

Appendix

Special Conditions for Private Cloud Computing Datacenter 2019

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KAMMARKOLLEGIET

Contents

1	Applicability.....	3
2	Special Notes on Contract Documents.....	4
3	Delivery and Special Obligations.....	4
4	Security, Contracting Authority Information, and Personal Data.....	5
5	Special Notes on Liability for Errors, Delays, and Other Contractual Non-Performance.....	6
6	Intellectual Property Rights.....	7
7	Contracting Authority's Access to Contracting Authority's Information	7

1 Applicability

- 1.1 The present Special Conditions supplement the General Conditions for Datacenter 2019 to the extent that the Contract Object includes Private Cloud Computing Services in full or in part. The definition of Private Cloud Computing Services is specified in the Framework Agreement and its appended Requirements Catalogue [Kravkatalog]. These Special Conditions shall apply to Private Cloud Computing Services provided under the Contract.
- 1.2 If Private Cloud Computing Services are provided along with Hardware and/or Open Source Software and/or proprietary software and/or Public Cloud Computing Services, the present Special Conditions shall apply to Private Cloud Computing Services; the Special Conditions for Hardware shall apply to Hardware; the Special Conditions for Open Source Software shall apply to Open Source Software; the Special Conditions for Proprietary Software shall apply to proprietary software and the Special Conditions for Public Cloud Computing Services shall apply to Public Cloud Computing Services.
- 1.3 Consulting Services provided with respect to Private Cloud Computing Services or their Delivery shall be regulated by the document Special Conditions for Consulting Services. The present Special Conditions shall also govern such consulting engagements only if the consulting engagements related to the Private Cloud Computing Services are integral to the Private Cloud Computing Services and no special compensation is charged for such consulting engagements beyond compensation for the Private Cloud Computing Services – alternatively if only a fixed-price, mandatory setup fee for Private Cloud Computing Services is charged.
- 1.4 In the present Special Conditions it is specified how some clauses may be clarified in the Contract.

2 Special Notes on Contract Documents

- 2.1 For the purpose of clarifying the provision in chapter 3 of the General Conditions (Contract Scope and Definitions), the following shall apply with respect to the Standard Conditions for Private Cloud Computing Service. The Standard Conditions shall be invalid for the provision of Private Cloud Computing Services unless otherwise explicitly agreed in the Contract.

3 Delivery and Special Obligations

- 3.1 Effective on the Stipulated Delivery Date, the Framework Agreement Contractor shall provide Private Cloud Computing Services as set out in the requirements specified in the Contract, including any Service Level Agreement.
- 3.2 Private Cloud Computing Services shall be available 24 hours a day and shall maintain the stipulated level of performance. Unless otherwise stipulated by the Contracting Authority and the Framework Agreement Contractor in the Contract, a Service Level Agreement with 99.5 % absolute up-time per month shall apply, measured during a Business Day from 8:00 am to 5:00 pm. Unless otherwise stipulated in the Contract, a service window or other scheduled maintenance may not take place at times when up-time and stipulated performance are measured.
- 3.3 Unless otherwise stipulated by the Contracting Authority and the Framework Agreement Contractor in the Contract, for non-performance of the Service Level Agreement, the Framework Agreement Contractor shall be subject to penalties in an amount corresponding to 5 % of the Penalty-Qualifying Amount per commenced hour that exceeds the maximum, stipulated downtime during which the Private Cloud Computing Services are unavailable, with a maximum penalty of 50 % of the

Penalty-Qualifying Amount. Moreover, the Contracting Authority shall be entitled to terminate under the circumstances specified in clause 7.2 of the General Conditions; if the Contracting Authority suffers damage as a result of non-performance, the Contracting Authority shall be entitled to damages subject to the limitations on liability set out in the Contract and in the settlement of paid penalties. If the maximum penalty is reached, the Contracting Authority shall be entitled to terminate the Contract in writing, at its discretion in full or the part of the Contract that pertains to the Service Level Agreement.

- 3.4 Unless otherwise stipulated in the Contract, Performance (implementation) shall be in the form of Engagement Services, cf. Special Conditions for Consulting Services, and Delivery shall be subject to acceptance testing as set out in the conditions in chapter 6 (Delivery) of the General Conditions. However, the Contracting Authority and the Framework Agreement Contractor will have the option in the Contract or may subsequently agree to derogate from the terms and condition related to acceptance testing in chapter 6 (Delivery) of the General Conditions. This may occur if, for example, the Delivery is of a singular nature and the Contracting Authority accepts and agrees that a simpler acceptance test or no acceptance testing should take place.
- 3.5 The Framework Agreement Contractor agrees and accepts that it shall bear comprehensive liability for the Contract Object's functionality, including any integration between all the constituent parts of the Contract Object.

4 Security, Contracting Authority Information, and Personal Data

- 4.1 The Framework Agreement Contractor and its Operating Services and Consulting Services Providers may manage – e.g. store, process, or disclose – the Contracting Authority's information solely to the extent necessary to provide the Private Cloud Computing Services and in accordance with the Contracting Authority's instructions. This obligation shall apply without limitation in time.
- 4.2 Information contained in the Private Cloud Computing Services log may be used by the Framework Agreement Contractor solely as required to maintain the functionality of the Private Cloud Computing Services. The Contracting Authority shall be granted access to any information that is registered in the log.
- 4.3 Any Contracting Authority information that has been deleted in compliance with the Swedish Archives Act (1990:782) [Arkivlagen], the Archives Ordinance (1991:446),

and the regulations governing the National Archives of Sweden, a so-called thinning out, shall be irreversibly destroyed no later than 180 days after the Contracting Authority has performed the thinning out, at the premises of the Cloud Services Provider including the premises of any other providers on which the Cloud Services Provider has relied in performing the Private Cloud Computing Services.

5 Special Notes on Liability for Errors, Delays, and Other Contractual Non-Performance

- 5.1 The Framework Agreement Contractor's liability for Errors, delays, and other contractual non-performance is specified in the General Conditions.
- 5.2 For the purpose of clarifying the definitions and the regulations pertaining to Errors in the General Conditions, the following shall apply to the Framework Agreement Contractor's liability for Errors in the Private Cloud Computing Services:
 - (a) Errors in Private Cloud Computing Services are deemed to exist if the Private Cloud Computing Services derogate from the requirements set out for Private Cloud Computing Services in the Contract after the Effective Date of Delivery to the detriment of the Contracting Authority.
 - (b) Remedial measures shall, in addition to the provisions of the General Conditions, be performed within the framework of the service level requirements specified in the Service Level Agreement executed by and between the Contracting Authority and the Framework Agreement Contractor.
- 5.3 The Framework Agreement Contractor's liability for Errors shall, if relevant, also cover Hardware and/or proprietary software and/or Open Source Software and/or Public Cloud Computing Services included in the Contract Object along with the Private Cloud Computing Services. In such case, the Framework Agreement Contractor agrees and undertakes that it shall bear comprehensive liability for the Contract Object's functionality, including any integration between all the constituent parts. However, in a special scheme for any Errors in Hardware or proprietary software or Open Source Software or Public Cloud Computing Services, the Framework Agreement Contractor shall also be liable as indicated in the Special Conditions for Hardware and the Special Conditions for Proprietary Software and the Special Conditions for Open Source Software and the Special Conditions for Public Cloud Computing Services, respectively.

6 Intellectual Property Rights

- 6.1 The Framework Agreement Contractor or its licensors shall be the rights holder(s) of such software, documentation, and any other material that the Framework Agreement Contractor provides to the Contracting Authority within the framework of the Private Cloud Computing Services, including any and all related changes. The Contracting Authority shall have a non-exclusive right to use such materials for its activities for the duration of the Contract Period. If the Contracting Authority relies on a third party to perform services for the Contracting Authority, the Contracting Authority shall be entitled to lease out the corresponding right of use to the third party in question for such limited purposes. Unless otherwise specified in clause 26.1 of the General Conditions, the Contracting Authority may otherwise not lease out or assign its right of use as set out above.

7 Contracting Authority's Access to Contracting Authority's Information

- 7.1 The Framework Agreement Contractor, its Operating Services Provider, or the Consulting Services Provider may, under no circumstances, refuse to grant the Contracting Authority access to the Contracting Authority's information. Unless otherwise stipulated in the Contract, the Framework Agreement Contractor shall provide the Contracting Authority with access to the Contracting Authority's information that the Framework Agreement Contractor is processing, unconditionally, without delay, and within a 12-hour window from the Contracting Authority's request, either via direct access or by the Framework Agreement Contractor providing the Contracting Authority with a copy of its information. The accrued time shall be calculated only from 8:00 am to 5:00 pm, M-F. Unless otherwise agreed or obviously dictated by circumstances, the Contracting Authority's

Information shall be in a format that is readable and usable in other contexts. This means that not only shall the Contracting Authority's Information be made available but also any and all other logical information required in order to be able to use the Contracting Authority's Information. Moreover, any log files, audit data, access data, and any similar meta-data shall also be made available. Such data shall also be provided in a format that is usable by the Contracting Authority. Such requirements are stated in order for the Contracting Authority's Information to be usable for its intended purpose. The Framework Agreement Contractor's strict obligation to provide the Contracting Authority access to the Contracting Authority's information shall also apply to situations where, according to the Framework Agreement Contractor, the Contracting Authority has failed to perform the Contract.

- 7.2 As a complement to the provision in chapter 24 (Consequences of Contract Termination) in the General Conditions, the following shall apply. For Contract termination, the Framework Agreement Contractor shall provide the Contracting Authority with access to the Contracting Authority's information in the fashion specified in the Contract at the Contracting Authority's request. In the absence of a relevant provision in the Contract, access shall occur as follows from clause 7.1. If stipulated in the Contract, instead of transferring the Contracting Authority's information to the Contracting Authority, the Framework Agreement Contractor shall transfer it to a different Contracting Authority provider as instructed by the Contracting Authority. The Framework Agreement Contractor shall arrange for the deletion of the Contracting Authority's information only after the Contracting Authority's information has been transferred to the Contracting Authority or different Contracting Authority provider. Deletion shall take place as soon as practicable and be in compliance with any statutory or regulatory requirements and provisions in the executed Personal Data Processor Agreement as relates to deletion.