



SKH TERMS AND CONDITIONS

1. LICENCE TO USE FACILITIES

- 1.1 The University grants you a non-exclusive licence to access and use the Facilities during the Term in accordance with the terms and conditions of this Agreement.
- 1.2 Facilities include dedicated office(s) and/or dedicated desk space:
 - (a) the University may relocate that office or desk space within the SKH by giving you not less than 14 days written notice via the email address provided in the SKH Member Agreement Detail, provided the alternative office or space is of a substantially similar type and condition; and
 - (b) if the University relocates the dedicated office desk space pursuant to this clause 1.2, you agree to move your property and equipment to the new space and to promptly leave the previous space in a clean and tidy condition.
- 1.3 If the SKH Agreement Details specify that the Facilities include flexible desk space included in a Collaborate or Trial membership, you:
 - (a) may use the specified number of desks within the allocation of desk space reserved for 'hot desking' on a casual basis and subject to such desks being available and not in use by another person; and
 - (b) must ensure your personnel using those desks remove their belongings and leave the desk in a clean and tidy condition at the end of their use.
- 1.4 Common Areas such as phone rooms, meeting rooms, collaborative areas, kitchen and tea rooms are a shared resource. You may use the Common Areas for their intended purposes in common with the University and other persons, and abide by the Community Policy, which includes time restrictions, cleanliness standards, noise levels, and other usage guidelines.
- 1.5 You are responsible for the guests that visit the space. Guests must sign in upon arrival and must be accompanied by you and may only have access to Common Areas and may not have access to desk space.
- 1.6 All parties associated with your team, such as interns and contractors, must sign up as members if they are to access workspace areas.
- 1.7 Access to member benefits other than the SKH facilities, such as access to laboratories, university students and researchers, libraries, event space, etc, may incur an additional fee and are subject to specified terms and conditions for access and use. Please refer to the University's Policy Register available <https://www.sydney.edu.au/policies/>

2. USE OF FACILITIES, MEMBERSHIP BENEFITS AND ADDITIONAL SERVICES

- 2.1 You acknowledge and agree that:
 - (a) no promise, representation, warranty or undertaking has been given by the University in respect to the suitability or adequacy of the Facilities, Membership Benefits, Additional Services and the SKH generally for any purpose;
 - (b) only you shall be permitted to access and use the Facilities, Membership Benefits and Additional Services;
 - (c) you are and will be responsible for all acts and omissions of your employees, agents, clients, invitees and other guests whilst using the Facilities, Membership Benefits and Additional Services; and
 - (d) you may use the Facilities, Membership Benefits and Additional Services in common with the University and others and may be required to make a booking through a booking system in

respect of some of the Facilities, Membership Benefits and Additional Services (which are subject to availability).

- 2.2 Subject to complying with the University's security and work health and safety requirements for the SKH and the University Campus, and making any payments required under this Agreement, you may access the Facilities at the access that your membership level permits.
- 2.3 If you request and the University agrees to provide any Additional Services, the University
 - (a) may charge you for those Additional Services at the rates specified in the Associated Fees.
 - (b) may require that you pay such fees in advance of the University providing the requested Additional Services; and
 - (c) may provide you with a written quote for any Additional Services which will be provided on an hourly basis.
- 2.4 The University may, by notice to you (except in emergencies) and without incurring any liability, carry out works and/or limit access to the Facilities Membership Benefits and/or Additional Services for maintenance, upgrade, repair or otherwise. If the University does so, it will take reasonable steps (except in emergencies) to minimise interference with your business.
- 2.5 This Agreement does not grant you any rights to bring or park motor vehicles on the University Campus. Bicycles are not permitted within the Sydney Knowledge Hub, but can be parked on the University Campus in designated bicycle racks.
- 2.6 You acknowledge and agree that the University may vary the Member Benefits and Additional Services from time to time, including if such variations are necessary for the University to comply with any third party agreements that it has entered into.
- 2.7 The University will use reasonable efforts to give you 14 days prior written notice of any variation to the Member Benefits and Additional Services.
- 2.8 If you do not agree to a variation under clause 2.6, You may terminate this Agreement on written notice to the University provided that you give such notice to the University within 14 days of:
 - (a) receiving notice of such a variation; or
 - (b) becoming aware of the variation.
- 2.9 If you do not give the University notice under clause 2.8, your continued use of the Membership Benefits and Additional Services will be taken as consent to the variation.
- 2.10 The Membership Benefits and Additional Services are subject to any additional terms and conditions published at the same web addresses.

3. FEES AND OTHER PAYMENTS

- 3.1 In consideration of the University providing:
 - (a) the Facilities and the Membership Benefits, you agree to pay the Fee set out in the SKH Agreement Details; and
 - (b) the Additional Services, you agree to pay the corresponding additional fee.
- 3.2 Fees must be paid via credit card or debit card, unless other arrangements have been made, and are due prior to usage.
- 3.3 If GST is payable in respect of a supply made under this Agreement, then the amount payable by you shall be increased by the amount of GST payable.

4. YOUR OBLIGATIONS

- 4.1 You must:
 - (a) not use the Facilities, Membership Benefits or Additional Services for any purpose other than for the purpose of your business;
 - (b) not carry out any works or in any way modify or physically tamper with any part of the SKH or any services, fixtures, fittings or equipment located within the SKH;

- (c) comply, and must ensure your employees, agents, invitees and other guests comply, with the University's Policy on the Use of University Information and Communication Technology Resources (ICT Resources) (available at: <http://sydney.edu.au/policies/showdoc.aspx?recnum=PDOC2011/140&RendNum=0>) or any successor policy adopted by the University in relation to use of ICT equipment or services;
- (d) observe and comply with:
 - (i) the provisions of this Agreement;
 - (ii) any reasonable directions of the University and its employees;
 - (iii) the University's security and safety arrangements (including emergency drills);
 - (iv) all signs located in or around the University Campus;
 - (v) any applicable manufacturer's warranties and operating instructions;
 - (vi) all applicable laws, regulations, rules, by-laws, delegated legislation, codes of conduct and the requirements, orders or notices received from any competent authority;
 - (vii) the University's by-laws, rules, policies and procedures, including, without limitation, those with respect to:
 - (A) research integrity and ethics;
 - (B) workplace health and safety;
 - (C) discrimination and harassment;
 - (D) parking and traffic;
 - (E) privacy of personal information;
 - (F) security; and
 - (G) smoking,
 copies of which are downloadable from the University's website:
<http://sydney.edu.au/policies/>;
- (e) keep those areas of the SKH occupied by you in good repair and free from rubbish;
- (f) notify the University immediately if there is any damage, error or malfunction in relation to the Facilities or the Additional Services or if a matter arises that may affect the health and safety of any person;
- (g) cause as little inconvenience and disturbance as is practicable to the University and other occupants of the SKH;
- (h) not interfere with any University activity; and
- (i) ensure your employees, agents, clients and invitees observe the provisions of this clause 4.

4.2 The University may, at its sole discretion, agree to designate You as a Trial member of SKH.

4.3 Trial members of SKH are subject to the same terms and conditions as regular members of SKH except that:

- (a) The University agrees to waive the Fees for a period of 3 months from commencement of this Agreement; and
- (b) Trial members are not entitled to allocated seating and are only entitled to flexible desk space in accordance with clause 1.3.

4.4 Trial membership is valid for a period of 3 months after which time trial member status automatically reverts to ordinary member status.

5. ICT AND DATA

5.1 For any Membership Benefit or Additional Service which involve access to or use of any software, computing hardware, networking or other information technology systems or services provided by the University ("**ICT Services**"), you must:

- (a) not grant access to or use of the ICT Services to any third party without written consent from the University;
 - (b) provide the University with any information reasonably requested by the University, to the extent that such information is necessary or assists the University in complying with any third party contracts involved with the ICT Services;
 - (c) only use the ICT Services in accordance with all conditions set out in the Membership Benefits or otherwise made known to you in writing.
- 5.2 The University may, from time-to-time, amend Schedule 1 including to add or remove ICT Services and to add or remove conditions in connection with ICT Services, including as required for the University to comply with any third party agreements that the University has entered into in order to provide those ICT Services.

6. INTELLECTUAL PROPERTY

- 6.1 Nothing in this Agreement transfers any proprietary rights of any kind in any confidential information or intellectual property from one party to the other.
- 6.2 All intellectual property owned by a party as at the date of this Agreement or, subject to clause 6.3, created by a party subsequent to this Agreement is retained and owned by that party.
- 6.3 The parties intend to enter into project specific agreements to address each party's rights and obligations in connection with any substantive collaborative research activities undertaken, including but not limited to the treatment of all IPRs or other material created for the purposes of or as a consequence of you or the University performing or complying with their obligations under this Agreement.

7. CONFIDENTIALITY

- 7.1 Subject to clause 7.2, a party must not use or disclose and must keep confidential all of the other party's Confidential Information.
- 7.2 A party may disclose the other party's Confidential Information:
- (a) to those of its employees, legal advisors, financial advisors, auditors and other consultants who need to know to the extent necessary to enable the first mentioned party to perform its obligations and exercise its rights under this Agreement;
 - (b) with the consent of the other party;
 - (c) if the Confidential Information is lawfully in the possession of the first mentioned party as at the date of this Agreement through sources other than that other party;
 - (d) if required by law (including under the *Government Information (Public Access) Act 2009 (NSW)*), a relevant securities exchange or relevant authority; and/or
 - (e) if required in connection with proceedings relating to this Agreement.

8. PRIVACY AND PERSONAL INFORMATION

- 8.1 The University is subject to the *Privacy and Personal Information Protection Act 1998 (NSW)* ("**PPIP Act**").
- 8.2 If any personal information (as defined by section 4 of the PPIP Act) held by the University ("**personal information**") is disclosed to you, then you:
- (a) may use that personal information only for the purpose of performing this Agreement;
 - (b) must observe any directions of the University concerning use, storage or security of that personal information;
 - (c) may disclose that personal information to your officers and employees:
 - (i) who have a need to know for the purposes of this Agreement (but only to the extent that each has a need to know); and
 - (ii) before disclosure, have been directed by you to keep that personal information confidential.

9. PUBLICITY AND ACKNOWLEDGEMENT

- 9.1 You agree not to use or apply any crest, emblem, trademark or logo of the University without the University's prior written consent.
- 9.2 The University may use your name and logo to promote the Facilities in its discretion during the term of the Agreement.

10. INDEMNITIES, RISK AND LIABILITY

- 10.1 You indemnify the University against all Losses it directly or indirectly sustains or incurs as a result of:
- (a) any negligent, unlawful or wilful act or omission of you or your personnel;
 - (b) any infringement of the IPRs or moral rights of a third party;
 - (c) any breach of this Agreement by you;
 - (d) any breach of statute by you; and
 - (e) any breach by you of clause 7 (Confidentiality).
- 10.2 Any amount for Losses claimed by the University under the indemnity in clause 10.1 will be reduced proportionally to the extent the Losses are directly caused by a negligent act or omission of the University.
- 10.3 You release the University from, and agree that the University is not liable for, any Loss arising in connection with:
- (a) damage, loss, injury or death except to the extent it is contributed to by the University's act, omission, negligence or default;
 - (b) anything the University is permitted or required to do under this Agreement;
 - (c) a Facility or Service not being available, being interrupted or not working properly; and
 - (d) the Common Areas not being clean,
- however, the University agrees to take reasonable steps to remedy the matters referred to in clauses 10.3(c) and 10.3(d) at its cost (except if the relevant matter was caused or contributed to by you).
- 10.4 Despite any other provision of this Agreement, the parties agree that no party shall be liable for and each releases the other from all and any claims arising from this Agreement for consequential or special loss including, without limitation, loss of business profits, anticipatory profits, business interruption or loss of business information.
- 10.5 You acknowledge and agree that:
- (a) you access and uses the Facilities, Membership Benefits and Additional Services at your own risk; and
 - (b) any equipment or other property that you bring on to the University Campus is at your risk at all times.
- 10.6 Subject to applicable laws:
- (a) The University's total liability to you for loss or damage of any kind, however caused, due to the party's negligence, breach of contract, breach of any law, in equity or otherwise, arising from or in any way related to this agreement is limited to the amount equivalent to the amount of fees you have paid to the University under this Agreement in the previous 12 months;
 - (b) a party is not liable to the other party for any special, indirect, consequential or incidental damages in contract, tort, under any statute or otherwise (including negligence) arising from or in any way related to this agreement; and
 - (c) a party is not liable to the other party for any loss of profits, revenue, goodwill, opportunities, business or data (or the costs of restoring or recreating data) arising from or in any way related to this agreement.

10.7 Each party's liability under this agreement is reduced to the extent that any damages, liability, loss or costs arise from or are attributable to, any negligent act or omission of the other party or its officers, employees, agents or contractors.

11. INSURANCE

11.1 You must effect and maintain any insurances required by law including, without limitation, workers compensation insurance, for the Term of this Agreement.

11.2 On written request, you must provide the University with certificates of currency stating current relevant insurance cover as required under this Agreement from your insurer or insurance broker.

12. TERM

12.1 This Agreement will commence on the Commencement Date and, unless terminated, will continue as force for successive periods of one month. Automatic renewals may be terminated in accordance with clause 13.1. On termination of this Agreement, the University has no obligation to refund any Fees paid.

13. TERMINATION

13.1 Either Party may terminate this agreement by giving the other party at least 30 days written notice.

13.2 In addition to its rights under clause 13.1, the University may terminate this Agreement at any time by written notice to you if you:

- (a) do not pay on time any amount due to the University under this Agreement;
- (b) bring the University into disrepute;
- (c) create any noise in or around the Facilities that is likely to interfere with the peaceful enjoyment of the your neighbours or any other person using the Facilities and its surrounds;
- (d) threaten, abuse, intimidate or harass any member of University staff, your neighbours,
- (e) are in breach of a provision of this Agreement, where that breach: or
 - (i) if capable of being remedied, is not remedied within the period specified in a written notice given by the University to you; or
 - (ii) is not capable of being remedied.

13.3 If the University terminates this Agreement, you cannot hold the University liable for, and agrees to release the University from, any claim, loss or expense incurred as a direct or indirect consequence of the termination.

13.4 At the end of this Agreement, you must:

- (a) cease using the Facilities, Membership Benefits and Additional Services;
- (b) leave the Facilities in a neat and tidy manner and make good any damage caused in doing so;
- (c) remove all of your property and equipment from the University Campus;
- (d) give the University all keys and access devices for the Facilities and other parts of the University Campus held by you or your personnel; and
- (e) take all available steps to minimise any disruption to the University's operations.

13.5 If you do not remove any of your property or equipment in accordance with clause 13.4(c), the University may:

- (a) treat it as abandoned and dispose of it as the University sees fit at your expense; or
- (b) remove it and store it at your expense.

13.6 Termination of this Agreement does not affect any accrued rights or remedies of a party.

14. COMMUNICATION

14.1 Any notice or communication given under or about this Agreement must be:

- (a) in writing signed by an authorised representative of the sender; and
- (b) sent by email to the addressee's email address specified in the SKH Agreement Details (or later notified by the addressee).

14.2 A notice given under this Agreement is taken to be received via email if sent on the earlier of:

- (a) when the sender receives a message (which may be automated) confirming delivery to addressee's email address in its entirety; or
- (b) 4 hours after the time sent from the device from which the sender sent the email, unless the sender receives an automated message that delivery failed.

15. GENERAL

15.1 This Agreement consists of these SKH Terms and Conditions, the SKH Agreement Details, the Special Terms (if any) and any annexures, web pages or schedules incorporated by written reference. It constitutes the entire agreement of the parties and supersedes all previous agreements, understandings and negotiations about its subject matter.

15.2 No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this Agreement or any part of it.

15.3 Nothing contained or implied in this Agreement:

- (a) constitutes a party as the partner, agent or legal representative of the other party for any purpose or creates any partnership, agency or trust, and a party has no authority to bind the other party in any way or to make any representations on the other party's behalf;
- (b) creates any:
 - (i) tenancy, lease or relationship of landlord and tenant between the University and you; or
 - (ii) estate or interest in the Facilities, the SKH or any part of the University Campus.

15.4 Any obligation you have to pay the University under this Agreement survives termination of this Agreement.

15.5 If any part of this Agreement is or later becomes unenforceable, then:

- (a) those unenforceable parts are deleted from this Agreement, to the extent that they are unenforceable; and
- (b) the remaining terms of this Agreement continue in full force and effect.

15.6 A failure or delay in exercise of a right arising from a breach of this Agreement does not operate as a waiver and the single or partial exercise of any right by that party does not preclude any other or further exercise of that or any other right by that party.

15.7 Indemnities under this Agreement are enforceable as debts and are continuing obligations, independent from the other obligations under this Agreement and continue after this Agreement ends. It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this Agreement.

15.8 Each party agrees to execute such agreements, deeds and documents and do or cause to be executed or done all such acts and things as may be reasonably necessary to give effect to this Agreement.

15.9 This Agreement may only be amended by written agreement signed by authorised representatives of both parties.

15.10 You may not assign or sublet your interest in this Agreement without the University's prior written approval which may be withheld in its absolute discretion.

15.11 This Agreement is binding on and for the benefit of the parties, their successors and permitted assigns.

- 15.12 The parties agree to pay their own legal costs and expenses in connection with the preparation, execution and completion of this Agreement and other related documentation.
- 15.13 This Agreement may consist of a number of counterparts and the counterparts taken together shall form one and the same agreement.
- 15.14 This Agreement is governed by the law in force in New South Wales, Australia. Each party submits to the non-exclusive jurisdiction of the courts of that place.

16. INTERPRETATION

16.1 Unless the contrary intention appears, in this Agreement:

- (a) references to the singular includes the plural and vice versa;
- (b) if a word or phrase is defined, its other grammatical forms have corresponding meanings;
- (c) references to person or individuals include that person's successors, administrators, executors and assignees;
- (d) "includes" means includes without limitation;
- (e) headings are for convenience only and do not affect interpretation; and
- (f) a reference to any law includes any amendment to, or replacement of, it.

16.2 In this Agreement, the following expressions have these meanings:

Additional Services means the additional services you may request in addition to Member Benefits be provided by the University pursuant to clause 1.6

Agreement or **SKH Agreement** means the agreement between you and the University comprised of the SKH Agreement Details and these SKH Terms and Conditions.

Commencement Date means the commencement date specified in the SKH Agreement Details.

Common Areas means those parts of the SKH that the University designates from time to time for shared or common use with others including shared kitchens, bathrooms and break out areas.

Confidential Information means the terms of this Agreement and any information received by a party in relation to its subject matter that is marked as, or is by its nature, confidential to the disclosing party, but does not include information which:

- (a) is in or becomes part of the public domain other than through breach of this Agreement or an obligation of confidence owed to the disclosing party;
- (b) at the time of disclosure by the disclosing party, the receiving party can reasonably prove was already lawfully disclosed to it by a third party who had the right to disclose it on a non-confidential basis; or
- (c) was developed by personnel of the receiving party independently of the disclosure (as shown by its written record).

Fee means the fee specified in the SKH Agreement Details.

GST has the meaning it has in the GST Act.

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

IPRs means all registered and unregistered rights in relation to present and future copyright, trade marks, designs, know-how, patents, plant varieties, confidential information and all other intellectual property as defined in article 2 of the Convention establishing the World Intellectual Property Organisation 1967.

Loss means any liabilities, costs and expenses, losses, damages (including those arising out of a third party claim) and costs (including legal costs on a solicitor-client basis, whether incurred by or awarded against a party).

Membership Benefits means the services, provisions and privileges set out at <https://sydney.edu.au/about-us/engage-with-us/industry-and-business-partners/sydney-knowledge-hub.html> subject to any conditions set out at the same URL.

SKH Agreement Details means the online form which forms part of the SKH Agreement and contains details of the Commencement Date, the Term, the Fee, the Facilities and the Membership Benefits. A hard copy of the SKH Agreement Details will be signed by you on arrival at the SKH.

SKH or Sydney Knowledge Hub means the University's centrally managed co-working space for external industry parties to work on the University Campus.

Term means the term of this Agreement, as specified in the SKH Agreement Details.

University Campus means the land owned by the University upon which the University conducts its business and includes the SKH.