



# SKB's General Purchasing Terms and Conditions

## Goods

These General Purchasing Terms and Conditions shall apply to purchases by Svensk Kärnbränslehantering AB (hereinafter SKB) of equipment, consumable supplies, chemicals and other goods to the extent not otherwise expressly agreed in writing between the parties.

### 1 Definitions

1.1 "Agreement" means hereinafter the agreement document, the order or suchlike to which these General Purchasing Terms and Conditions have been appended, including other appendices. "Supplier", means the party who, in accordance with the Agreement, shall deliver Goods. "Goods" means the equipment, consumable supplies, chemicals and all other goods and services which the Supplier shall deliver and provide in accordance with the Agreement.

### 2 General requirements

2.1 The Goods shall in all respects comply with the Agreement and the statements made by the Supplier in its marketing and otherwise fulfil requirements which SKB may reasonably assume.

2.2 The Goods shall fulfil all applicable requirements for importation and use in Sweden.

2.3 The Goods shall be delivered within the time stipulated in the Agreement.

### 3 Documentation/Instructions

3.1 Upon request by SKB, the Supplier shall, free of charge, provide the documentation and instructions which are necessary for SKB to use and benefit from the Goods and all documentation which may be required in accordance with applicable statutes.

### 4 Delivery

4.1 The Supplier shall deliver the Goods DDP (Incoterms 2010) to the location designated by SKB.

4.2 The Supplier shall deliver the Goods during SKB's normal business hours at the relevant facility.

### 5 Delays in delivery

5.1 In the event that the Supplier foresees that delivery cannot be made within the agreed time, the Supplier shall promptly notify SKB thereof in writing. In connection therewith, the Supplier shall state the cause for the expected delay and when delivery will take place.

5.2 In the event of delayed delivery, the Supplier shall pay liquidated damages to SKB in the amount of 1 % of the price of the delayed Goods per week of delay, or part thereof, up to a maximum of 15 % of such price.

5.3 SKB is entitled to set off the liquidated damages from the Supplier's demand for payment.

5.4 Where there is a material delay, SKB may terminate the Agreement in writing, in whole or in part, with immediate effect or rescind the Agreement.

5.5 In the event of termination or rescission in accordance with 5.4, SKB shall be entitled to compensation for any loss incurred by SKB. However, indirect loss shall only be compensated where the Supplier has been grossly negligent.

5.6 In the event of rescission SKB shall return all Goods already delivered and the Supplier shall reimburse all payments already made by SKB.

### 6 Title to the Goods

6.1 Title to the Goods shall pass to SKB upon delivery of the Goods DDP (Incoterms 2010) or in accordance with the delivery term that might have been specified in the Agreement.

### 7 Price and payment terms

7.1 The price SKB shall pay for the Goods is stipulated in the Agreement.

7.2 The Supplier shall be entitled to invoice SKB when delivery of the Goods has been completed.

7.3 Payment shall be made against invoice within thirty (30) days from the date on which SKB receives the invoice. No invoice fees and suchlike shall be charged.

7.4 All prices and fees are stated excluding VAT but including any other taxes and fees.

### 8 Defects in the Goods

8.1 The Supplier shall be liable for defects in the Goods which arise within two years from delivery.

8.2 Where the Goods or packaging deviate from that stipulated in the Agreement, the Supplier shall remove the defective Goods and immediately deliver non-defective Goods in the correct packaging and quantity to SKB without charge.

8.3 Instead of redelivery in accordance with 8.2, SKB may demand that the Supplier, without charge, immediately rectifies the defect or demand a price deduction. A price deduction shall equal the diminished value of the Goods for SKB as a result of the defect.

8.4 In the event that the Supplier fails to deliver non-defective Goods or rectify any defect in the Goods as quickly as might be demanded by SKB or where the defect is substantial, SKB may terminate the Agreement, in whole or in part, with immediate effect or rescind the Agreement.

8.5 In the event that there are defects in the Goods, SKB shall be entitled to compensation from the Supplier for the loss incurred by SKB as a result of the defect. However, indirect loss shall be compensated only where the Supplier has been grossly negligent.

8.6 In the event of rescission 5.6 above shall apply.

## **9 Notice of defect**

- 9.1 A notice of defect must be given within 21 days of the discovery of the defect by SKB and SKB has realised the nature of the defect and its significance.

## **10 Insurance**

- 10.1 The Supplier 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 Goods. Upon request by SKB, the Supplier shall present the applicable insurance certificates.

## **11 Infringement of third party rights**

- 11.1 The Supplier warrants that neither the Goods nor any part thereof infringe any third party intellectual property rights.
- 11.2 The Supplier shall indemnify and hold SKB harmless for expenses and damage, including reasonable counsel fees, as a result of any claim, action or proceedings brought against SKB based on the fact that the use or other exploitation of the Goods constitutes an infringement of any patent, copyright or other intellectual property right, or application thereof or unlawful use of know-how, trade secrets or other rights.
- 11.3 In addition, the Supplier shall, without delay and at its own expense, take such measures that the Goods may be used by SKB or, where this is not possible, provide other equivalent Goods, the use of which does not constitute infringement of any third party rights.
- 11.4 SKB shall be entitled to terminate or rescind the Agreement with immediate effect where the Supplier fails to rectify any defects in intellectual property rights without delay following the Supplier's receipt of notification from SKB regarding a claim for infringement of intellectual property rights by a third party.
- 11.5 In addition to compensation of the amount which SKB may be liable to pay to any third party, the Supplier shall pay damages to SKB for all loss, including indirect loss, which is attributable to the defects in intellectual property rights relating to the Goods or part thereof.

## **12 Legislation and management systems**

- 12.1 The Supplier shall comply with applicable laws, regulations, provisions, and other statutes and decisions of governmental authorities.
- 12.2 SKB shall be entitled through audits and follow-ups to inspect and monitor the Supplier's quality and environmental management systems and their application in respect of the Supplier as well as the Supplier's sub-contractors.
- 12.3 The Provider shall in all regards cooperate with SKB in connection with audits and follow-ups according to 12.2 and provide SKB with all necessary documents and personnel in accordance with SKB's requests. The Supplier shall ensure that also the subcontractors, if any, comply with, and are subject to, this provision.
- 12.4 In case SKB's intended use of the Goods 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 followups according

to 12.2. In case the authority in accordance with applicable law requires to participate in the audits and followups it shall have the right to do so. SKB shall in such case require that the authority treats all obtained information as confidential. However, it is noted that whether confidentiality shall apply or nor not will be determined under legislation on confidentiality applicable to the authority.

## **13 Confidentiality**

- 13.1 The Supplier shall observe confidentiality in relation to all information concerning the Agreement and its performance as well as internal affairs at SKB. The Supplier shall, through confidentiality undertakings with personnel or other appropriate measures, ensure compliance with the duty of confidentiality. The duty of confidentiality shall not apply to such information of which the Supplier can prove it gained knowledge in a manner other than through the Agreement or which is in the public domain or which the Supplier is obligated to disclose in accordance with a decision by a court or other governmental authority.
- 13.2 The Supplier may not use SKB's trademark or in any other manner refer to SKB in its marketing, without the prior written consent of SKB.

## **14 Cancellation and premature termination**

- 14.1 SKB shall be entitled without cause to terminate the Agreement with respect to undelivered Goods, whereupon the Supplier shall be entitled to compensation for delivered Goods and other verified and necessary, reasonable expenses. No compensation shall be paid in addition thereto.
- 14.2 Either party shall be entitled to terminate the Agreement in writing with immediate effect or rescind the Agreement where the other party:
- (a) is in material breach of its undertakings in accordance with the Agreement and fails to rectify such within fourteen (14) days after written notice thereof; or
  - (b) is declared bankrupt, has suspended its payments, or for any other reason can reasonably be deemed to be unable to perform its obligations under the Agreement.
- 14.3 In conjunction with termination in accordance with 14.2 (a), the party terminating the Agreement shall be entitled to compensation for any loss the party has incurred. However, indirect loss shall only be compensated where the other party has been grossly negligent.
- 14.4 5.4 and 8.4 stipulate special provisions regarding immediate termination and rescission in conjunction with delays and defects.

## **15 Liability**

- 15.1 The Supplier shall be liable for loss incurred by SKB as a result of the negligence of the Supplier.
- 15.2 The Supplier shall indemnify SKB for any liability in damages of SKB vis-à-vis third parties, where such liability in damages is caused by the Goods or acts or omission of the Supplier.
- 15.3 Neither party shall be liable for indirect loss caused to the other party unless liability for such loss is expressly stated in the Agreement. This limitation of liability shall however not apply in case of gross negligence.

## **16 Force majeure**

- 16.1 Either party 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: public labour disputes and any other event over which the parties have no control such as fire, war, mobilisation, or equivalent military call-ups, requisition, sequestration, trading or currency restrictions, civil unrest or riots, shortage of means of transport, general shortage of goods, limitations on the supply of energy, as well as defects or delays in deliveries by sub-contractors which are caused by such events. Such events shall only constitute Force Majeure if their effect on the performance under the Agreement could not be foreseen at the time of execution of the Agreement.
- 16.2 Force Majeure which consists of difficulties for the Supplier in purchasing materials, services or suchlike which the Supplier may purchase from another source, shall not release the Supplier from its obligation to fulfil its undertakings in accordance with the Agreement.
- 16.3 A party who wishes to claim Force Majeure must, without delay, notify the other party in writing when the Force Majeure arose and when it ceases.
- 16.4 Either party may terminate the Agreement with immediate effect where performance is delayed by more than six (6) months as a result of Force Majeure.

## **17 Continued validity**

- 17.1 The Supplier's liability for defects in the Goods in accordance with 8, the provisions regarding the infringement of third party intellectual property rights in 11, the Supplier's duty of confidentiality in accordance with 13, as well as the provisions regarding liability set forth in 15, regarding assignment in 18 and governing law and disputes in 21, shall continue to apply notwithstanding that the Agreement has otherwise terminated.

## **18 Assignment**

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

## **19 Entire Agreement**

- 19.1 The Agreement constitutes the entire Agreement of the parties in respect of the subject matter thereto. All written oral undertakings, limitations and commitments preceding the Agreement shall be superseded by the provisions of the Agreement.

## **20 Amendments**

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

## **21 Disputes**

- 21.1 Excluding the UN Convention on Contracts for the International Sale of Goods, the substantive law of Sweden shall govern the Agreement.
- 21.2 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.
- 21.3 Arbitration proceedings which are requested pursuant to this arbitration clause are subject to confidentiality. The duty of confidentiality relates to all information which comes to light during the proceedings, as well as decisions or arbitration awards issued as a result of the proceedings. Information which is subject to a duty of confidentiality may not, in any form, be disclosed to a third party without the other party's written consent.
- 21.4 In the event that the Agreement, or part thereof, is transferred to a third party, such third party shall automatically be bound by the terms of this arbitration clause.