

General Terms and Conditions (T&Cs) of Technische Universität Berlin for
the Execution of Services (Excluding Construction Services)
As of: 2 June 2025

1. General

- (1) The following order of precedence applies to supply and service agreements:
 - a) The contract including any additional agreements;
 - b) Any supplementary contractual provisions;
 - c) The General Terms and Conditions of TU Berlin laid out below;
 - d) The General Terms and Conditions for the Execution of Services, Part B (*Allgemeine Bedingungen für die Ausführung von Leistungen, Teil B – VOL/B*) in its valid version.
- (2) For the procurement of IT services, the Supplementary Terms and Conditions for the Procurement of IT Services (*Ergänzende Vertragsbedingungen für die Beschaffung von IT-Leistungen – EVB-IT*) shall apply in its valid version.
- (3) The contractor's terms and conditions of supply, payment, and business shall only become part of the contract if this has been expressly agreed in writing. Sending an order confirmation with deviating terms and conditions is not considered an express agreement in writing and not implicitly accepted with the acceptance of the order confirmation. Rather, written confirmation from the contracting authority is required as acceptance of the deviating terms and conditions.

2. Environmental protection

- (1) Technische Universität Berlin undertakes to consider environmental criteria in procurement. This means that environmentally-friendly and energy-efficient products, materials, and processes are given preference as performance requirements. TU Berlin is responsible for ensuring that the negative environmental impacts of the manufacture, use, and disposal of goods involved in the execution of supply and service contracts are minimized to the greatest possible extent. In evaluating how economically advantageous a tender is under Section 127 (1) of the Competition Act (*Gesetz gegen Wettbewerbsbeschränkungen – GWB*), the full life cycle costs are always taken into account.
- (2) The contractor is obligated to fulfill and prove fulfillment with the provisions stipulated in Section 7 of the Berlin Public Tender and Procurement Act (*Berliner Ausschreibungs- und Vergabegesetz – BerlAVG*) and the Administrative Regulation for Procurement and the Environment (*Verwaltungsvorschrift Beschaffung und Umwelt – VwVBU*).
- (3) The contracting authority reserves the right to check whether the bids submitted by the tenderers comply with the mandatory environmental protection criteria for the object of the call for tenders. Tenderers can demonstrate compliance by referring to an ecolabel, provided that the goods or services offered bear such a label, or by providing equivalent evidence, such as technical documentation from the manufacturer or test reports from recognized agencies. In the case of inaccurate or incomplete information or if the tenderer fails to prove their compliance with the environmental protection criteria, the contracting authority is entitled to disregard the bid.

3. Prices

- (1) Unless otherwise agreed in writing, the price indicated by the contractor includes packaging, transport, transport insurance, freight, and expenses.
- (2) The contractor shall deliver to the collection point designated by the contracting authority at the agreed time free of charge.
- (3) The agreed prices are fixed prices as used in Regulation PR 30/53 on Pricing in Public Contracts (*Verordnung PR 30/53 über die Preise bei öffentlichen Aufträgen*) of 21 November 1953 (Federal Gazette 1953 No. 244) in its valid version.

4. Supply, additional, and shortfall in services

- (1) Any disruptions to the supply and performance of services must be reported to the contracting authority immediately, stating the reasons.
- (2) In the case of marketable, standard products for which unit prices are stipulated in the contract, the contractor is obliged to provide additional services of up to 20% of the quantities stipulated in the contract at the unit prices stipulated in the contract. Reductions of up to 20% of the quantities specified in the contract shall not constitute grounds for a change in the unit prices specified in the contract. Upon request, other terms and conditions may be mutually agreed upon by the parties.

5. Packaging

- (1) Goods must be well packaged so that they do not get damaged in transit.
- (2) Packaging material must only be used to the necessary extent; environmentally-friendly packaging materials are to be prioritized. The contractor must accept the return of reusable packaging material free of charge. The applicable statutory regulations remain unaffected.

6. Receipt and acceptance

- (1) Upon receipt of the goods supplied or service at the contracting authority's point of use, the risk of damage or accidental loss is transferred to the contracting authority. The more far-reaching provisions of Sections 644 and 447 of the German Civil Code (*Bürgerliches Gesetzbuch* – BGB) remain unaffected.
- (2) If the supplied goods or performed service conforms to the agreements, the contracting authority shall immediately issue its acceptance in writing, if necessary after a quality inspection. If no written acceptance of the supplied goods or performed service is issued, it shall be deemed to have been accepted with the final payment.

7. Claims for defects and their periods of limitation

- (1) The contracting authority inspects the supplied goods and services performed for defects in the ordinary course of business. In the case of obvious defects, the contractor is to be notified of the defect immediately after the goods or service has been provided or, in the case of covert defects, immediately after the defect has been identified.
- (2) The period of limitation for claims for defects starts with the acceptance of the goods or service. Warranty claims are not compromised by the disposal of original packaging material.
- (3) In accordance with Section 14 VOL/B, the limitation period for claims for defects under Section 438 (1) no. 3 BGB is extended to 2 years.

8. Payments

- (1) The basis for all payments to be made by the contracting authority are submitted invoice documents, in which the respective TUB order number (if available) and specified invoice address are to be indicated. Invoices which do not have the required information will not be processed and instead returned to the contractor. The delays incurred are borne by the contractor. Time limits shall not commence if delays in invoice processing have occurred as a result of the contractor's failure to provide the TUB order number (if available) or if they provided it incorrectly.
- (2) After the supply or service has been fulfilled, the contracting authority shall make a cashless payment to the account specified by the contractor within one month of receipt of the verifiable invoice. The payment deadline shall be deemed to have been met on the date on which the contracting authority has instructed its bank to transfer the agreed invoice amount.
- (3) Unless otherwise agreed, a deduction of 2% of the invoice amount will be applied for payments made within 14 days of receipt of a verifiable invoice. This provision does not apply to services for which discounts are prohibited by law, in particular for price-fixed publishing products.
- (4) If the parties have agreed to payments on account or advance payments, the above provisions shall apply accordingly.

9. Warranty

- (1) The contractor is liable for material defects and defects of title in accordance with the statutory provisions. The contractor guarantees the careful and proper fulfillment of the contract, in particular compliance with the specifications and other instructions for execution specified by the contracting authority in accordance with the latest scientific and technological developments; the contractor also guarantees the quality and suitability of the goods supplied or service provided in terms of material, design, and execution and documentation pertaining to the supply or service (drawings, plans, etc.). The defined specifications shall be deemed to be contractually assured and guaranteed characteristics of the object of the supply or service.
- (2) The provisions under Sections 633 (2) to 639 BGB also apply to purchase contracts and contracts for work and materials; the contracting authority may also choose to exercise their rights under Sections 434 et seq. BGB.
- (3) The costs to be borne by the contractor in the event that they must remedy defects shall also include the costs of packaging, freight, and delivery, the work required for dismantling and installation, travel expenses, and the performance of the remedying of defects at the contracting authority's premises.
- (4) Insofar as no other arrangements have been made, the warranty period shall be 24 months unless a longer warranty period is stipulated by law. The time limit for submitting a complaint for machinery, equipment, and equipment parts begins the first time it is put into commission.
- (5) The contractor shall provide a warranty for replacement parts and remedial work supplied in the same way as for the delivered goods; the warranty period shall commence after the defects reported have been remedied.

10. Conversion of long-term contracts

If the supply or service is based on a contract concluded no later than four calendar months prior to the effective date of a change in VAT, either party to the contract may claim reasonable compensation from the other party for the additional or reduced VAT burden. If the amount of the additional or reduced burden is disputed, Section 287 (1) of the Code of Civil Procedure (*Zivilprozessordnung*) shall apply mutatis mutandis.

11. Requirement of the written form

Any amendment, addition, or deviation from the contract must be confirmed by both parties in writing (Section 126 BGB).

12. Jurisdiction

The place of jurisdiction is Berlin.