

Appendix

General Conditions

**Software and Services**

23.3-5562-17



KAMMARKOLLEGIET

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# 1 Introduction

- 1.1 The present General Conditions are a part of the Framework Agreement Software and Services – Software Solutions, reference number 23.3-5562-17.
- 1.2 The General Conditions govern the contractual relationship between the Framework Agreement Contractor and the Contracting Authority; it constitutes an appendix to the Contract; and it governs all Call-Offs made within the scope of the Framework Agreement, irrespective of whether the General Conditions are explicitly cited in the Call-Off Inquiry.
- 1.3 The General Conditions are supplemented by the document Special Conditions. One or more Special Conditions documents may apply depending on the nature and scope of the Contract Object. Special Conditions documents constitute appendices to the Contract and similarly apply irrespective of whether they are explicitly cited in Call-Off Inquiries.
- 1.4 If the Framework Agreement Contractor's Call-Off Response contains information that was – or conditions that were – not requested in the Call-Off Inquiry, such information or conditions shall be valid solely if the Parties have entered into a separate written agreement to that effect and if the General Conditions or Special Conditions specifically state that such an agreement is entered into.
- 1.5 Under the Contract, the following clauses may be clarified as specified in the respective clauses: 3.3, 4.3, 4.4, 4.6, 5.1, 5.2, 5.5, 6.1, 6.2, 6.3 (d), 6.4, 7.2, 8.2, 8.5, 8.7, 10.1, 10.3, 10.4, 11.1, 11.2, 11.3, 11.4, 12.1, 12.2, 12.3, 13.4, 13.5, 14.3, 15.2, 16.3, 17.1, 17.2, 18.2, 19.3, 21.1, 21.3, 23.6, 24.6, 25.3 and 26.2.

# 2 Definitions

- 2.1 For the purposes of applying the Contract – including the General Conditions and Special Conditions – the terms listed below shall have the specified meanings unless obviously indicated otherwise by circumstances.



Terms	Explanation
Business day	“Business day” shall refer to a holiday-free weekday in Sweden.
Call-Off	“Call-Offs” shall refer to acquisitions made by the Contracting Authority through the award of Contracts under the Framework Agreement.
Call-Off Inquiry	“Call-Off Inquiry” shall refer to inquiries submitted to the Framework Agreement Contractor by the Contracting Authority.
Call-Off Response	“Call-Off Response” shall refer to the tender that the Framework Agreement Contractor submits in response to a Call-Off Inquiry. Call-Off Response here also includes responses to the Contracting Authority that the Framework Agreement Contractor is unable to provide the product or service requested by the Contracting Authority.
Cloud Computing Services Provider	“Cloud Computing Services Provider” shall refer to a legal person who, by itself or with another provider, owns, maintains, and develops a Public Cloud Computing Service.
Consultant	“Consultant” shall refer to a physical, named person employed by the Framework Agreement Contractor or by the provider of Consulting Services to the Framework Agreement Contractor. The term Consultant shall not refer to instructors who undertake open training.
Consulting Services	“Consulting Services” shall refer to Resource Services, Team Services, or Engagement Services.
Consulting Services Provider	“Consulting Services Provider” here means a legal or a physical person who provides Consulting Services. Consulting Services Providers may either have their own employed Consultants or, alternatively, resell Consulting Services as intermediaries.
Contract	“Contract” shall refer to the written agreement for acquiring software and services under the Framework Agreement that is established by and between the Contracting Authority and the Framework Agreement Contractor under a Call-Off Contract. A Contract may also be entered into electronically, for example, by means of e-mail or via an e-commerce platform. The present General Conditions as well as any applicable Special Conditions shall always constitute part of the Contract.
Contract Object	“Contract Object” shall refer to the software and services that the Framework Agreement Contractor shall provide under the Contract; it may consist of proprietary software, Open Source Software, Consulting Services, Licensing Services, Support Services, Private Cloud Computing Services, and Private Cloud Computing Service.
Contract Period	“Contract Period” shall refer to the period during which the Contract remains in effect. Unless otherwise provided by the circumstances, the Contract Period



Terms	Explanation
	shall include any extension options.
Contracting Authority	“Contracting Authority” shall mean an organization that is eligible to perform Call-Offs and which has executed the Contract.
Contracting Authority's Activities	“Contracting Authority's Activities” shall refer to the activities performed by the Contracting Authority, activities conducted by other entities for which the Contracting Authority is implementing Call-Offs, and any other activities specified in the Contract.
Contracting Authority's Information	“Contracting Authority's Information” shall mean any information, irrespective of medium, that directly or indirectly pertains to or is derived from the Contracting Authority's activities, customers, providers, employees, or others, and that, if relevant, is processed and/or handled by the Framework Agreement Contractor within the framework of the Contract.
Contracting Authority's Materials	“Contracting Authority's Materials” shall refer to the Contracting Authority's Information, materials that belong to the Contracting Authority's IT environment, and any other material – such as documentation, tools, and software – that the Contracting Authority is making available to the Framework Agreement Contractor under the Contract.
Damages Amount	“Damages Amount” shall refer to the amount on which the Framework Agreement Contractor and the Contracting Authority's maximum liability in damages under clause 21.1 is based. The Amount Qualifying for Damages is composed of the mean value per contract year for the entire Contract Period of the total value of the Contract calculated on the date the Contract is executed.
Delivery	“Delivery” shall refer to the handover of Contract Objects and the performance of related stipulated activities under the Contract that entail that the Contracting Authority will be able to enter the Contract Object into service as intended.
Effective Date of Delivery	“Effective Date of Delivery” shall mean the date on which the Delivery has been approved or is considered to have been approved by the Contracting Authority as specified in clause 6.
Engagement Services	“Engagement Services” shall refer to the Framework Agreement Contractor's making available Consultants and assuming principal responsibility for the performance of a specific engagement to obtain a specific, stipulated result.
Error	“Error” shall mean any deviation from the provision of the Contract Object's properties in relation to the stipulations provided in the Contract. Error shall also include deviations from what the Contracting Authority would reasonably be able to expect in terms of the general application of Contract Objects of the same kind and which the Contracting Authority would reasonably be able to expect from a professional actor in the industry.
Framework Agreement	“Framework Agreement” shall refer to the Main Document including any



Terms	Explanation
	appended documents.
Framework Agreement Contractor	“Framework Agreement Contractor” shall refer to the bidder who, upon completing the procurement procedure, executes a Framework Agreement with Sweden's National Procurement Services and then executes a Contract with the Contracting Authority.
General Conditions	“General Conditions” shall mean the present document. The General Conditions set out the terms and conditions for the performance of the Contract that apply to the Contracting Authority and the Framework Agreement Contractor.
Licensing Services	“Licensing Services” shall refer to the Framework Agreement Contractor's provision of software and Public Cloud Computing Services licenses to one or multiple physical persons employed by the Framework Agreement Contractor or by the Framework Agreement Contractor's Licensing Services Provider that provides advice and support to the Contracting Authority.
Licensing Services Provider	“Licensing Services Provider” shall refer to a legal person who provides Licensing Services.
Main Document	“Main Document” shall refer to the conditions for performing the Framework Agreement, which regulates the contractual relationship between Sweden's National Procurement Services and the Framework Agreement Contractor.
Open Source Software	“Open Source Software” shall mean software that, in its entirety, is licensed with one or multiple licenses approved by the Open Source Initiative, <a href="http://www.opensource.org/licenses/">http://www.opensource.org/licenses/</a> .
Operational Service	“Operational Service” shall refer to services that include, at a minimum, power supply, refrigeration, fire prevention, physical safety, network, bandwidth, server capacity, storage, security, backup, and related monitoring services. Operational Services may be included only as part of a Private Cloud Computing Service.
Operational Services Provider	“Operational Services Provider” shall refer to a legal person who provides and maintains an Operational Service.
Penalty-Qualifying Amount	“Penalty-Qualifying Amount” shall refer to the amount on which the calculation of penalties is based for delays related to the Delivery, cf. clause 7.2 or for calculating penalties for non-performance of the Service Level Agreement. For Contract Objects that are paid periodically, the Penalty-Qualifying Amount is composed of the mean value per contract year for the entire Contract Period of the total value of the Contract, including options, calculated on the date the Contract is executed. For Contract Objects, Penalty-Qualifying Amounts are composed of an amount that corresponds to the value of the part of the Contract Object contained in the relevant Service Level Agreement, the relevant delay, or that, as a result of the delay, cannot be entered into service in the agreed manner.



Terms	Explanation
Personal Data Processor Agreement	“Personal Data Processor Agreement” shall mean an agreement by and between the Contracting Authority and the person who processes personal data on the Contracting Authority’s behalf related to the processing of the Contracting Authority’s personal data.
Private Cloud Computing Service	“Private Cloud Computing Service” shall refer to an IT environment for the Contracting Authority that includes a combination of Operational Services, software, Consulting Services, and Support Services. The Private Cloud Computing Service always includes a Service Level Agreement.
Public Cloud Computing Services	“Public Cloud Computing Services” shall refer to standardized services that, at a minimum, include operations, monitoring, hardware, software, storage, backup services, bandwidth, and security and which possess the following properties: (a) They are made available over the Internet; (b) They are, in principle, not customized or adapted to a specific Contracting Authority (in other words, in principle, the functioning of Public Cloud Computing Services is identical for all users of the Public Cloud Computing Services); and (c) They can increase or reduce the number of users, performance, amount of use, etc. rapidly and simply as desired by the Contracting Authority. Public Cloud Computing Services does <i>not</i> refer to Infrastructure as a Cloud Computing Service (IaaS), e.g. only computational speed and storage.
Resource Services	“Resource Services” shall refer to the Framework Agreement Contractor’s provision of Consultants as a resource, where the Framework Agreement Contractor is not obligated to provide a specific result with stipulated properties.
Security Protection Agreement	“Security Protection Agreement” shall refer to an agreement that regulates the security protection measures that the Framework Agreement Contractor and the Subcontractor shall adopt for engagements – and/or the Framework Agreement Contractor and Subcontractor shall enter into – for Call-Offs that contain confidential information for projects where the Swedish Protective Security Act (1996:627) [Säkerhetsskyddslagen] applies.
Service Level Agreement	“Service Level Agreement” shall refer to an agreement by and between the Framework Agreement Contractor and the Contracting Authority that sets out performance metrics for specific services, such as Private Cloud Computing Services, Public Cloud Computing Services, or Support Services.
Special Conditions	“Special Conditions” shall mean the terms and conditions that regulate proprietary software, Open Source Software, Public Cloud Computing Services, Private Cloud Computing Services, and Consulting Services as set out in the Framework Agreement and which, depending on the Contract Object, supplement the General Conditions.
Standard Conditions	“Standard Conditions” shall mean the Framework Agreement Contractor’s, the Subcontractor’s, or third-party contractual terms and conditions attributable to proprietary software or Open Source Software and/or provision of Support





Terms	Explanation
	Services, Updates, Upgrades, or Public Cloud Computing Services.
Stipulated Date of Delivery	“Stipulated Date of Delivery” shall refer to the date on which the Delivery shall be delivered under the Contract.
Subcontractor	“Subcontractor” shall refer to a legal entity or physical person on whom the Framework Agreement Contractor relies to complete all or parts of its obligations under the Framework Agreement and Contract. The services that are covered are Operational Services, Consulting Services, Licensing Services, Public Cloud Computing Services, and/or Support Services.
Support Services	“Support Services” shall refer to the interface that is made available to users and IT managers as they relate to the Contract Object. Support Services shall include user support, error reporting, and any other inquiries related to the Contract Object. However, Support Services do not include a licensor’s standardized interface for, e.g. error reporting.
Support Services Provider	“Support Services Provider” shall refer to a legal person who provides Support Services.
Team Services	“Team Services” shall refer to the Framework Agreement Contractor’s provision of a team of Consultants to perform sub-projects in phases for the purpose of meeting a specific need.
Third-Party Software	“Third-Party Software” shall refer to software to which the copyright belongs to a legal person different from the Framework Agreement Contractor or the Framework Agreement Contractor Subcontractor, and for software in the Contract that is specified to be Third-Party Software.
Updates	“Updates” here refers to corrections, and security updates, etc. of software, but can also refer to functional improvements. Only Upgrades provided to remedy Errors shall be considered to be covered by the term Updates.
Upgrades	“Upgrades” shall refer to new versions of software with new or changed functionality.

## 3 Contract Scope and Definitions

- 3.1 The Contract consists of:
- (a) Written amendments and appendices to the Contract, excluding Standard Conditions;
  - (b) The Contract with appendices, including the General Conditions as well as any applicable Special Conditions;
  - (c) Standard Conditions, if a written agreement has been entered into separately to that effect;
  - (d) Any supplementations to the Call-Off Inquiry;
  - (e) Call-Off Inquiries with appendices;
  - (f) Any authorized supplementations to the Call-Off Responses accepted by the Contracting Authority; and
  - (g) Call-Off Responses with appendices.
- 3.2 In the event that the documents of which the Contract consists or to which the Contract refers are in conflict with each other in any respect, and unless the circumstances clearly indicate otherwise, they shall apply in the order set out in clause 3.1. However, irrespective of this, the following conditions and order shall apply for conflicting documents:
- (a) In the event of conflicting documents, the terms and conditions of an executed Security Protection Agreement take precedence over any other regulations in the Contract.
  - (b) In the event of conflicting documents, the terms and conditions of an executed Personal Data Processor Agreement shall supersede any other regulations in the Contract.
- 3.3 Under the Framework Agreement, the Contracting Authority and the Framework Agreement Contractor may, among other things, enter into an agreement about the following:
- (a) The nature of the proprietary software, Open Source Software, Public Cloud Computing Services, and/or Private Cloud Computing Service included in the Contract Object and, if relevant, the specifications for these;
  - (b) The conditions for the Delivery, such as the timetable and how completed Consulting Services shall be reported;
  - (c) Modifications or clarifications of the conditions in the General Conditions and Special Conditions to the extent this is permitted under the Framework Agreement,

the General Conditions, and Special Conditions; and  
(d) The terms related to the price as well as invoice and payment conditions, in addition to the provisions laid out in the General Conditions, and  
(e) Contract Period including any extension options.

## 4 Framework Agreement Contractor's General Obligations

- 4.1 For the Contract Period, the Framework Agreement Contractor agrees and undertakes to provide the Contract Object as set out in the General Conditions , the applicable Special Conditions, and the Contract in general.
- 4.2 The Framework Agreement Contractor shall be responsible for ensuring that the Contract Object:
- (a) Meets the requirements set out in the Contract and the Framework Agreement;
  - (b) For software, hardware, and the results of the Consulting Services, that these can be used in the Contracting Authority's IT environment that, if relevant, the Contracting Authority has described in its Call-Off Inquiry;
  - (c) Is suitable for the purposes for which proprietary software, Open Source Software, Public Cloud Computing Services and/or Private Cloud Computing Services of this type are normally used and for the special purposes specified by the Contracting Authority in the Contract;
  - (d) Is provided with due care and in a professional manner in accordance with good practice and any ethics guidelines and general ethics requirements that apply to the industry; and
  - (e) Corresponds to what the Contracting Authority is reasonably entitled to expect from a professional actor in the industry with due consideration to the nature and scope of the Contract Object.
- 4.3 The Framework Agreement Contractor shall be responsible for providing the Contract Object in compliance with any applicable statutory or regulatory laws, rules, and provisions. However, unless otherwise specified in the Contract and the Framework Agreement, the Contracting Authority shall be responsible for ensuring that any requirements that are mandated by statutory or regulatory law, rules, and provisions and that apply to the Contracting Authority's specific activities, are stated in the Contracting Authority's requirements specifications in the Contract. The

purpose of this is to allow the Contract Object to be lawfully used for discharging the Contracting Authority's activities based on the requirements set out in statutory or regulatory laws, rules, or provisions and that apply to the Contracting Authority's specific activities.

- 4.4 The Framework Agreement Contractor shall comply with the Contracting Authority's environmental policy as specified by the Contracting Authority in the Contract. If specified by the Contracting Authority, the Framework Agreement Contractor may instead comply with the Framework Agreement Contractor's own environmental policy.
- 4.5 The Framework Agreement Contractor shall receive or obtain directives for providing the Contract Object only from the Contracting Authority. The Framework Agreement Contractor shall also otherwise safeguard and represent the Contracting Authority's interests and guarantee that the Framework Agreement Contractor for the Contract Period does not depend on or have any financial or other interests that might affect the Framework Agreement Contractor's objectivity in relation to the Contracting Authority's activities. In the event that the Framework Agreement Contractor suspects that the provision of the Contract Object might conflict with another interest, the Framework Agreement Contractor shall inform the Contracting Authority about this as soon as possible and await the Contracting Authority's instructions.
- 4.6 The Framework Agreement Contractor shall comply with the Contracting Authority's code of conduct and any other ethics-related terms and conditions specified by the Contracting Authority in the Contract. If permitted by the Contracting Authority, the Framework Agreement Contractor may instead comply with the Framework Agreement Contractor's own code of conduct and ethics terms.
- 4.7 The Framework Agreement Contractor shall maintain a good contractual relationship with the Contracting Authority. The Framework Agreement Contractor shall stay abreast of the Contracting Authority's business needs and major changes to have the capacity to accommodate the Contracting Authority's needs.

## 5 Contracting Authority's General Obligations

- 5.1 The Contracting Authority's shall provide the Framework Agreement Contractor with access to its premises, IT environment, and equipment to the extent and at the

terms and conditions explicitly specified in the Contract and that might otherwise reasonably be required.

- 5.2 The Contracting Authority shall facilitate and be responsible for such matters that are required to provide the Contract Object specified in the Contract.
- 5.3 The Contracting Authority shall provide payment to the Framework Agreement Contractor as provided in and under the conditions of the Contract.
- 5.4 The Contracting Authority shall cooperate with the Framework Agreement Contractor as provided in the Contract, provide the requisite instructions, and inform the Framework Agreement Contractor about any circumstances that might affect the provision of the Contract Object.
- 5.5 The Contracting Authority shall be responsible for obtaining any and all necessary permits, registrations, and dispensations for the use of the Contract Object in the Contracting Authority's activities unless otherwise provided in the Contract.
- 5.6 In addition to the Contracting Authority's specified obligations in the Contract, the Framework Agreement Contractor shall be responsible for everything required for providing the Contract Object. This shall apply unless otherwise obviously dictated by the circumstances.
- 5.7 The Framework Agreement Contractor's performance of its obligations under the Contract and the Framework Agreement is contingent upon the Contracting Authority's meeting its obligations under the Contract. If the Contracting Authority fails in its obligations and the failure affects the Framework Agreement Contractor's capacity to perform its obligations, the Framework Agreement Contractor's obligations shall be adjusted to a reasonable extent until it is no longer prevented from performing its obligations. Moreover, the Framework Agreement Contractor shall also be entitled to any equitable, documented, and direct additional costs incurred by the Framework Agreement Contractor as a result of the Contracting Authority's failure to perform its obligations. However, the Framework Agreement Contractor's entitlement to compensation and to having its obligations adjusted shall not apply if the Contracting Authority has failed to perform its obligations because of circumstances outside the Contracting Authority's control and which the Contracting Authority could not reasonably have anticipated or taken into account at the time the Contract was executed and whose consequences the Contracting Authority also could not reasonably have avoided or overcome. If the Contract is materially prevented from being performed for longer than 90 calendar days, the Framework Agreement Contractor shall, however, be entitled to terminate the Contract in writing in full or in part at its own discretion without incurring any liability in damages.

However, the Framework Agreement Contractor's entitlement to compensation and adjustments is conditional upon the Framework Agreement Contractor's notifying the Contracting Authority of the Contracting Authority's non-performance without undue delay after learning about the non-performance.

However, in the event of the Contracting Authority's non-performance, the Framework Agreement Contractor shall be entitled to mitigation of damages apportionment and compensation only if the Framework Agreement Contractor informs the Contracting Authority without undue delay upon learning of the non-performance. The Framework Agreement Contractor shall call the non-performance to the attention of the Contracting Authority in writing, identify the non-performed obligation that is preventing the Framework Agreement Contractor from meeting its obligations, and generally describe the risk of consequences and if possible identify any corrective measures that should be taken to avoid or overcome the Framework Agreement Contractor's obstacles.

## 6 Delivery

- 6.1 The Delivery of the Contract Object shall take place as provided in the timetable stipulated in the Contract and be completed by the Stipulated Date of Delivery. The Contracting Authority and the Framework Agreement Contractor may stipulate in the Contract that Delivery shall take place in installments.
- 6.2 Unless otherwise stated in the Special Conditions or in the Contract, the Delivery shall undergo acceptance testing as follows:
- (a) The Contracting Authority and Framework Agreement Contractor shall provide information, seasonably and continuously, to each other about preparations and other significant factors in the Delivery;
  - (b) The Contracting Authority and the Framework Agreement Contractor shall agree on the substance and scope of the acceptance testing, but the Contracting Authority shall have the final decision to reasonably determine the acceptance criteria;
  - (c) The period for acceptance testing shall cover, unless otherwise agreed in the Contract, 10 (ten) Working Days before the Stipulated Date of Delivery;
  - (d) Before the acceptance testing takes place, the Framework Agreement Contractor shall have conducted installation testing, systems testing, and any other relevant testing that the Framework Agreement Contractor would normally conduct itself or that, according to the relevant industry practice, would normally be expected to be conducted, in order to verify that the Delivery meets the requirements in the Contract. The Contracting Authority shall be provided with written protocols from completed tests;
  - (e) The Contracting Authority shall be responsible for completing the acceptance test. At the Contracting Authority's request, the Framework Agreement Contractor shall participate in the acceptance testing in accordance with the Contracting Authority's reasonable instructions. The Framework Agreement Contractor shall not be compensated for its participation in the acceptance testing unless explicitly

stipulated in the Contract;

(f) The Contracting Authority shall approve the Delivery once it meets the acceptance criteria. Acceptance and notifications between the Contracting Authority and the Framework Agreement Contractor shall be transmitted in writing. If the Contracting Authority does not accept the Delivery, the Contracting Authority shall call attention to the identified deviations without undue delay and the Framework Agreement Contractor shall take measures to remediate such identified deviations as soon as possible. The Contracting Authority and the Framework Agreement Contractor shall then stipulate in writing a time for a new acceptance test, including its duration. A new time for an acceptance test may not entail any changes to the Stipulated Date of Delivery. The Framework Agreement Contractor shall be entitled to take corrective measures during ongoing acceptance testing;

(g) For agreed successive deliveries, acceptance testing shall be performed per successive delivery, as well as – if requested by the Contracting Authority – a final acceptance test for all successive deliveries unless otherwise stipulated explicitly; and

(h) Derogations from the acceptance criteria for Deliveries immaterial to the Contract Object's intended use and that, according to the Contracting Authority, does not entail any inconvenience, shall not affect the scheduling of the Effective Date of Delivery. In spite of such derogations, the Delivery shall be considered to fulfill the Contract. Deviations specified in the present clause shall be remediated by the Framework Agreement Contractor *mutatis mutandi*, as described in clause 6.4.

6.3 The Effective Date of Delivery shall be the date on which

(a) The Delivery has been accepted in writing by the Contracting Authority; or

(b) The acceptance testing period, if acceptance testing is conducted, ends without the Contracting Authority's having lodged a written claim against the Delivery; or

(c) The Delivery meets the acceptance criteria after the Contracting Authority has lodged a claim against the Delivery, a new acceptance test has been completed, and the Contracting Authority has approved in writing that the Delivery meets the acceptance criteria; or if the new acceptance testing period ends under (b); or

(d) by the Contracting Authority's otherwise specifying the criterion in the Contract for how the Effective Date of Delivery is met.

6.4 As an alternative to full acceptance of the Delivery, the Contracting Authority shall be entitled to approve the Delivery even though the acceptance criteria have not been met. If so, a written qualified acceptance shall be issued in a document signed by the Contracting Authority and the Framework Agreement Contractor. Qualified acceptances also contain an Effective Date of Delivery. For written, qualified acceptances, a residual list shall be attached where outstanding items are detailed. The residual list shall be created in a format where outstanding items and the last time action was taken are listed. This last time shall, unless otherwise agreed, occur no later than 30 calendar days after the qualified acceptance. Any non-performance referred to under the present clause shall be remedied without undue delay by the Framework Agreement Contractor but no later than 30 calendar days from the Contracting Authority's qualified approval. Failure by the Framework Agreement

Contractor to remedy the non-performance within the stipulated time means that the non-performance will be defined as an Error.

- 6.5 The Effective Date of Delivery means that the Contracting Authority is given the right to enter the Contract Object into service, and that the Framework Agreement Contractor is entitled to obtain compensation, if relevant, associated with the Effective Date of Delivery,

## 7 Liability for Delays

- 7.1 A delay is considered to exist if the Effective Date of Delivery occurs after the Stipulated Date of Delivery or if the Effective Date of Delivery cannot be scheduled.
- 7.2 A delay related to an Effective Date of Delivery that is owing to the Framework Agreement Contractor or a matter attributable to the Framework Agreement Contractor shall entitle the Contracting Authority to penalties. The Contracting Authority and the Framework Agreement Contractor may stipulate in the Contract whether they wish to use special calculation methods for penalties and/or whether other milestones than the Effective Date of Delivery shall also be liable for penalties. Unless otherwise provided in the Contract, penalties shall be payable in an amount corresponding to 2% of the Penalty-Qualifying Amount per commenced week in default with a maximum penalty of 12% of the Penalty-Qualifying Amount. In the event that the Contracting Authority has suffered damage as a result of the delay, the Contracting Authority shall also be eligible for damages within the limitations of liability as provided in the Contract and with deductions for penalties paid. In the event that the maximum penalty is reached, will be reached, or the delay is otherwise of material significance to the Contracting Authority, the Contracting Authority may terminate the Contract in writing with immediate effect. Unless otherwise provided by the Contract, any delay that lasts longer than six (6) weeks shall always be considered to be of material significance to the Contracting Authority. Such termination pertains, at the Contracting Authority's discretion, to the Contract in its entirety or the part of the Contract that pertains to the delay.
- 7.3 The Framework Agreement Contractor shall notify the Contracting Authority of any anticipated delays without undue delay and in writing. The Framework Agreement Contractor shall simultaneously notify the Contracting Authority about the cause of the delay and when the Delivery is estimated to take place. If the Framework Agreement Contractor does not provide notification without delay, the Contracting Authority shall be entitled to damages for the damage that could have been avoided if the notification had been submitted in a timely fashion. A new date of Delivery may not entail any changes to the Stipulated Date of Delivery.



- 7.4 With due consideration of clause 5.7, the Framework Agreement Contractor shall not be liable for delays to the extent that the delays are owing to a matter for which the Contracting Authority shall be considered to be liable. In that case, the Framework Agreement Contractor shall be entitled to the requisite extension of the delivery period as well as compensation for any equitable, documented, and direct additional costs. If the Contracting Authority finds it likely or fear that any such condition will occur, the Contracting Authority shall, without undue delay, notify the Framework Agreement Contractor about it in writing.
- 7.5 In the event that the Contracting Authority and the Framework Agreement Contractor agree on an amended timetable, the agreed calculation bases for penalties shall apply in full for the changed timetable.

## 8 Liability for Errors

- 8.1 The Special Conditions specify the extent to which errors in the provision of a Contract Object shall be covered by a warranty period and, if so, the length of the warranty period.
- 8.2 In applying the warranty period in accordance with the Special Conditions, unless subsequently the Contracting Authority and the Framework Agreement Contractor have agreed separately on remediation of errors – including providing Updates – the Framework Agreement Contractor's obligation to remedy errors shall be restricted to errors that the Contracting Authority reports to the Framework Agreement Contractor during the warranty period.
- 8.3 If the warranty period is not applicable under the Special Conditions, the Framework Agreement Contractor shall remedy all errors that are reported by the Contracting Authority for the duration of the Contract Period.
- 8.4 Remediation of Errors shall be performed without undue delay, at no cost, and on a permanent basis, and where needed or appropriate under the circumstances, shall take place by means of providing Updates or, if approved by the Contracting Authority in writing, in the form of a provisional solution. The Contracting Authority and the Framework Agreement Contractor may stipulate explicitly in the Contract that the Framework Agreement Contractor may implement a provisional solution without the Contracting Authority's written pre-approval. This type of approval may, for example, apply to a certain category of Errors or for a certain period of time. However, the Contracting Authority shall always be entitled, at any time, to limit or revoke any such approval.
- 8.5 The Framework Agreement Contractor shall provide Support Services during the Contract Period. In doing so, and unless otherwise stated in the Contract, the

Framework Agreement Contractor shall provide staffed and person-agnostic customer service that is available during Working Days at normal office hours. The Customer Service shall handle user support and other inquiries related to the Contract Object as well as reporting, registration, and providing feedback to the Contracting Authority regarding Errors for the period during which the Framework Agreement Contractor is liable for Errors under the Contract. The persons specified in the Contract shall be able to contact the Customer Service via telephone, e-mail and a website as provided in the Framework Agreement Contractor's special instructions. The customer service staff shall possess good knowledge of the Contracting Authority and the Contract Object and shall be able to resolve simple cases directly and forward more complicated cases to others within the Framework Agreement Contractor's organization or to third parties for remediation. Cases shall be handled without undue delay and at a high level of service and, if a case cannot be resolved upon initial contact with the customer service, with continuous feedback to the Contracting Authority. The Contracting Authority and the Framework Agreement Contractor may stipulate separately that the Contracting Authority will engage a third party for Support Services directly. The Contracting Authority and the Framework Agreement Contractor may also agree separately that the Standard Conditions for Support Services shall supplement the Framework Agreement Contractor's obligations under the present clause 8.5 provided that the Standard Conditions do not conflict with the present clause 8.5.

- 8.6 The Standard Conditions for Updates shall apply to the provision of updates for error remediation, if applicable, by derogating from any stipulation by the Contracting Authority and Framework Agreement Contractor, provided that the Standard Conditions or stipulations to derogate do not violate the present clause 8.
- 8.7 The Framework Agreement Contractor's liability for Errors shall not cover:
- (a) Errors arising from the Contracting Authority's use of relevant proprietary software, Open Source Software, hardware, Public Cloud Computing Services, Private Cloud Computing Services or Consulting Services together with any other proprietary software, Open Source Software, hardware, Public Cloud Computing Services, Private Cloud Computing Service, equipment or accessories not specified in the Contract with which it or they must be compatible (for example, in the Contracting Authority's description of the IT environment, other requirements specifications provided by the Contracting Authority, or materials from the Framework Agreement Contractor). However, this discharge from liability shall not apply if the Contracting Authority could reasonable have anticipated that the relevant proprietary software, Open Source Software, hardware, Public Cloud Computing Services, Private Cloud Computing Services or the results of Consulting Services would be compatible with such other proprietary software, Open Source Software, hardware, Public Cloud Computing Services, Private Cloud Computing Services, equipment or accessories, even if not set out in the Contract;
  - (b) Error caused by changes or interventions performed by the Contracting Authority to or into the relevant proprietary software, Open Source Software, hardware, Public Cloud Computing Services, Private Cloud Computing Services, or the results of the Consulting Services, not performed in accordance with the Framework Agreement

- Contractor's instructions or consent; or  
(c) Errors caused by the Contracting Authority's use of proprietary software, Open Source Software, hardware, Public Cloud Computing Services, Private Cloud Computing Services, or the results of Consulting Services in violation of the specifications set out in the user documentation or the Framework Agreement Contractor's instructions, or through the neglect of the Contracting Authority or others for whom the Contracting Authority shall be considered liable.
- 8.8 The Contracting Authority and the Framework Agreement Contractor may enter into a Service Level Agreement that extends and specifies the Framework Agreement Contractor's obligations to remedy errors, provide Support Services, Updates, and/or Upgrades.
- 8.9 If correction of errors is not performed as specified in the requirements set out in the Contract, the Contracting Authority shall be entitled to an equitable rebate, or if penalties have been stipulated, the applicable penalties. The entitlement to penalties or other compensation may also follow from the executed Service Level Agreement. Additionally, the Contracting Authority shall be entitled to damages within the framework of the stipulated Limitations on Liability. Price rebates and penalties incurred because of errors shall be offset in the damages. The Contracting Authority's rights to early termination, if relevant, are enumerated in clause 23.

## 9 Subcontractors

- 9.1 The Framework Agreement Contractors shall be entitled to engage a Subcontractor as provided in the Framework Agreement. The Subcontractors shall meet the requirements in the Contract and in the Framework Agreement established for the Framework Agreement Contractor with respect to providing the parts of the Contract Object that the Subcontractor is tasked with performing. Subcontractors shall also meet all the requirements specified in the Framework Agreement for Subcontractors.
- 9.2 To the extent that Subcontractors are engaged to perform obligations under the Contract and Framework Agreement, the Framework Agreement Contractor shall be liable for their performance as for its own part.
- 9.3 Any substitutions or additions of Subcontractors during the Contract Period may occur only subject to the Contracting Authority's approval. Substitutions or additions may not entail any material changes to the Contract. Applications to substitute or add Subcontractors shall be submitted to the Contracting Authority well in advance of the planned date for the substitution or addition. Substitutions and additions shall be regulated by clause 25.

# 10 Collaboration and Contact Persons

- 10.1 The Contracting Authority and the Framework Agreement Contractor shall each specify a contact person. Contact persons shall be authorized to make decision in matters relating to applying the Contract. Amendments to the terms and conditions of the Contract are regulated in clause 25. Any substitution of contact persons shall be notified in writing to the counter party without undue delay. Unless otherwise agreed, communications between the Contracting Authority and the Framework Agreement Contractor shall take place in the Swedish language.
- 10.2 The Framework Agreement Contractor and the Contracting Authority shall, at no cost to the Contracting Authority, meet for consultations and follow-ups related to the Contract at least once annually or more frequently if required by the Contracting Authority or the Framework Agreement Contractor.
- 10.3 In addition to the provisions in clauses 10.1 and 10.2, the Contracting Authority may request that a cooperation organization be established for the Contract. The cooperation organization shall meet the requirements set out by the Contracting Authority in the Contract and shall, unless otherwise specified in the Contract, contain descriptions of the Contracting Authority and the Framework Agreement Contractor's tasks and responsibilities within the framework of the cooperation organization. The Contracting Authority may also request that the Contracting Authority and the Framework Agreement Contractor's cooperation shall be further detailed in a separate document created during the introductory phase of the Contract Period and which will then be kept current throughout the Contract Period.
- 10.4 The Framework Agreement Contractor shall at all times cooperate as set out in the Contract and otherwise to a reasonable extent with the Contracting Authority's other external providers in the interface with the Framework Agreement Contractor and Contract Object. If required by the Contracting Authority in the Contract, this cooperation may also include that the Framework Agreement Contractor shall enter into a cooperation agreement with the Contracting Authority's other external contractors, and if requested by the Contracting Authority, also with the Contracting Authority itself for cooperation related to such matters as troubleshooting and correction of errors.

# 11 Pricing Models

- 11.1 The Contracting Authority and the Framework Agreement Contractor may agree on various pricing models depending on the nature and scope of the Contract Object. Examples of pricing models would be a one-off license fee, a fixed price, a variable rate with or without a maximum limit, and a periodic fee (subscription fee). The Framework Agreement Contractor shall be entitled to compensation only to the extent specified in the Contract.
- 11.2 For Consulting Services or Licensing Services that are performed on a cost-plus basis, the Framework Agreement Contractor – provided that this has been agreed in the Contract by and between the Contracting Authority and the Framework Agreement Contractor – shall be entitled to compensation for any necessary outlays that have been pre-approved by the Contracting Authority, as well as compensation for overtime, on-call service, stand by and/or inconvenient Working Hours. Compensation for travel ordered by the Contracting Authority in writing shall be payable in accordance with the Swedish Tax Agency's applicable rules for compensation of travel and subsistence costs. If Consulting Services or Licensing Services are performed at a fixed rate, the Framework Agreement Contractor shall not be entitled to compensation under the present clause 11.2.
- 11.3 Under clause 25, the Contracting Authority and the Framework Agreement Contractor may, on certain conditions, agree to amend the Contract and thereby also adjust the stipulated price. Beyond that, the Framework Agreement Contractor shall not be entitled to make price adjustments during the Contract Period apart from performing foreign exchange adjustments as specified in clause 11.4. All the agreed-upon prices are specified exclusive of value-added tax and are denominated in Swedish kronor (SEK) unless otherwise indicated.
- 11.4 Unless otherwise provided in the Contract, foreign-exchange adjustments shall be handled as follows. The Contracting Authority and the Framework Agreement Contractor shall each be entitled to perform foreign-exchange adjustments for foreign exchange rate changes greater than +/- 3.0% in relation to the last stipulated foreign exchange rate in any of the foreign currencies specified in the Call-Off Response. The Contracting Authority and the Framework Agreement Contractor may, at a maximum, individually request a foreign-exchange adjustment once every six months.

However, if the foreign exchange rate is denominated in USD or EUR in the Call-Off Response and the rate change is greater than +/- 8.0% compared to the last stipulated foreign exchange rate, a foreign-exchange adjustment may be requested

immediately.

For foreign exchange adjustments, all the prices denominated in non-SEK currencies in the Call-Off Response shall be adjusted – not just the prices in the currency for which a foreign-exchange adjustment is requested. Foreign-exchange adjustments may be performed for only software and/or Public Cloud Computing Services. If a non-SEK currency is specified in the Call-Off Response, all the software and/or the Public Cloud Computing Services that may be foreign-exchange adjusted shall be specified in the Call-Off Response.

It shall be incumbent on the Contracting Authority or the Framework Agreement Contractor that requests the foreign-exchange adjustment to demonstrate that all the criteria for performing a foreign-exchange adjustment have been met. The first requested change shall be calculated based on the monthly average for the calendar month before the foreign-exchange adjustment is requested compared to the monthly average (mean value) for the relevant currency as established by Sveriges Riksbank for the calendar month at the last date for the Call-Off Response. Any subsequently identified changes shall be calculated based on the monthly average from the calendar month before any requested foreign exchange adjustments and compared to the monthly average (mean value) for the relevant foreign exchange rate as established by the Riksbank for the calendar month when the previous foreign exchange rate adjustment was requested.

Foreign-exchange adjustments that have been requested in writing shall enter into effect on the day that the Contracting Authority and the Framework Agreement Contractor approve the foreign-exchange adjustment. Foreign-exchange adjustments may not be performed retroactively.

In the event that a Call-Off is appealed and the period from the last day of the Call-Off Response until the Contract enters into effect exceeds 60 calendar days, the foreign-exchange adjustment may be invoked on the first effective day of the Contract.

*An illustrative example would be if the Contracting Authority requests a foreign-exchange adjustment on September 3rd when the foreign exchange rate, according to the Contracting Authority's own calculation, for EUR has declined by 3.5% and the foreign exchange rate for USD has increased by 2.1%. EUR and USD are the foreign currencies that may be foreign-exchange adjusted, since the Framework Agreement Contractor in its Call-Off Response clearly specified the parts of the Contract Object that are purchased in these foreign currencies.*

*The Contracting Authority compares the mean value for the foreign exchange rates for all of January, when the Call-Off Response was received by the Contracting Authority, with the mean value of the foreign exchange rates for all of August (since August is the last completed calendar month).*

*In the Contract, the Framework Agreement Contractor has specified that the Public Cloud Computing Services shall be paid by the Framework Agreement Contractor in EUR and proprietary software by the Framework Agreement Contractor in USD. The Framework Agreement Contractor confirms in writing to the Contracting Authority that the foreign-exchange adjustment is approved and the new price in SEK for both Public Cloud Computing Services and proprietary software enters into effect on the day when the Framework Agreement Contractor approves the foreign-exchange adjustment.*

## 12 Payment and Invoicing Conditions

- 12.1 The Framework Agreement Contractor may invoice for the provision of software, hardware, Licensing Services and Engagement Services, or other Consulting Services performed at fixed rates upon approved Delivery or as set out in the payment schedule contained in the Contract. Periodic fees, such as fees for use of the Public Cloud Computing Services or Private Cloud Computing Service shall be invoiced in arrears after the relevant period, unless otherwise provided in the Contract. For Consulting Services or Licensing Services that are performed on a cost-plus basis, the Framework Agreement Contractor shall be entitled to receive payment once a month for performed and reported work, verified costs, and approved outlays.
- 12.2 Payment takes place by invoice. Only the Framework Agreement Contractor may invoice the Contracting Authority. The Contracting Authority and the Framework Agreement Contractor may specify that electronic invoicing shall be used. Electronic invoices shall comply with the standard Svefaktura or such other standard as set out by the Swedish government's Single Face to Industry (SFTI).
- 12.3 The Contracting Authority and the Framework Agreement Contractor may specify in the Contract that the Contracting Authority shall place electronic orders from their e-commerce system in compliance with SFTI's business processes.
- 12.4 A 12-month period of limitation shall apply to the Framework Agreement Contractor's claims under the Contract, effective at the day the claim arose and the Framework Agreement Contractor is entitled to invoice the Contracting Authority under clause 12.1. After a suspension or interruption in the limitation period, a limitation period shall apply.

- 12.5 The Framework Agreement Contractor shall draft invoices for the Contracting Authority that are simple and easily comprehensible as instructed by the Contracting Authority. Flexibility with respect to invoicing shall be taken into account to the effect that the Contracting Authority shall have the opportunity, at no extra cost, to have an itemized invoice. The invoice should specify the framework agreement number, the agreement reference, a description of the Contract Object, and the content, nature and scope of the Performance, including any work performed during the invoiced period, costs for the period, as well as any other compensation that has been stipulated in writing. If work has been performed on a cost-plus basis, the number of working hours and hourly rate per Consultant and for Licensing Services shall also be specified. The invoice shall also specify whether it pertains to a final settlement.
- 12.6 Payment, including any value-added tax, shall be effectuated within 30 days from the invoicing date.
- 12.7 The Framework Agreement Contractor shall not be entitled to charge invoicing fees for other additional fees.
- 12.8 In the event that the Contracting Authority fails to pay the contractual invoice by the due date, the Framework Agreement Contractor shall be entitled to charge late-payment interest, as set out in the Swedish Interest Act (1975:635) [Räntelagen]. Interest shall be regulated at the Framework Agreement Contractor's request in the next invoice. The Contracting Authority shall, *mutatis mutandi*, be entitled to late-payment interest in the event that the Framework Agreement Contractor has been ordered to pay penalties or damages payment has not been made by the specified date. Interest shall be regulated at the Contracting Authority's request.

## 13 Cancellation and Rescheduling of Open Training

- 13.1 Open training is scheduled instructor-led training for which the Framework Agreement Contractor is responsible for providing instructors and instruction materials. Open training may take place on premises made available by the Framework Agreement Contractor or remotely. Open training is open for participants from various organizations. Open training on premises made available by the Framework Agreement Contractor includes lunch and coffee.



- 13.2 Registration to open instruction is binding on the Contracting Authority as soon as the Framework Agreement Contractor has accepted and confirmed the booking in writing.
- 13.3 Cancellations by the Contracting Authority must always be made in writing to the Framework Agreement Contractor.
- 13.4 Unless otherwise specified in the Contract, if the Contracting Authority cancels at least three (3) weeks before the first day of the open training, no compensation for training will be payable.
- 13.5 Unless otherwise specified in the Contract, if the Contracting Authority cancels two-to-three (2–3) weeks before the first day of the open training, the Contracting Authority shall compensate the Framework Agreement Contractor at 50% of the fee for the training. For cancellations by the Contracting Authority a week before the training's first day, the Contracting Authority shall compensate the Framework Agreement Contractor at 100% of the training fee.
- 13.6 The Contracting Authority is entitled, at any time, to substitute participants up until the first day of the open training.
- 13.7 For rescheduling by the Contracting Authority that is made within one (1) week of the first day of the training, the Framework Agreement Contractor shall be entitled to a surcharge of 30% of the fee for the training.
- 13.8 The Framework Agreement Contractor may suspend an open training session. In cases where the Framework Agreement Contractor suspends a training session, changes the first day of the training, or if the relevant training is suspended, the Contracting Authority shall not be entitled to compensation for incurred own, direct costs.

## 14 Confidentiality

- 14.1 The Framework Agreement Contractor agrees and undertakes not to provide third parties access to any confidential Information obtained from the Contracting Authority or otherwise in connection with the performance of the Contract without the Contracting Authority's written approval. Confidential Information here refers to the Contracting Authority's Information, information of a technical, commercial, or other nature that, by its nature, can reasonably be considered to constitute confidential information or that has been explicitly classified as secret by the Contracting Authority, as well as information that is subject to confidentiality under the Swedish Public Access to Information and Secrecy Act or other applicable law. Confidential Information obtained from the Contracting Authority may be used by

the Framework Agreement Contractor only for the purpose of providing the Contract Object under the Contract. The duty of confidentiality shall not apply to any information that the Framework Agreement Contractor can demonstrate that it has learned in way other than through the performance of the Contract or that is commonly known. The duty of confidentiality shall also not apply when the Framework Agreement Contractor is required under law, an administrative decision, or applicable securities exchange rules to disclose information.

- 14.2 The Framework Agreement Contractor shall ensure that their employees, Consultants, Subcontractors, and anyone else who might gain access to the Contracting Authority's confidential information observe a corresponding duty of confidentiality by entering into a written confidentiality agreement for the benefit of the Contracting Authority. If requested by the Contracting Authority, a special non-disclosure agreement shall be executed by the Consultant, person performing Licensing Services and engaged Subcontractors before the work is commenced.
- 14.3 If the absence of a stipulated arrangement between the Contracting Authority and the Framework Agreement Contractor, the duty of confidentiality shall apply for the Contracting Authority's confidential information for the Contract Period and for five years after the end of the Contract. For information that is covered by secrecy under the law, the duty of confidentiality shall apply for the period specified in the law. The Framework Agreement Contractor may handle, e.g. store, process, or disclose, solely the Contracting Authority's Information to the extent necessary to perform the Contract Object. This obligation shall apply without any limitation in time.
- 14.4 The Framework Agreement Contractor may not use the Contracting Authority's name or the fact that the Framework Agreement Contractor is a contractor to the Contracting Authority for advertising or marketing purposes without first obtaining the Contracting Authority's written approval.
- 14.5 The Framework Agreement Contractor understands and accepts that the Contracting Authority, in its capacity as body governed by public law, is obligated to comply with any applicable statutory provisions related to public access to and confidentiality of records. The Framework Agreement Contractor may request that information provided by the Framework Agreement Contractor under the Contract constitutes the Framework Agreement Contractor's confidential information. The Contracting Authority shall take such requests into consideration for requests from third parties, if any, for the information, but subject to a general confidentiality assessment as provided in the Swedish Public Access to Information and Secrecy Act in the knowledge that the Contracting Authority's cannot guarantee confidentiality. The Framework Agreement Contractor thus provides all information in the knowledge that it, under the applicable rules of law, might be disclosed to third parties.
- 14.6 In the event that the Contracting Authority is required, as specified in clause 14.5, to comply with the applicable statutory provisions on public access to and confidentiality of records, the Contracting Authority agrees and undertakes to maintain secrecy in respect of the Framework Agreement Contractor's confidential information, corresponding to clauses 14.1 14.2 and 14.3.

- 14.7 If the Contracting Authority grants third parties the right to use the Contract Object under the Special Conditions on the Contracting Authority's behalf, the Contracting Authority shall, if requested by the Framework Agreement Contractor, be liable for the third parties' use being consistent with the duty of confidentiality to the Contracting Authority.

## 15 Security

- 15.1 The Framework Agreement Contractor shall comply with the provisions and guidelines for security and information security specified in the Framework Agreement, Contract, and the Contracting Authority's specification as it exists from time to time, and ensure that affected staff observe these provisions. The process for and consequences of amendments to provisions and guidelines during the Contract Period shall comply with clause 25.
- 15.2 In the event that Call-Offs, according to the Contracting Authority, are covered by protective secrecy under the Swedish Protective Security Act, the applicable provisions in that act shall be observed. If requested by the Contracting Authority, the Framework Agreement Contractor and the affected Subcontractor shall enter into a Security Protection Agreement with the Contracting Authority at the level requested by the Contracting Authority and, if relevant, at the terms and conditions specified by the Contracting Authority. In such cases, the Contract's validity and survival shall be conditional upon the existence of a current Security Protection Agreement by and between the Contracting Authority and the Framework Agreement Contractor. The Framework Agreement Contractor shall not be entitled to compensation if the Contracting Authority terminates the Contract as a result of the absence of a current Security Protection Agreement. If any information in the Security Protection Agreement and the Contract conflicts in general, the Security Protection Agreement shall supersede the Contract and its appendices. The Security Protection Agreement shall not cover any commercial terms and conditions, such as fees, penalties, and payments, etc.

# 16 Ownership and Right of Use of Intellectual Property Rights

- 16.1 The Contracting Authority and/or the Contracting Authority's licensors, i.e. exclusive Framework Agreement Contractors and their Subcontractors, shall be the owner(s) of any relevant intellectual property rights to the Contracting Authority's materials.
- 16.2 The Contracting Authority makes available to the Framework Agreement Contractor a non-exclusive, non-transferable right to use the Contracting Authority's materials during the Contract Period for the purpose of performing the Contract. The Framework Agreement Contractor may not, without the Contracting Authority's written consent, sub-license this right or otherwise permit others to use the Contracting Authority's materials. The Framework Agreement Contractor shall cease any and all use of the Contracting Authority's materials at the end of the Contract. However, the Framework Agreement Contractor may, in applying the limitations of this clause, permit a Subcontractor, who has been approved by the Contracting Authority, to use the Contracting Authority's materials for the aforementioned limited purpose.
- 16.3 The Contracting Authority's right (right of use or ownership) to such software, documentation, or other materials that are a part or a result of the Contract Object shall be regulated in the Special Conditions. Unless the Special Conditions specifically state that the Contracting Authority shall obtain ownership, such material shall remain the property of the Framework Agreement Contractor or its licensor and the Contracting Authority shall be granted right of use at the terms provided in the Special Conditions.

## 17 Infringement of Rights

- 17.1 The Framework Agreement Contractor represents and warrants that it is the holder of all the rights – or that it has obtained any and all necessary authorizations from all affected rights holders – required to provide the Contract Object. Moreover, the Framework Agreement Contractor represents and warrants that no further license or royalty payments, etc. are required for the Contracting Authority's use of the Contract Object, unless otherwise stated in the Contract. The Framework Agreement Contractor guarantees that the Contracting Authority's use of and/or disposal of the Contract Object under the Contract does not infringe on any third-party intellectual property rights.
- 17.2 The Framework Agreement Contractor agrees and undertakes to defend, at its own cost, the Contracting Authority against claims or legal proceedings against the Contracting Authority for infringement based on the use of the Contract Objects in Sweden, the EU, the EEA, and other countries stipulated by the Contracting Authority and the Framework Agreement Contractor but in such a manner that the Framework Agreement Contractor undertakes to conduct the action or settlement negotiations in consultation with the Contracting Authority if requested by the Contracting Authority. The Contracting Authority shall, within a reasonable time from when the Contracting Authority learns that a third party has lodged a claim against the Contracting Authority, notify the Framework Agreement Contractor of the claim. The Framework Agreement Contractor's liability shall not include the Contracting Authority's use of the Contract Object if the Contracting Authority has acted in the manner specified in clause 8.7 a-c, but without the requirement that an Error must be present.
- 17.3 The Framework Agreement Contractor agrees and undertakes to institute the action or settlement negotiations in a manner that is most beneficial to the Contracting Authority and according to the Contracting Authority's reasonable opinions with respect to matters relating to how the action is conducted. This shall not mean that the Contracting Authority shall be entitled to provide instructions or decide on the substance of any settlement.
- 17.4 Moreover, the Framework Agreement Contractor agrees and undertakes to reimburse the Contracting Authority for any compensation and damages for which the Contracting Authority might be liable through a settlement. The Framework Agreement Contractor's obligation shall apply only on the condition that the Framework Agreement Contractor, within a reasonable time from when the

Contracting Authority learned that a third party had instituted a claim or action, has been notified in writing about the instituted claims or action.

- 17.5 If it is established conclusively that infringement has occurred and, according to the provision in this clause 17, the Framework Agreement Contractor has been given the opportunity to participate in the action and settlement or if, in the Framework Agreement Contractor's own assessment, it is likely that such infringement has occurred, the Framework Agreement Contractor shall, at its own cost, either:
- (a) ensure the Contracting Authority's right to continue to use the Contract Object;
  - or
  - (b) substitute the infringing part of the Contract Object with a corresponding part whose use does not infringe and that is acceptable to the Contracting Authority; or
  - (c) alter the Contractual object, so that it no longer infringes; or
  - (d) as a last alternative, withdraw the Contract Object and credit the Contracting Authority in an amount that corresponds to the value less time for use and the normal amortization period.
- 17.6 If the Framework Agreement Contractor does not perform its obligation under clause 17.5 within a reasonable time, the Contracting Authority shall be entitled to a price deduction that corresponds to the Contract Object's reduced value because of the infringement.
- 17.7 The Framework Agreement Contractor shall not be liable to the Contracting Authority for infringement claims based on the fact that the Contract Object has been used together with other items that are not part of the Contract Object or based on a change in the Contract Object or that it has been used in a manner for which it was not designed and the Framework Agreement Contractor has provided instructions about how the Contract Object can be used.
- 17.8 The Contracting Authority represents and warrants that the Framework Agreement Contractor will have the right to use the Contracting Authority's materials in accordance with clause 16.2 and the Contract in general. The Contracting Authority shall indemnify the Framework Agreement Contractor for any damage that the Framework Agreement Contractor might suffer as a result of using the Contracting Authority's material, provided the Framework Agreement Contractor has used the Contracting Authority's materials in accordance with the terms and conditions in the Contract. The Contracting Authority agrees and undertakes to defend, at its own cost, the Framework Agreement Contractor against claims or legal proceedings against the Framework Agreement Contractor for infringement based on the use. Clauses 17.3 and 17.4 shall be applied *mutatis mutandis* if an action were to be instituted against the Framework Agreement Contractor.

## 18 Processing of Personal Data

- 18.1 If the Framework Agreement Contractor's provision of the Contract Object includes the processing of personal data on the Contracting Authority's behalf, the Framework Agreement Contractor, or if specified in the Special Conditions, its Subcontractor, personal data processor, and the Contracting Authority shall be the personal data controller. If the Framework Agreement Contractor or its Subcontractor processes personal data on the Contracting Authority's behalf, a separate written Personal Data Processor Agreement shall be made.
- 18.2 If a Personal Data Processor Agreement is made, it shall accompany the Contract as an appendix. However, the Contracting Authority may specify in the Contract that the Contracting Authority shall instead accept that the corresponding regulations in the Standard Conditions shall apply. In that case, such corresponding regulations in the Standard Conditions shall be considered to constitute the Personal Data Processor Agreement.

## 19 Auditing

- 19.1 The Contracting Authority shall be entitled to perform auditing for the purpose of verifying that the Framework Agreement Contractor is complying with the requirements set out in the Contract and the Framework Agreement. Additional enumerated rights to perform audits may be set out in the executed Security Protection Agreement and Personal Data Processor Agreement. For audits, the Contracting Authority shall be entitled to seek assistance from an independent inspection structure. The choice of an independent inspection structure shall be made in consultation with the Framework Agreement Contractor if provided in the Contract. However, the consultation procedure does not entail a right for the Framework Agreement Contractor to decide on the independent inspection structure.
- 19.2 The Contracting Authority's right to perform audits and controls under the present clause 19 shall also cover Subcontractors, unless the Framework Agreement Contractor is able to demonstrate that such controls and audits cannot reasonably be

requested with respect to the restrictions on Subcontractors. If so, the Contracting Authority and the Framework Agreement Contractor may agree that the Contracting Authority's own audit rights shall be substituted with a right to gain access to the results of performed third-party audits of Subcontractors. In case such a third-party audit has not been performed, and the Subcontractor has also not had such a third-party audit performed at the Contracting Authority's request, the Contracting Authority shall be entitled to demand that the Framework Agreement Contractor substitute Subcontractors, in which case clause 9.3 shall be applied.

- 19.3 The Contracting Authority and the Framework Agreement Contractor (and Subcontractors) shall be responsible for their own audit-related costs. However, the Framework Agreement Contractor's (and Subcontractors') liability for own audit-related costs, if participating in an audit under clause 19.1 first sentence above, shall be limited to a maximum of once per contract year provided that no material deviations are identified or the Contract provides otherwise. Normally, an audit notice, under clause 19.1, first sentence, shall be issued no later than two weeks before the audit is conducted.

## 20 Grounds for Discharge from Liability for the Framework Agreement Contractor

- 20.1 If the Framework Agreement Contractor is prevented from performing the Contract by a circumstance outside its control and which it could not reasonably have anticipated or taken into account at the time of the Contract's execution and whose results it could also not have reasonably avoided or overcome, or by having someone on whom the Framework Agreement Contractor relies be prevented from performing under the Framework Agreement Contractor because of circumstances stated here, this shall constitute grounds for discharge from liability that will result in moving up the date for the performance and discharge from penalties and other legal remedies. This shall be operative irrespective of whether the reason for the delay occurs before or after the Stipulated Date of Delivery.

Grounds for discharge shall apply as long as is reasonable with respect to the obstacle's consequences for the Framework Agreement Contractor's capacity to perform under the Contract. If the Contract's performance is materially prevented for longer than 90 calendar days, the Contracting Authority shall, however, be



entitled to terminate the Contract in writing in full or in part at the discretion of the Contracting Authority, with no liability in damages.

If the Framework Agreement Contractor is unable to perform the Contract and there are grounds for discharge from liability, the Contracting Authority shall, without undue delay, be notified in writing about the obstacle and how it affects the ability to perform the Contract. If the Framework Agreement Contractor does not notify the Contracting Authority within a reasonable time after the Framework Agreement Contractor learned about or should have learned about the obstacle, the Framework Agreement Contractor shall be liable for the damage that the Contracting Authority could have avoided if the notification had been provided in a timely fashion.

## 21 Limitations on Liability

- 21.1 The Contracting Authority and the Framework Agreement Contractor shall be liable for damage caused to the counterparty if the damage arises because of the Contracting Authority's or the Framework Agreement Contractor's breach of contract or negligence. The Contracting Authority's and the Framework Agreement Contractor's liability in damages shall be limited to direct damage. Unless otherwise specified in the Contract, the total liability in damages for the entire Contract Period per contractual year for the Contracting Authority and the Framework Agreement Contractor, respectively, shall be limited to 25% of the Damages-Qualifying Amount. Any issued penalties shall be offset in the damages.
- 21.2 Limitations on the Framework Agreement Contractor's liability under clauses 21.1, 21.3 and 21.4 shall not apply to violations of the regulations set out in the Contract regarding liability in damages as a result of claims from third parties as they relate to the infringement of third-party intellectual property rights, breach of executed Security Protection Agreement, or for damage that has been caused intentionally or through gross negligence. Moreover, in the present clause 21, the limitations on liability shall not apply to the Framework Agreement Contractor's liability in damages as a result of third-party claims relating to processing of personal data. In that case, the Contracting Authority shall have full right of recourse against the Framework Agreement Contractor, regardless of who is the personal data processor.
- 21.3 The Framework Agreement Contractor's liability for direct damage under clause 21.1 may also include loss or corruption of data – such as the Contracting Authority's Information – resulting from a breach of contract or negligence by the Framework Agreement Contractor. Such liability shall exist if the Framework Agreement Contractor is responsible for backing up or storing data under the Contract, or if it is

otherwise specified in the Contract that the Framework Agreement Contractor is subject to such liability. The liability in damages for direct damage owing to loss or corruption of data as set out under the present clause 21.3 shall also cover restoration and reconstruction of data.

The Framework Agreement Contractor shall be provided with the opportunity itself to first restore and reconstruct data from the most recent backup copy. If the Framework Agreement Contractor does not have the competency to perform this work, or is not actually completing it within a reasonable time with respect to, among other things, technological conditions and data quantities, the Contracting Authority may perform the work itself or by using a third party in which case the Framework Agreement Contractor shall defray any related costs.

- 21.4 The Special Conditions may contain more detailed specifications of the Contracting Authority's or the Framework Agreement Contractor's liability in damages

## 22 Insurance

- 22.1 The Framework Agreement Contractor shall be responsible, at its own cost, to take out and maintain a general liability insurance with sufficient liability cover taking into consideration the Contract Object's nature and scope. If Consulting Services or Licensing Services are provided, the Framework Agreement Contractor shall also maintain insurance for direct property damage in respect of such services. At the Contracting Authority's request, the Framework Agreement Contractor shall produce a certified copy of the relevant current insurance policy as well as documentation for payment of insurance premiums.

## 23 Right to Terminate Contract

- 23.1 The Contract Period, including any extension options, is set out in the Contract.
- 23.2 The Contracting Authority shall have the right to terminate the Contracting Authority earlier than specified in the Contract. Moreover, this right shall exist if:
- (a) The Framework Agreement Contractor is in material breach of its obligation under the Contract and if it has not remedied the situation within 30 days of

receiving a written request; or

(b) The Contracting Authority learns that the Framework Agreement Contractor is guilty of any of the grounds for exclusion listed in Chap. 13, Sections 1–3 of the Swedish Public Procurement Act (2016:1145) [Lagen om offentlig upphandling]; or

(c) It turns out that the Framework Agreement Contractor has provided false information in its Call-Off Response or otherwise for the Call-Off that preceded the award of the Contract, and this information was not immaterial to the selection of a Framework Agreement Contractor. The Contracting Authority may consequently cancel the Contract in full or in part, if it was entered into relying on such false information; or

(d) Sweden's National Procurement Services has canceled the Framework Agreement because it turns out that the Framework Agreement Contractor has provided false information for the procurement procedure that preceded the execution of the Framework Agreement, and this information was not immaterial in the examination and award of the Framework Agreement; or

(e) The Framework Agreement Contractor or its Subcontractor processes personal data in a manner that, to a not immaterial extent, is in breach of the provisions of the General Data Protection Regulation (GDPR) (Allmän Dataskyddsförordning) or an executed Personal Data Processor Agreement; or

(f) The Framework Agreement Contractor or its Subcontractor fail to perform its obligations under the Security Protection Agreement; or

(g) The Framework Agreement Contractor or its Subcontractor, if the Subcontractor's obligation exceeds 10% of the total contract value, has been convicted in court for violating the Swedish Discrimination Act (2008:567) [Diskrimineringslagen]; or

(h) The Contract has been subject to an amendment in violation of Chap. 17, Sections 9-14 of the Swedish Public Procurement Act (2016:1145) [Lagen om offentlig upphandling]; or

(i) The Court of Justice of the European Union declares that Sweden has seriously infringed its obligations under the treaties in accordance with Chap. 17, Section 17, point 3 of the Swedish Public Procurement Act (2016:1145) [Lagen om offentlig upphandling].

23.3 The Framework Agreement Contractor shall have the right to terminate the Contract earlier than specified in the Contract. Moreover, this right shall exist if the Contracting Authority materially fails to perform its obligations under the Contract and has not made the change within 30 calendar days after a written request has been presented.

23.4 Termination of the Contract under clause 23.2 shall be done in writing after which the termination shall enter into effect immediately. However, for the Contracting Authority's early termination, the Contracting Authority shall be entitled to request that the termination shall enter into force at a later specified date but no later than six months after the termination in the event that, in the assessment of the Contracting Authority, it is required to safeguard continuous access to the Contract Object. The Contracting Authority's early termination may, at the Contracting Authority's discretion, pertain to all or parts of the Contract.

- 23.5 The right to cancel the Contract without specifying a cause, may also apply according to the provisions set out in the Special Conditions, the Personal Data Processor Agreement, or the Security Protection Agreement.
- 23.6 In the event of the Contracting Authority's early cancellation of the Contract under clause 23.2 or otherwise as a result of the Framework Agreement Contractor's material contractual non-performance, the Contracting Authority may decide if the early termination shall entail a return of the Contracting Authority's or the Framework Agreement Contractor's, respectively, performances with settlement for the benefit that the Contracting Authority has derived from the Contract Object, or if the early cancellation shall only be effective prospectively.

Prospective effect shall mean that the Framework Agreement Contractor, in the event of a termination at the Contracting Authority's request, shall immediately produce and surrender the Delivery performed up to that date or provide the Contract Object, at which point any rights under the Contract for the relevant part of the Delivery or Contract Object shall accrue to the Contracting Authority. In that case, the Framework Agreement Contractor shall be entitled to compensation for making available the Contract Object up until the time that the termination enters into effect.

The Framework Agreement Contractor shall be entitled to make the corresponding decision in case of the Framework Agreement Contractor's early cancellation of the Contract as a result of the Contracting Authority's material breach of contract. Derogations from the right to choose the effect of a termination may be provided in the Special Conditions or be specified by the Contracting Authority in the Contract. Moreover, in a situation where the return of a performance may be viewed as manifestly unreasonable, only early termination with prospective effect may be applied.

## 24 Consequences of Contract Termination

- 24.1 The present clause 24 is applicable both to the termination of all of the Contract as well as the termination of parts of the Contract.
- 24.2 The Framework Agreement Contractor shall provide assistance in connection with winding up the Contracting Authority's use of the Contract Object and for substitutions of contractors. This might include responding to inquires, technical assistance, and surrendering operational documentation. The Framework

- Agreement Contractor's obligations under the present clause 24 shall apply for no more than six months from the end of the Contract irrespective of the reason.
- 24.3 The Framework Agreement Contractor shall ensure that activities relating to winding up are performed within a reasonable time-frame and in a professional manner as specified by the Contracting Authority and that a detailed plan be drafted for the winding-up proceedings if requested by the Contracting Authority. During the winding-up proceedings, the Framework Agreement Contractor shall collaborate with the Contracting Authority's new contractor at the Contracting Authority's request. The winding-up proceedings shall take place in a manner that facilitates the ongoing or completed Delivery of the Contract Object to the Contracting Authority or a third party without unreasonable costs or disruption to the Contracting Authority.
- 24.4 During the transfer phase, the Framework Agreement Contractor shall contribute with its expertise as it relates to the Contract Object and Delivery to the Contracting Authority and/or the third party.
- 24.5 During the transfer phase, the Framework Agreement Contractor shall ensure that key persons are available to participate in the transfer to the extent requested but, under the circumstances, at a reasonable notice. Key persons here refer to persons who are important to the transfer because of their special competencies or if they had a special role. Key persons shall be available for the entire period specified in clause 24.2.
- 24.6 The Framework Agreement Contractor shall be responsible for – and be able to demonstrate that all information and documentation that belongs to the Contracting Authority have been transferred and then destroyed by the Framework Agreement Contractor.
- 24.7 The Special Conditions or the Contract may set out special obligations for the Contracting Authority and/or the Framework Agreement Contractor in connection with the Contract's termination.
- 24.8 Winding-up services that form part of the Framework Agreement Contractor's regular provision of the Contract Object, e.g. the provision of documentation that is required under the Contract, shall be provided at no extra charge. Moreover, winding-up services shall be provided at the hourly rates listed in the Contract for the Consultants who perform the winding-up services.

## 25 Amendments to Contract or Contract Object

- 25.1 Amendments to the Contract or Contract Object, timetable, and forms of Delivery, and other parts of the Contract may be made only subject to written agreement by and between the Contracting Authority and the Framework Agreement Contractor and within the framework established by the Framework Agreement and the Swedish Public Procurement Act [Lagen om offentlig upphandling]. In the event that the Contracting Authority requests a change, the Framework Agreement Contractor shall, without undue delay, notify the Contracting Authority of any effect that the Contracting Authority's change request will have on the stipulated price, timetable, and any other relevant factors, after which the Contracting Authority shall notify the Framework Agreement Contractor of the extent to which the adjustment in the terms and conditions in the Contract, in relevant respects, will be accepted. Agreed changes shall be documented in writing, be signed by the Contracting Authority and the Framework Agreement Contractor, and be appended to the Contract.
- 25.2 For changes to statutory or regulatory laws, rules, and provisions during the Contract Period that require changes to the Contract Object, the following principles shall apply. The Framework Agreement Contractor shall be entitled to a change in price if the Contract Object is changed as a result of changes to statutory or regulatory laws, rules, and provisions that especially and specifically pertains to the Contracting Authority. However, the Framework Agreement Contractor shall not be entitled to a change in price for changes to the Contract Object caused by changes to statutory or regulatory laws, rules, and provisions that pertain to the Framework Agreement Contractor as a company or a provider of the type of proprietary software, Open Source Software, Consulting Services, Licensing Services, Public Cloud Computing Services, and/or Private Cloud Computing Services that the Contract Object concerns.
- 25.3 Unless otherwise specified in the Contract, a change in price resulting from a requested change under clause 25.1 or for the Framework Agreement Contractor's right to a changed price under clause 25.2 shall be proportional to the changed costs for the Framework Agreement Contractor.
- 25.4 Moreover, a change to the Contract Object and other parts of the Contract may, in certain cases, occur as specified in the Special Conditions, the Personal Data Processor Agreement, or the Security Protection Agreement.

## 26 Assignment of Contract

26.1 The Contracting Authority may not assign or mortgage rights and/or obligations under the Contract to third parties without the Framework Agreement Contractor's written approval. However, the Contracting Authority may assign the Contract, in full or in part, to another agency or organization (irrespective of form) that enters or assumes, in full or in part, the Contracting Authority's area of operations or official duties. Requests for or notifications of assignments under the present clause 26.1 shall be provided in a timely fashion. Approval, if required, shall not be withheld unreasonably.

26.2 For a change of supplier as provided in Chap. 17, Section 13 of the Swedish Public Procurement Act (2016:1145) [Lagen om offentlig upphandling], the Framework Agreement Contractor shall obtain written permission from the Contracting Authority before the change occurs. A change of supplier shall mean all changes to a legal or a physical person through, for example, transfer of a firm, merger, restructuring, purchase, fusion, acquisition or insolvency.

Unless otherwise specified in the Contract, the Framework Agreement Contractor is furthermore not entitled, without the Contracting Authority's prior permission in writing, to in full or in part assign or mortgage rights (including claims) or obligations under the Framework Agreement to another legal or physical person.

The Framework Agreement Contractor's application to perform changes under the present clause 26.2 shall be submitted to the Contracting Authority well in advance of the planned date for the change. In handling the Framework Agreement Contractor's application, the Contracting Authority may request documents to assess whether the change can be accepted or not. The Contracting Authority never has an obligation to accept a change.

## 27 Dispute Resolution, Governing Law

27.1 Disputes arising from the Contract shall first be resolved by means of negotiations by and between the Contracting Authority and the Framework Agreement Contractor's contact persons. If these fail to reach agreement, the dispute shall be

escalated to the respective contact person's supervisor. After that, action arising from the dispute may be brought before a court of law unless the Contracting Authority or the Framework Agreement Contractor risks suffering a forfeiture of rights if the action is not brought within a certain period.

- 27.2 Disputes arising from the interpretation or application of this Contract as well as other related documents and associated legal relationships shall be adjudicated before a Swedish public court of law.
- 27.3 Rights and obligations under the Contract shall be governed by Swedish law with the exception of its rules relating to conflict of laws.