



# SKB's General Purchasing Terms and Conditions Services

These general terms and conditions (GTC) shall apply to consultancy services and other services which Svensk Kärnbränslehantering AB (hereinafter SKB) orders to the extent that the parties have not otherwise expressly agreed in writing.

## 1 Definitions

1.1 "Agreement" means hereinafter the agreement document, the order or suchlike to which these GTC have been appended, including these GTC and other appendices. "Provider" means the party from which SKB has ordered consultancy services or other services. "Services" means the services or suchlike which SKB has ordered from the Provider including any other obligations of the Provider in accordance with the Agreement.

## 2 Performance of the Services

- 2.1 The Provider shall perform the Services in accordance with the Agreement.
- 2.2 The Services shall be performed in a professional manner and with the expertise, skill and care which SKB has reason to expect of a well-reputed Provider within the area of expertise of the Provider. The Services shall be performed independently in relation to SKB.
- 2.3 Any material, equipment or suchlike which the Provider provides within the scope of the Services shall be well suited for its purpose and otherwise be in accordance with the Agreement. Chemicals must be approved by SKB prior to their use.
- 2.4 During performance of the Services, the Provider shall keep SKB informed regarding the progress of the Services and the results which are produced. Upon request from SKB, the Provider shall provide details of this in written summary reports.
- 2.5 If the result of the Services could form the basis for future procurement(s) by SKB, the Provider shall perform the Services in such a way that the result does not give the Provider an unfair and/or advantageous position for tenders in such procurements. This also applies to results that could be considered giving other potential suppliers which the Provider is directly or indirectly affiliated to, an unfair advantage. Such relationship is not limited to but should be considered to exist if the Provider fully or partially is owned by, or owns, a potential supplier or that they are both subsidiaries of the same parent company. In case of a situation where the Providers independent status could be jeopardized the Provider shall immediately make SKB aware of this.

## 3 Provider's personnel

- 3.1 The Provider's personnel shall be qualified, competent, suitable for the services and perform according to generally accepted professional standards.
- 3.2 Where the Agreement stipulates which personnel of the Provider who shall perform the Services, personnel may not be substituted without SKB's written consent. Where, based on circumstances beyond the control of the Provider, the personnel fail to fulfil the Services, the Provider shall propose new equally-qualified personnel.

- 3.3 Upon request by SKB, the Provider shall, without delay, dismiss any personnel from work at SKB who violates any safety provision or guideline, fails to fulfil established or assumed requirements of professional skill and performance of the work with due care, does not meet applicable medical requirements, is intoxicated or under the influence of drugs, exhibits a lack of consideration, orderliness or suitability, or is otherwise offensive during work hours.
- 3.4 Upon request by SKB, the Provider shall ensure that personnel that performs or will perform work which is important for safety or security at SKB's nuclear facilities submit medical certificates to SKB showing that the personnel comply with applicable medical requirements. The Provider may not use personnel that does not submit such certificates for work which is important for safety or security. For personnel who will perform work for which an employability assessment is required under the Swedish Work Environment Authority's (SWE: Arbetsmiljöverket) regulations, a so called certificate of employability (SWE: tjänstbarhetsintyg) should always be submitted before work is commenced.
- 3.5 Upon request by SKB, the Provider shall, at its own cost, ensure that its personnel have undergone drug tests before any Services are commenced. The test result shall be made available to SKB.
- 3.6 SKB performs security checks, including register verification, on all those who participate in the operations at SKB's nuclear facilities. In respect of work which includes participation in such operations, the Provider may only use personnel who have undergone security checks and, in conjunction therewith, have been approved. In connection with extended periods of service, the security checks may need to be renewed.
- 3.8 The Provider may not for the performance of the Services, without SKB's prior written consent, use personnel that is or have been performing work for the Swedish Radiation Safety Authority (SWE: Strålsäkerhetsmyndigheten). The Provider shall inform SKB if it has performed any prior work for the Swedish Radiation Safety Authority.
- 3.9 The Provider's obligation to perform the Services within the time stated in the Agreement shall not be affected by the fact that any personnel is dismissed from work or otherwise may not perform work as stated above in this section 3.
- 3.10 Upon request by SKB, the Provider shall, without delay, prepare and deliver to SKB a list of all persons who are carrying out or who will carry out the Services.

## 4 Personal data and data protection

- 4.1 SKB collects, processes and store personal data, and in some cases sensitive personal data regarding health, of persons performing work for SKB. All gathering, processing and storage of personal data is done in accordance with EU regulation 2016/679, also called the General Data Protection Regulation (GDPR).

4.2 The Provider shall ensure that personnel that performs or will perform work for SKB is informed that personal data will be gathered, the purpose of collecting the personal data and the rights of the data subject (the person whose data is collected). The Provider shall to the data subject make sure to inform of SKB:s data protection policy at latest by the time the personal data are collected. SKB:s data protection policy and other information can be found on: <http://www.skb.com/personal-data-and-data-protection/>

4.3 When needed in order to fulfil the GDPR the Provider and SKB shall sign a so called processor contract.

## **5 Sub-contractors**

5.1 The Provider may not engage sub-contractors without SKB's written consent. The Provider shall be liable for any work performed by subcontractors as for its own work.

## **6 Completion of the Services**

6.1 The Services shall be deemed to be completed when reported in the manner stipulated in this Agreement. Services which shall not be reported are deemed to be completed when all of the Provider's undertakings in accordance with the Agreement have been fulfilled.

## **7 Delays in delivery**

7.1 In the event that the Services are not completed within the time stipulated in the Agreement, the Provider shall pay liquidated damages of 1% of the total price for the Services for each commenced week of delay however in an amount not exceeding 15% of the stated price. In the event that no fixed price has been agreed, the liquidated damages shall be calculated based on the budget price, other price estimates stated in the Agreement or the total sum for the Services from the Provider. SKB shall determine which amount the liquidated damages shall be calculated on.

7.2 In the event that the delay extends over 15 weeks, SKB shall be entitled to terminate the Agreement with immediate effect as it regards the parts of the Services which the Provider has not completed, or to rescind the Agreement. Where SKB terminates or rescinds the Agreement based on a delay, SKB shall, in addition to liquidated damages, be entitled to compensation for any loss incurred by SKB, to the extent the loss exceeds the maximum amount of liquidated damages.

7.3 In conjunction with rescission, SKB shall not be entitled to use the results of the Services and the Provider shall reimburse all payments made by SKB.

## **8 Warranty**

8.1 The Provider shall, without delay and at its own expense, rectify any defect/defects in the results of the Services which are discovered within 24 months from the date on which the Services in all parts were completed.

8.2 In the event that the Provider fails to fulfil its obligations in accordance with 8.1, SKB shall at its own discretion, be entitled to rectify the defect/defects at the Provider's expense or be entitled to a price deduction. The deduction shall be equal to the diminished use for SKB of the Services caused by the defect.

8.3 The Provider shall compensate SKB for any loss which a defect in performance of the Services has caused SKB.

## **9 Title**

9.1 All the results which are produced in connection with the Services, including computer programs, source codes and documentation, shall constitute SKB's property and all intellectual property rights to the results shall, thus, be held solely by SKB. The results of the Services may freely be disposed of, modified or adapted by SKB.

9.2 In respect of results from the Services in the form of text, images, sound or the equivalent, e.g. film, video, sound recordings, graphics, reports, brochures and presentation material, the following shall apply:

- a) The result shall always be delivered in digital form.
- b) SKB shall without further compensation obtain the copyright to the material. Thus, SKB shall, inter alia, be entitled, without permission, to modify and edit the material, to translate it into another language, to consolidate it with other material, and to transfer the material to another form or another medium. SKB shall not be obliged to use the material in a certain manner.
- c) The Provider shall procure consents from its employees and subcontractors required for the above stated transfers of rights.

9.3 SKB shall be entitled to apply for patents on any inventions which are produced within the scope of the Services. In the event that the Provider considers that the results or any part thereof are possibly patentable, the Provider shall without delay provide written notice to SKB thereof regarding such results. As provided for in 11.1, the Provider must observe confidentiality in respect of the results.

9.4 The Provider shall not be entitled to use the results of the Services without the prior written consent of SKB.

9.5 The Provider is, for a period of three (3) years after the completion of the Services not allowed to perform similar services for another client in the nordic countries that is conducting a similar line of business as SKB without SKB's prior written consent.

## **10 Documentation and information**

10.1 All documents and all information in any form which SKB provides to the Provider shall remain the property of SKB and be destroyed or returned to SKB upon request. The documents and information may be used by the Provider only for the Services and shall not be copied, reproduced or distributed for any purpose without the written consent of SKB.

10.2 Documents and information in any form which the Provider provides to SKB in connection with the Services and which have not been specifically created on SKB's behalf may be used, copied, distributed and published by SKB in connection with the use of the results of the Services. The foregoing shall not apply to information deemed to be confidential in accordance with 11.3.

## **11 Confidentiality**

11.1 The Provider shall treat any and all results of the Services as confidential and may not disclose results to any third party without the prior written consent of SKB. The foregoing obligations shall not apply to any results published or otherwise made public by SKB.

11.2 Information concerning the Agreement and the performance of the Agreement and information which SKB discloses to the Provider in connection with the Services, or information regarding SKB which the Provider otherwise receives in connection with the Services, shall be treated as confidential and may be made available, or disclosed, to third parties only after SKB's prior written consent.

11.3 11.1 and 11.2 does not apply if:

- the information is in, or will enter, the public domain in a manner other than through a breach of this provision,
- the Provider was already aware of the information without limitations or restrictions in respect of dissemination or use,
- the Provider obtained the information from a third-party without being bound by a duty of confidentiality or
- the Provider is obligated in accordance with law to release the information. The Provider shall notify SKB in writing regarding any such release.

11.4 In the event the Provider discloses confidential information to SKB, such shall be specifically stated by marking the document or in another clear manner. 11.2 and 11.3 shall apply to such information in a corresponding manner.

11.5 The Provider shall ensure in an appropriate manner that its personnel and any subcontractors of the Provider comply with the duty of confidentiality in accordance with 11.1 and 11.2.

## **12 Quality and environmental safeguards**

12.1 SKB shall be entitled, through audits and follow-ups, to inspect and monitor the Provider's quality and environmental management systems and its application in respect of the Provider as well as the Provider's subcontractors. Such inspections and monitoring may also include other respects of the Provider's performance of the Services, if the Services are of importance for the safety and/or security at SKB's nuclear facilities.

12.2 The Provider shall in all regards cooperate with SKB in connection with audits and follow-ups according to 12.1 above and provide SKB with all necessary documents and personnel in accordance with SKB's requests. The Provider shall ensure that also the subcontractors, if any, comply with, and are subject to, this provision.

12.3 In case the Services include activities that might affect the safety or security of SKB's nuclear facilities, SKB shall have the right to supply the Swedish Radiation Safety Authority (SWE: Strålsäkerhetsmyndigheten) with the information that has been gathered through the audits or follow-ups according to 12.1. In case the authority in accordance with applicable law requires to participate in the audits and follow-ups it shall have the right to do so. SKB shall in such case require that the authority treats all obtained information as confidential. It is noted that the authority decides whether confidentiality actually shall apply or not.

## **13 Statutes and safety regulations**

13.1 The Provider shall comply with applicable laws, regulations, provisions, and other statutes and decisions of authorities.

13.2 The Provider shall at its own expense become informed and comply with the safety rules and regulations applicable to SKB's facilities, if necessary for the performance of the Services.

## **14 Payment terms**

14.1 In connection with a fixed price, the Provider is entitled to invoice SKB on the date the Services are completed and approved in writing by SKB. In conjunction with Services provided on a time and materials basis, the Provider is entitled to invoice once per month for performed and reported work. Payment shall be made within 30 days from the date upon which SKB has received the invoice in accordance with 15.1.

14.2 Compensation for travel, inconvenient work hours, shift work, over time, travel time and expenses in connection with the Services may not be charged unless SKB has been informed thereof and approved such compensation in advance.

## **15 Issuing of invoices**

15.1 Invoices shall specify:

- SKB's order number
- The Provider's contact person
- SKB's technical contact person
- The period covered
- The invoice amount
- An itemisation of the remaining amount due and payable, excluding VAT, in accordance with the following:  
Order amount X  
Previously invoiced amount Y  
Present invoice amount Z  
Remaining amount  $X - (Y + Z)$
- Value added tax
- The VAT registration number of the Provider

15.2 Any interest on overdue payment may not be charged in excess of the amounts stated in the Interest Act (SFS 1975:65). Invoicing costs, administrative costs and suchlike may not be charged.

## **16 Liability**

16.1 The Provider shall be liable for loss incurred by SKB as a result of the negligence of the Provider.

16.2 The Provider shall indemnify SKB for any liability in damages attributable to SKB vis-à-vis third parties, where such liability in damages is a result of the negligence of the Provider.

16.3 In addition to the provisions of 16.2 and 18, no party shall be liable for indirect damage or indirect loss, e.g. loss of profit and other consequential damage, which a party has caused the other party. However, this limitation on liability shall not apply if the breaching party was grossly negligent or committed a breach of 11.1–11.4.

## **17 Insurance**

17.1 The Provider shall, at its own expense, take out and maintain liability insurance with liability coverage which is sufficient taking into consideration the nature and scope of the Services, subject however to a minimum of 120 times the Price Base Amount. Upon request from SKB, the Provider shall present the applicable insurance certificates.

## 18 Liability for infringement

- 18.1 The Provider shall indemnify SKB for costs and damages, including reasonable counsel fees, as a result of any claim, action or litigation proceedings brought against SKB based on the fact that the use, sale, distribution or other exploitation of the results of the Services constitute an infringement of any patent, copyright or other intellectual property right, or the application thereof, or the unlawful use of any know-how, trade secrets or other rights.
- 18.2 In addition, the Provider shall, without delay and at its own expense, take such measures that the results can be used by SKB or, where such is not possible, provide other equivalent solutions which do not constitute infringement on any third-party rights.

## 19 Premature termination

- 19.1 Either party shall be entitled to terminate the Agreement in writing with immediate effect or rescind the Agreement where the other party:
- is in material breach of its undertakings in accordance with the Agreement and fails to rectify such, where such is possible, within 30 days after written notice thereof,
  - has been declared bankrupt, entered into liquidation, declared that it will suspend or has suspended its payments, or for any other reason can reasonably be deemed to be insolvent, or
  - has experienced a change in ownership such that the conditions for this Agreement have changed.
- 19.2 In conjunction with termination or rescission, the party which has terminated the Agreement shall be entitled to compensation for the loss the party has incurred. In conjunction with rescission, SKB shall not be entitled to use the results of the Services and the Provider shall reimburse all payments made by SKB.
- 19.3 SKB shall be entitled at any time to discontinue the Services. In such case, SKB shall pay compensation for work which has already been performed. Where the Services are discontinued for reason within SKB's control, SKB shall also pay compensation for reasonable, verified close-down costs.

## 20 Force Majeure

- 20.1 Either part shall be entitled to temporarily suspend the performance of its obligations under the Agreement to the extent performance is prevented by Force Majeure. "Force Majeure" means the following: Any event over which the parties have no control, such as a public labour dispute, fire, war, mobilisation, other mandatory decision of a public authority or currency restrictions. Such events shall only constitute Force Majeure if the effect on the performance under the Agreement could not be foreseen at the time of execution of the Agreement.
- 20.2 A party must notify the other party in writing of the occurrence of an event of Force Majeure in order to be entitled to claim Force Majeure. The notification must be made without delay after the party became aware or should have become aware of the occurrence of the Force Majeure. Performance under the Agreement shall be resumed as soon as it is no longer prevented by Force Majeure.

- 20.3 Where performance under the Agreement is materially prevented for a period greater than three months due to Force Majeure invoked by the Provider, SKB shall be entitled to terminate the Agreement without any liability to pay compensation.
- 20.4 The other party must be notified upon the cessation of Force Majeure.

## 21 Assignment

- 21.1 Neither party may assign its rights or obligations under the Agreement without the other party's written consent.

## 22 Entire Agreement

- 22.1 The Agreement constitutes the entire agreement of the parties in respect of the subject matter related thereto. All written or oral undertakings and commitments preceding the Agreement shall be superseded by the provisions of the Agreement.

## 23 Amendments to the Agreement

- 23.1 Amendments or supplements to the Agreement must be made in writing and signed by both parties in order to be valid.

## 24 Inconsistencies between documents

- 24.1 In the event of any inconsistencies between the documents which together constitute this Agreement, the Agreement document, the order or suchlike to which these GTC are appended shall take precedence over other documents. Any appendices shall then apply in the order they are numbered. These GTC shall apply after other appendices.

## 25 Governing law and dispute resolution

- 25.1 The Agreement shall be governed by the substantive law of Sweden.
- 25.2 Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration administered by the Arbitration Institute of the Stockholm Chamber of Commerce (the SCC). The Rules for Expedited Arbitrations shall apply where the amount in dispute does not exceed SEK 1,000,000. Where the amount in dispute exceeds SEK 1,000,000 the Arbitration Rules shall apply and the Arbitral Tribunal shall in such case be composed of three arbitrators. The amount in dispute includes the claims made in the Request for Arbitration and any counterclaims made in the Answer to the Request for Arbitration. The seat of arbitration shall be Stockholm, Sweden. The language to be used in the arbitral proceedings shall be English.
- 25.3 Arbitration proceedings which are requested pursuant to this arbitration clause are subject to confidentiality. The confidentiality relates to all information which comes to light during the proceedings, as well as decisions or arbitration awards which are issued as a result of the proceedings. Information which is subject to confidentiality may not, in any form, be disclosed to a third party without the other party's written consent.