

GENERAL TERMS AND CONDITIONS

2023-05-16

1. Purpose and Scope

These General Terms and Conditions for Karolinska Institute (KI) regulate the terms and conditions between the Parties and complement the terms and conditions of the Contract or order of assignment. General Terms and Conditions apply in their entirety, unless otherwise contradicted in the Contract.

General Terms and Conditions apply to goods and/or services where applicable.

2. Compliance with current legalization

The Supplier must comply with all directives, regulations, laws, and other provisions applicable to the Contract. The Supplier undertakes to obtain the necessary permits for the assignment.

Any products included in the Contract must have a type approval, be marked, etc. according to current legalization and comply with applicable European and Swedish standards.

3. Personnel

The Supplier is the employer and thus has full employer responsibility for the personnel.

KI has the right to, during or after an assignment, exchange personnel provided by the Supplier that are deemed unsuitable. The Supplier shall provide substitutes with equal qualifications in case that one or more persons are not available or is to be replaced. The substituting personnel must have equal or better qualifications than the person who is substituted. Expenses for the exchange of personnel will not be compensated. If the Supplier cannot offer a replacement, KI has the right to cancel the Contract.

KI has the right to use its own personnel, when possible.

4. Training

All training assignments shall include educational materials. The training, including material, shall be provided in Swedish or in English.

The Supplier shall in addition to what is stated in the Contract, provide training within the area of the assignment upon request. Such training will be compensated for according to a separate agreement.

5. Compensation

5.1. Price

Price for goods must include all costs for the execution of the assignment such as costs for shipping, packaging, insurance, customs, transport, and fees according to the ordinance (2018:1462) on producer responsibility for packaging etc. In addition, documentation, warranty, and other costs associated with the Supplier's commitment according to the Contract must be included.

Price for service must constitute full compensation for the delivery of the service and be fixed for the entire contract period. Overtime compensation, compensation for on-call and standby and extra compensation for work during inconvenient working hours are only paid for if this has been agreed in writing in advance. Reimbursement for allowances and accommodation is only paid for if the necessary overnight stay for the assignment if approved in writing in advance by KI.

5.2. Payment terms

The Supplier invoices in arrears after approved delivery/service with a specified credit period for KI of thirty (30) days net. KI does not accept advance payment. Late payment interest is paid according to the Swedish Interest Act (1975:653). No invoicing or administrative charges will be accepted.

5.3. Invoice

Invoicing must, according to “Act regarding e-invoicing in public procurement (SFS 2018:1277)” be sent by using electronic invoice (e-invoices). The Supplier invoices KI via PEPPOL, Svefaktura or an invoice portal. For more information: <https://ki.se/en/about/invoicing-karolinska-institutet>

The invoice must contain information regarding the amount and type of goods and/or services, and a reference to the specific order. If and when the invoice includes consultancy hours it must also contain the name of the consultant, how many hours and which work has been conducted. Invoices must be marked with KI’s reference code, which consists of the prefix ZZ, institution code and the order code.

The invoices shall be per order, apart from approved partial deliveries or residual deliveries, when multiple invoices may occur for the same order. Collective invoicing is not permitted.

The payment of an invoice does not mean that KI has approved the delivered assignment.

6. Delivery

6.1. Delivery terms

The delivery term is DELIVERED DUTY PAID (DDP) KI, Stockholm according to INCOTERMS 2020. Deliveries must be made to the specific address stated by KI.

The Supplier must deliver ordered products with a delivery note. Costs for any disposable packaging must be included in the tender price. Packaging and pallets must always be taken back at no cost.

6.2. Delivery control and delivery test

KI has the right to control the delivery, i.e., control that the goods are complete and without damage and that current documentation is included. KI shall as soon as possible report inaccuracies in the delivery to the Supplier.

Upon request, the Supplier shall, in connection with the delivery of the goods, or at the later date agreed upon by the Parties, carry out a delivery test of the delivered goods and draw up a test protocol to be approved by KI. If installation is included, the delivery test must be carried out after installation.

If the goods do not meet KI's requirements or the performance and function specified by the Supplier, the Supplier must remedy these defects as soon as possible and at no cost.

7. Delay in delivery and penalties for delays

Delay in delivery occurs if the actual delivery time exceeds the delivery date stated in the Contract and the delay is not due to circumstances caused by KI. The Supplier shall promptly notify KI in writing if the delivery date is delayed. The Supplier shall also provide the reason for the delay and a new delivery date.

KI is entitled to a penalty fee of two (2) percent per seven-day period of the value of the goods and/or services. The maximum penalty fee is ten (10) percent. In case of a delay in delivery, KI has the right to withhold payment until full delivery is made or, if the delay is significant, to cancel the Contract.

8. Cancellation and return

Returns due to wrong delivery etc. caused by the Supplier, shall obtained full crediting. Costs incurred due to returns in case of wrongful delivery must be paid by the Supplier.

Repurchase of goods in unbroken original packaging shall be accepted by the Supplier within a period of 30 days after delivery, if the product is part of the Supplier’s standard product range. This also applies to sterile products. Special products or customer specific products can only be repurchased upon approval by the Supplier. The Supplier shall be contacted before the return of the goods that shall be repurchased. Settlement is done by issuing a credit note covering the invoiced value, at no cost to KI. Transport and packaging shall be paid for by KI.

KI has the right to limit the scope of the Contract or terminate all or parts of the assignment. Compensation must be paid for the work performed and proven necessary costs to terminate. The results of work carried out must be reported and all documents handed over to KI when KI has fulfilled its payment obligation.

9. Warranty

The warranty period shall be at least one (1) year after approved delivery (or approved delivery test when it has been carried out) unless otherwise agreed. The warranty shall be a full warranty that includes all direct costs connected with warranty actions and service, excluding costs for consumables. Travel costs and allowance for expenses in connection herewith shall also be included in the warranty.

Warranty commitments shall also apply after the end of the contract period or if the Contract is terminated in another way. The Supplier is obliged to ensure that the warranty commitment can be fulfilled.

If the goods cannot be used during a total period of ten (10) or more working days during the warranty period, as a result of defects or malfunction reported to the Supplier, the warranty period shall be extended, provided that the standstill is not due to the Customer at KI. The warranty extension shall be equivalent to the total standstill period.

10. Spare parts

The Supplier shall provide spare parts during the goods' life span, at least 7 years after the discontinuation of the manufacture of the equipment.

The cost for spare parts must not exceed the Supplier's regular pricing.

11. Documentation

All documents and manuals necessary to operate the delivered goods and its maintenance shall be provided in connection with the delivery. One (1) complete set of detailed documents in Swedish or English for the delivered goods including equipment, operation, software, and maintenance must be included and provided upon delivery, in electronic form.

KI have the right to share the documentation with another Party.

12. Contract management and follow up

The Supplier must apply such administrative procedures that it is possible to check that the prescribed level of requirements is maintained. The Supplier must ensure that the agreed delivery is carried out in accordance with requirements and prerequisites and be responsible for ensuring that the quality work is carried out in such a way that deviations from the agreed conditions are prevented.

The follow-up services shall be included in the prices and the Supplier will not be compensated separately for this.

13. Defects and Remedies

Defect/fault shall be deemed to exist if the delivery of the goods and/or services does not meet the specification (execution, design, function, manufacturing, and materials which shall be considered included in or which consists in the fact that the result of the delivery otherwise does not meet the agreed characteristics) or deviates from what follows from the Contract and the General Terms and Conditions in general.

The Supplier must conduct investigations and diagnostics regardless of if the Supplier suspects, or has verified, that the problem is due to circumstances caused by KI.

The Supplier is always obliged to immediately, or at the latest within five (5) working days, remedy faults that KI has complained about within the warranty period, completion of assignments or individual sub-deliveries. Faults must otherwise be rectified as quickly as the circumstances require, unless otherwise stated in the Contract.

If the fault is not remedied within a reasonable time, KI will set a final deadline for remediation. If the error is not rectified when the deadline has expired, KI has the right to choose either a deduction from the fee that corresponds to the error or to hire someone else to remedy the error at the Supplier's expense.

In the event of a fault, KI has the right to demand rectification or redelivery free of charge. The Supplier has the right to choose the most advantageous option for him if KI does not suffer damage. After three remedies, KI has the right to demand redelivery.

KI is entitled to compensation for faults by corresponding deduction of prices and compensations for damages. KI is also entitled to compensation for administrative and other costs that are due to the fault. Such compensation shall be deducted from any penalties. For a reasonable price reduction, KI may take into account additional costs, additional administrative work and/or other inconvenience for KI caused by the error.

If and when the fault is significant to KI, and the Supplier has or should have understood the significance, KI is entitled to termination of the Contract.

14. Liability

The Supplier is responsible for direct damage (including additional costs, additional administrative work and/or other inconvenience for KI caused by the error) caused to KI through breach of Contract, intent or negligence. The Supplier is responsible for indirect damage caused to KI through gross negligence or intent. The Supplier is however not responsible for loss of data and other damage due to wrongful or missing information from KI. This limitation does not apply when the damage is due to intent or gross negligence.

KI is responsible for direct damage caused to the Supplier through intent or negligence. KI is not responsible for indirect losses or losses as a result of KI's organizational or structural changes for the relevant area of operations.

A Party that suspects or has observed any damage must promptly inform the other party. Any and all claims due to damage must be submitted in writing within twelve months from the time when the damage was discovered, or should reasonably have been discovered, to be valid. A Party is obliged to take any reasonable actions to minimize the damage. If this is neglected the damage shall be correspondingly adjusted.

15. Confidentiality

The Supplier must follow KI's safety regulations. The conditions set in the Swedish Privacy Act (SFS 2009:400) shall be applicable for the Supplier. It is the Supplier's responsibility to inform its staff and relevant subcontractors about this section, as well as relevant regulations and laws, to ensure that the obligation regarding confidentiality is followed.

The Supplier must enter into a Confidentiality Agreement upon KI's request.

The Party undertakes, without limitation in time, to not reveal or use confidential information concerning the other Party and its operations for third parties or for its own benefit, to the extent possible by law. Confidential information is any and/or all information, technical, commercial, or other, with the exception of information that is generally and/or publicly known otherwise than by a breach.

The Party must, through a Confidentiality Agreement with staff or other appropriate measures, ensure that confidentiality as above is observed. The Party is responsible for ensuring that the contracted subcontractor and its employees affected by the assignment also sign a non-disclosure agreement of corresponding content for the benefit of the other Party.

The Supplier must, at KI's request or upon termination of the Contract, return and erase all material containing "Confidential information".

16. Handling of personal data

Processing of personal data must only be conducted in accordance with the General Data Protection Regulation (GDPR) and in accordance with Swedish law. The Supplier, and subcontractors, may only process personal data on KI's behalf in accordance with KI's written instructions and GDPR.

The Supplier must enter into KI's Personal Data Processing Agreement upon request. The Supplier must also ensure that relevant subcontractors enter into corresponding agreements.

The Supplier must, at KI's request or upon termination of the Contract, return and erase all material containing personal data.

17. Publication and marketing

The Supplier may not publish reports or other material or information that the Supplier has obtained or taken part of through the Contract without KI's prior written permission.

The Supplier may not use KI's brand for marketing purposes without KI's prior written permission.

When publishing research results, KI has the right to include relevant information about the delivered products and/or service.

18. Intellectual property rights

The Supplier is responsible for ensuring that delivered goods and/or services do not infringe third party patents, copyrights, or other intellectual property rights. The Supplier undertakes to indemnify KI in the event of infringement, including but not limited to infringement due to KI's possession or use of the goods and/or services.

KI shall attain the ownership of the equipment/information stated in the Contract, together with an unlimited right to use all included software. If a delivery includes a system and/or program which is the property of a third party, the applicable terms for the license shall apply.

KI owns the result after the assignment is completed, unless otherwise stated in the Contract. KI has the right to modify and multiply the results for its own use. These rights may be transferred to another party. The Supplier delivers the material to KI in a suitable form (e.g. digital) at KI's request or upon termination of the Contract. KI determines what constitutes appropriate form.

19. Force majeure

If a Party is prevented from fulfilling his commitments by circumstance that a Party could not reasonably have control of, such as war, fire, labor disputes, natural disaster, public service disruption, changed government regulation, change of constitution, government intervention, terrorism or other similar circumstance, as well as failure or delay in the delivery of subcontracting services due to these circumstances, shall constitute grounds for advancement of the date of performance and annulment of damages and other possible penalties.

A Party who wishes to invoke an exemption under this paragraph is obliged to notify the other Party in writing without delay of the appearance thereof, as well as the expiry of the circumstance.

During the time when Force majeure delays and/or prevents the fulfillment of contract, KI is entitled to arrange delivery from another supplier.

If the Contract cannot be fulfilled within two (2) months due to the above circumstance, the Parties are entitled to withdraw from the Contract, or part thereof, without incurring any liability.

20. Amendments and additions

In order to be valid any amendments or additions to the Contract shall be in writing and signed by authorized representatives of both Parties. Any changes and/or additions may not be made in violation of the Public Procurement Act or other Swedish law.

21. Transference

The Contract cannot be transferred to another natural or legal person, in whole or in part, without the written consent of the other Party. The Supplier cannot transfer receivables or any claims (including, for example damage claims) for the Contract to any third party without KI's prior written permission.

22. Cancellation of contract

KI is entitled to cancel remaining parts of the Contract immediately, or at the time of KI's choosing, if and when the Supplier;

- a) significantly mishandled the assignment towards KI.
- b) has committed an essential breach of Contract and does not remedy the breach within 30 days from KI's written request.
- c) repeatedly (more than three occasions) commits breaches of Contract, even if the breaches of Contract are not essential.
- d) no longer fulfills the requirements for awarding of the Contract.
- e) is subject to bankruptcy, liquidation and/or other financial circumstances that endanger the fulfillment of the Contract.
- f) does not fulfill requirements set by relevant legislation, e.g., payment of taxes, labor law, work environment etc.
- g) does not maintain, or has revoked, necessary permits, approvals, software and/or licenses and does not immediately remedy this.
- h) committed a crime, which is deemed by KI to be substantial, against the provisions in the Confidentiality and/or Processing of personal data section.
- i) repeatedly (more than three occasions) fails to meet agreed service levels.
- j) encourages KI's personnel to submit orders by unauthorized direct award of contract.
- k) repeatedly (more than three occasions) submits faulty pricing or discount rate.
- l) does not carry out environmental and quality work according to its own specified routines.
- m) fulfills one or more of the requirements for exclusion set in in the Swedish Public Procurement Act (2016:1145)

The Contract will automatically be invalid if any court of law declares the procurement process or a contract award decision invalid.

KI is entitled to conduct any lawful necessary actions to ensure that none of the above is applicable during the contract period. The Supplier shall provide KI with the requested necessary information, documentation and/or aid to ensure this. This does not entitle the Supplier to any compensation.

If any of the circumstances above is applicable, and KI terminates the Contract due to this, KI is entitled to damages and/or deduct the cost for replacing the Contract, and other confirmed additional costs (including additional costs, additional administrative work and/or other inconvenience for KI caused by the termination), from the Supplier's compensation.

The Supplier is entitled to terminate the Contract if and when KI has committed an essential breach of contract, and this is not remedied within 30 days from the Supplier's written request.

The results of work carried out must be reported and all documents submitted to KI at the latest when KI has fulfilled its payment obligation.

23. Applicable law and disputes

The Contract shall be interpreted and regulated in accordance with Swedish law.

Any disputes concerning the interpretation or application of the Contract and related matters shall be solved by mediation between the Parties. If mediation is unsuccessful the dispute shall be tried by a Swedish court of law in Stockholm. The Supplier may not cancel or postpone the fulfillment of the agreed obligations with reference to a dispute procedure being initiated or underway. The Parties retain however the right to seek payment of undisputed claims.