comply with the applicable regulation in the field of the processing of Personal data, in particular, the Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016, applicable as of 25 May 2018 hereafter “GDPR”.

The Seller undertakes to process Personal data only for the performance of the order or the service and to not sell, market or transfer them to third parties. The Seller will not to use them for purposes other than those for which the Personal Data were collected and will not keep it longer than necessary for the fulfilment of those purposes. The Seller commits to delete or return the personal data after performance of the order or the service under instruction of the University. The Seller undertakes not to transfer Personal data to a third country (outside the EEA) without the prior written consent of the University. In the event the Seller has to transfer Personal data to a third country or an international organisation pursuant to EU law or the law of a Member state applicable to the Seller, he shall inform the University of this legal obligation before the processing, unless the law in question prohibits such information for important reasons of public interest.

The Seller undertakes to warrant the security and the confidentiality of processed Personal data in accordance with article 32 GDPR.

The Seller undertakes to make sure that the persons authorized to process Personal data of the Contract:

1. commits to comply with the confidentiality or are subject to an appropriate legal confidentiality obligation ;
2. receive the necessary training with regard to the protection of Personal data ;
3. take into account, with regard to the tools, products, applications or Services, the principles of the protection of Personal data from the moment they are conceived.

The Seller undertakes to assist the University in the fulfilment of its obligations regarding the Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016 and particularly to help the University to answer the requests of data subjects in the event they are exercising their rights regarding the Personal data that are the object of the present Contract as well as the questions of the supervisory authorities. In case the parties wish to exchange Personal data, in the event of the supplier is processing in the name and on behalf of the University as processor or if the parties jointly determine the processing of Personal data, they undertake to conclude the necessary separate agreement to cover such activity.

# Article 21 : Amendment of the present general terms and conditions

The present general terms and conditions are published on the website of the University (<https://wwwfr.uni.lu)>.

Contracts are subject to the version of the general terms and conditions applicable at the time such Contracts are signed.

The University reserves the right, at any time, to change, amend, add or delete parts of the present general terms and conditions. Contracts signed before such amendments may only be impacted by any change to the general terms and conditions if such change is provided in an addendum, with the approval of the Seller and after the publication of the new terms and conditions on the website of the University (<https://wwwfr.uni.lu)>.

# Article 22 : Nullity of a provision

Should one or more provisions of the present general terms and conditions be declared null for any reason whatsoever, this circumstance would not impact the remainder of the present general terms and conditions and the Contracts signed in compliance with these terms and conditions.

# Article 23 : Law and jurisdiction

The present general terms and conditions are exclusively subject to Luxembourg law.

Any dispute arising from the present general terms and conditions or relating thereto that the parties could not settle amicably, shall be brought before the courts and tribunals of the jurisdiction of the registered office of the University.

# Article 24 : Language

The present general terms and conditions are written in French and English. In case of discrepancy or contradiction between these versions, only the French version shall prevail.

Luxembourg, …………………………………

The Seller

(full name + company stample + signature)

(1) To be copied by hand by the Seller in case of a handwritten signature:

**I hereby confirm that i have read, understood and accepted the general terms and conditions appended to this document.**