



GENERAL TERMS AND CONDITIONS FOR SERVICES THE SWEDISH ARMED FORCES / FÖRSVARSMAKTEN

1. Introduction

These general terms and conditions apply to the supply of services to the Swedish Armed Forces ("FÖRSVARSMAKTEN"). They apply to single purchases as well as framework agreements. Deviations from these terms must be agreed in writing in order to be valid.

2. Definitions

- 2.1 "Agreed delivery date" means the date of delivery of the Service agreed by the Parties and/or when the work is to be completed.
- 2.2 "Documentation" means all written material necessary for the FÖRSVARSMAKTEN or other intended users to use the Services to the extent and in the manner agreed, for example descriptions, manuals, instructions and information.
- 2.3 "Defect/Defective" Services means (i) any divergence from what has been agreed between the Parties with regard to construction, material, function, manufacture and labour, (ii) divergence from what the FÖRSVARSMAKTEN had justifiable reason to expect of the Services and which affects the intended use or the objective of the Services, or (iii) Services not properly carried out or with the due care and attention that the FÖRSVARSMAKTEN had reason to expect.
- 2.4 "Delay" means the Contractor has not delivered the Services within the Agreed delivery date.
- 2.5 "Contact person" means the person/-s appointed by the respective Party responsible for the contact between the Parties.
- 2.6 "Contract" means this Contract including all appendices and schedules.
- 2.7 "Contractor" means the Party who has signed a Contract with the FÖRSVARSMAKTEN for the supply of Services.
- 2.8 "Party/Parties" means the FÖRSVARSMAKTEN and/or the Contractor.
- 2.9 "Product" means what is to be carried out, delivered or supplied by the Contractor.
- 2.10 "Service/Services" means the Product, including Documentation and Data, to be delivered.
- 2.11 "Data" may, regardless of its format, documentary characteristics or of its method of production, comprise, though not being limited to any of the

following: specifications, drawings and drawing processes, inventions and discoveries regardless of their being patentable or able to be protected in other ways, technical descriptions and other work of technical nature, technical data and production data, source code, processes, know-how, trade secrets, commercial documents and plans.

3. Primary obligations of the Contractor

- 3.1 The Contractor is aware of the intended environment of application and mode of use of the Service. The Contractor guarantees that the Service and the Product are well suited to the purpose.
- 3.2 The Contractor shall have the required and relevant valid licenses for the line of business in order to deliver the Service in accordance with all applicable laws and regulations.
- 3.3 The Contractor shall provide the Service in good faith and with due care according to the Contract and the detailed instructions of the FÖRSVARSMAKTEN as well as otherwise act in the best interest of the FÖRSVARSMAKTEN. The Contractor shall possess the know-how and resources necessary to provide the Service.
- 3.4 The Contractor shall provide the Service in a workmanlike manner, in accordance with approved methods and standards observing good industry practice. The Contractor shall comply with all laws, ordinances, rules and regulations, including government body regulations, and generally adhere to ethical norms and practice.
- 3.5 The Contractor is responsible for having personnel with the necessary competence and experience to carry out the Contract.
- 3.6 The Contractor shall without delay notify the FÖRSVARSMAKTEN in writing of any deficiencies in the specifications or in the material provided by the FÖRSVARSMAKTEN, in order to avoid the Service being negatively affected.
- 3.7 The Contractor is responsible to ensure that all Data and all Documentation, as well as other information that the Contractor provides, are complete and correct.
- 3.8 The Contractor shall without delay inform the FÖRSVARSMAKTEN of circumstances that may affect the fulfilment of the Contract.
- 3.9 The Contractor shall obtain a statement, request approval or permission and make the notifications stated in the Contract or otherwise must be deemed to be part of the Service. The

FÖRSVARSMAKTEN shall, following a separate agreement, assist the Contractor with such tasks.

- 3.10 When changing Contractors, during a transitional period, the preceding Contractor is obliged to cooperate with and/or submit the necessary Data, Documentation and information to the FÖRSVARSMAKTEN, or to the Contractor designated by the FÖRSVARSMAKTEN.

4. Delivery of the Services

- 4.1 The Contractor shall deliver the Service in accordance with the terms and conditions and delivery date(s) stated in the Contract.
- 4.2 The FÖRSVARSMAKTEN shall be able to inspect the Service on the Agreed delivery date.

5. Delay and penalties for delay

- 5.1 If the Contractor anticipates that the Agreed delivery date cannot be met, the Contractor shall immediately notify the FÖRSVARSMAKTEN in writing. The Contractor shall state the reason for the delay and, if possible, the estimated delivery date.
- 5.2 If the Contractor fails to give notice according to article 5.1, the FÖRSVARSMAKTEN is entitled to compensation for the direct costs, which could have been avoided if the notice had been given in due time, in addition to liquidated damages according to article 5.3.
- 5.3 For every new 7-day period, the FÖRSVARSMAKTEN is entitled to liquidated damages equal to one (1) per cent of the price for the delayed part, excluding any price adjustments, up to a maximum of twelve (12) per cent of the price.
- 5.4 The FÖRSVARSMAKTEN may, at its own discretion, deduct the liquidated damages from the price payable or claim the amount from the Contractor. If such a claim is made, payment is due within thirty (30) days from the day it is made.
- 5.5 Delay is not applicable where the Contractor is delayed or hindered to deliver the Services due to circumstances for which the FÖRSVARSMAKTEN is responsible or due to a Force Majeure event as defined in section 15. In such cases, the Contractor is entitled to extend the delivery time by the equivalent amount as the period of the delay.

6. Invoicing and payment

- 6.1 Payment is made on invoice provided that it contains the information required by Swedish law. The invoice shall always state the following:
- Invoicing address according to the Contract, Contact details, bank account details,
 - The FÖRSVARSMAKTEN contract number and/or purchase order number,
 - A specification of the Service that the invoice relates to, the agreed price for the Service, the total price agreed, VAT stated in SEK when the Mervärdes-skattelagen (1994:200, Swedish law on VAT) does not prescribe otherwise, the Agreed delivery date and the quantity delivered as well as the name of the Contact person. Further, partial and final invoices shall be marked as such.
 - Recipient at the FÖRSVARSMAKTEN/the Swedish Armed Forces.

If a delivery comprises goods or components thereof from abroad, the Contractor shall provide the FÖRSVARSMAKTEN and other Swedish authorities with the information necessary for handling VAT and customs duty, so to avoid unnecessary direct or indirect costs to the FÖRSVARSMAKTEN. Where applicable, the Contractor shall also state the ECCN (Export Control Classification Number) for each position in the invoice as well as export permission or license. The invoice shall not be considered received by the FÖRSVARSMAKTEN until such information requested by the FÖRSVARSMAKTEN has been provided.

- 6.2 The Contractor may invoice the FÖRSVARSMAKTEN at the earliest on the day of delivery of the Service in accordance with the Contract.
- 6.3 Terms and conditions in the invoice unilaterally added by the Contractor shall not bind the FÖRSVARSMAKTEN.
- 6.4 The Contractor may not charge any invoice fees or similar fees.
- 6.5 Payment is due within 30 days of receipt of the invoice. According to the Swedish law on interest, the Contractor has a statutory right to interest on late payments, as well as other compensation for undisputed invoiced amounts.
- 6.6 Work performed under a cost-reimbursement type of contract (on a time-and-material basis) is to be invoiced monthly in arrears. Such invoices are to

be received by the FÖRSVARSMAKTEN for review no later than 30 days before the payment due date.

7. Defective Services and warranty

7.1 The Contractor warrants that the Service is free from Defect and is liable for breach of warranty for a period of one (1) year from the date the Service was delivered to the FÖRSVARSMAKTEN. The Defect must be discovered within the warranty period and the FÖRSVARSMAKTEN shall give notice within three (3) months from discovery.

7.2 The Contractor shall at its own cost and expense promptly remedy any Defects. In case the Contractor does not remedy the Defect promptly, the FÖRSVARSMAKTEN is entitled to remedy or have the Defect remedied at the expense and risk of the Contractor.

7.3 The Contractor shall not be liable for Defects that it can demonstrate are due to circumstances for which the FÖRSVARSMAKTEN is responsible.

7.4 The FMS's potential scrutiny and approval of the Contractor's proposals, measures and actions, do not exempt the Contractor from liability for Defective Services.

7.5 Remedied Defects are warranted under the same terms and conditions as the original Service for a period of one (1) year.

7.6 Irrespective of what is stated above in this section, the Contractor's warranties for any part of the Services are limited to two (2) years from the start of the original warranty period.

8. Title and rights of use etc.

8.1 The Contractor shall retain the property rights to all Data and Documentation emanating from the Contractor or its subcontractors while providing the Service.

8.2 Data submitted by the FÖRSVARSMAKTEN shall remain the property of the FÖRSVARSMAKTEN. However, Data owned by a third party and submitted by the FÖRSVARSMAKTEN to the Contractor, shall remain the property of the third party. Without the written consent of the FÖRSVARSMAKTEN the Contractor may not use, copy or reproduce such Data, with the exception of internal use only when submitting tenders to the FÖRSVARSMAKTEN or carrying out work for the FÖRSVARSMAKTEN.

8.3 Without restrictions in terms of time or geographical location, the FÖRSVARSMAKTEN shall have an unlimited right to for its own needs and for the needs of other Swedish government bodies within the sphere of activities of the Ministry of Defence, including participation in international operations and other international cooperation – without charges and restrictions due to intellectual property rights – be entitled to use Data and Documentation emanating from the Contractor or its subcontractors during the performance of the Service. This limited right of use also comprises the Data and Documentation produced in other contexts in relation to the extent necessary to use the Service for the purpose of the Contract.

8.4 The limited right of use of the FÖRSVARSMAKTEN includes the right to use and have use Data and Documentation inter alia for procurement, development, modification, operation, maintenance and production. The right of use of the FÖRSVARSMAKTEN includes the right to copy, reproduce, compile and translate Data and/or Documentation to the extent necessary for said use. The FÖRSVARSMAKTEN shall notify the receiving party of the Contractor's proprietary title.

8.5 The Contractor shall secure all intellectual property rights necessary for the FÖRSVARSMAKTEN to use the Service to the extent and manner agreed. The Contractor is responsible to ensure that the use described in this section does not infringe upon the rights of third parties and that Data and Documentation can be used to the extent and in the manner agreed.

8.6 Unless otherwise agreed by the Parties, the Contractor shall deliver Data and Documentation to the FÖRSVARSMAKTEN by request or no later than the final delivery date.

8.7 Property rights and right of use of Data and Documentation emanating from the Contractor or its subcontractors while providing the Service are not to be assigned to a third party without the written consent of the FÖRSVARSMAKTEN. Should the Contractor thus assign other Data and Documentation, it shall reserve the rights of the FÖRSVARSMAKTEN.

9. Infringement of intellectual property rights

9.1 In case of claims on the grounds of infringement of intellectual property rights, the Contractor shall indemnify the FÖRSVARSMAKTEN and/or other users.

9.2 In case of claims of infringement, the Contractor shall, at its own cost and expense, either make the necessary modifications in order to avoid in-

fringement, or reach an agreement with the rightholder. In case of modifications, the Contractor is responsible to ensure that the agreed functionality, performance and usability will not be impaired and that there will be no future cost increases.

9.3 If the FÖRSVARSMAKTEN calls attention to the responsibility of the Contractor, the Contractor shall at its own cost and expense appear for the FÖRSVARSMAKTEN in a potential trial where action is taken against the FÖRSVARSMAKTEN or other users.

9.4 The Parties shall keep each other informed of claims of alleged infringement of intellectual property rights.

10. Handling of personal data

10.1 The Contractor is responsible for processing personal data in accordance with all applicable laws and regulations.

10.2 In order to fulfil its obligations and maintain adequate security, the FÖRSVARSMAKTEN processes certain personal data of the Contractor's personnel, such as full name, address, social security number, telephone number and where appropriate, photo, e-mail address and organisational affiliation.

11. Ethical guidelines, safety and environment

The Contractor shall comply with all applicable laws and regulations concerning the environment, human rights, working conditions, anti-corruption, gender equality and diversity.

12. Replacement of personnel

12.1 Personnel are not to be replaced without the written consent of the FÖRSVARSMAKTEN. Such consent shall not be unreasonably withheld. Any time spent and all costs and expenses incurred in connection with the replacement of personnel, such as the costs of information and induction, shall be borne by the Contractor. Replacement personnel shall have the relevant skills and competencies and the replacement must not negatively impact the Service.

12.2 On request by the FÖRSVARSMAKTEN, the Contractor shall without unreasonable delay replace personnel if the request is reasonable such as that personnel lack the necessary competence or following a breakdown of working relationship.

13. Cancellation for default

13.1 Each Party has the right to cancel the Contract, or part thereof, with immediate effect in case of material breach of the Contract by the other Party.

13.2 In addition, the FÖRSVARSMAKTEN is entitled to cancel the Contract, or part thereof, with immediate effect if

- a) the delivery is not completed or is completed too late and this is not due to circumstances for which the FÖRSVARSMAKTEN is responsible, and the delay exceeds one-third of the original delivery date or the delay has lasted more than three (3) months.
- b) the delivery is Defective and this is not due to the FÖRSVARSMAKTEN or to circumstances related to the FÖRSVARSMAKTEN and the failure can be regarded as material breach of contract, as well as the Contractor not having remedied the Defect within thirty (30) days from the date the FÖRSVARSMAKTEN notified the Contractor of the Defect.
- c) the FÖRSVARSMAKTEN has reasonable cause to suppose that a breach of contract pursuant to a) or b) above, conferring entitlement to cancellation, will occur in respect of a future delivery.
- d) the Contractor is declared bankrupt, initiates composition proceedings or is put in liquidation or is otherwise assumed to be insolvent.
- e) the Contractor is guilty of misrepresentation in the offer or otherwise in connection with the procurement.

13.3 Cancellation shall only be valid by notifying the other Party in writing.

13.4 In case the FÖRSVARSMAKTEN cancels the Contract, the Contractor shall in a final report account for all deliveries made.

13.5 In case the FÖRSVARSMAKTEN cancels the Contract, the Contractor shall be liable to compensate the FÖRSVARSMAKTEN for any damage or loss resulting therefrom, subject to the limitations of liability stated below in section 14.

14. Right to compensation and limitation of liability

14.1 A Party is liable for loss or damage or injury it causes the other Party due to breach of contract or negligence.

14.2 A Party is not liable for indirect loss or damages, unless the Party has caused the loss or damage by intent or gross negligence.

14.3 The compensation is limited to the higher of one hundred (100) per cent of the combined total contractual price, excluding price reductions, or five million SEK. The limitation of liability does not apply in case of intent or gross negligence, nor does it apply to infringements defined in section 9.

14.4 The Contractor is not entitled to additional compensation for late payment other than as stated in article 6.5.

15. Force Majeure

15.1 If either Party is prevented from fulfilling its obligations under this Contract due to the following events beyond the Party's control, it shall be relieved from its obligations to perform under the Contract if the events arise after the Contract has been concluded and prevent the Party from fulfilling its obligations under this Contract and the Party could not reasonably be expected to have taken the event into account at the time of the conclusion of the Contract, and the consequences of which the Party could not reasonably have avoided or overcome: general labour dispute and any other event such as fire, floods, act of terrorism, war, mobilisation or unforeseen military call-up of similar extent, requisition, confiscation, rebellion and riots, general shortage of means of transport, general shortage of materials, general restrictions in the use of power as well as delays in delivery by subcontractors due to events mentioned in this section, when the Contractor or subcontractor have not caused or contributed to the impediment.

15.2 A Party wishing to invoke Force majeure shall without unreasonable delay notify the other Party in writing.

A Party may not invoke Force majeure until the other Party has been provided an opportunity to concertedly help the other Party to overcome the problems.

15.3 The prevented Party shall take reasonable steps to mitigate the effects of the impediment and resume the fulfilment of the prevented obligations as soon as practically possible.

15.4 If the Contractor is prevented from fulfilling a substantial part of the Contract for more than twelve (12) weeks due to Force majeure according to article 15.1, the FÖRSVARSMAKTEN is entitled to cancel the remaining deliveries under the Contract with immediate effect. If the FÖRSVARSMAKTEN decides to cancel, the

FÖRSVARSMAKTEN is entitled and obliged to accept such fulfilled parts of the Contract which refer to non-defective deliveries that may be of use without the FÖRSVARSMAKTEN needing to take extensive measures. The FÖRSVARSMAKTEN shall in such case recompense the Contractor and pay the agreed price for the active parts of the Contract. In case of cancellation, the Contractor is to account for all deliveries made in a final report to the FÖRSVARSMAKTEN.

16. Insurance

The Contractor shall at its own expense enter into and uphold customary liability insurance with a liability coverage of a sufficient security, taking into account the nature and scope of the Contract. The Contractor shall at the request of the FÖRSVARSMAKTEN present a copy of the insurance certificate.

17. Assignment

The Contractor is not entitled to assign the Contract without the prior written consent of the FÖRSVARSMAKTEN. The FÖRSVARSMAKTEN however, is entitled to assign the Contract, or part thereof, to another Swedish state authority.

18. Amendments and additions

Requests for amendments and additions shall be made in writing to the Contact person of the respective Party. Amendments and additions shall be in writing and signed by an authorised representative of the respective Party.

19. Dispute resolution and applicable law

Disputes arising out of or in connection with this Contract, whether interpretation or application etc., shall be settled by Stockholms Tingsrätt (Stockholm District Court) applying Swedish law, without regard to conflict of laws principles.
