

SwissP Defence AG

General Terms and Conditions of Procurement

A. SCOPE OF APPLICATION, CONTRACT

1. Scope

1.1 These General Terms and Conditions of Procurement ("GTC") by SwissP Defence AG ("SwissP") are applicable in addition to SwissP's order and govern the conclusion, content and execution of contracts concerning:

- (a) the supply of goods and the performance of work ("scope of supply" hereinafter means the goods to be supplied and/or the work to be performed); and/or
- (b) the provision of services, e.g. mandates in the areas of consulting, planning or training (excluding construction services).

1.2 The application of general terms and conditions of the Contractor (e.g. general terms and conditions of delivery) is excluded.

2. Contract

2.1 Orders from SwissP require confirmation by the Contractor ("Order Confirmation"). Accordingly, the contract is concluded upon receipt by SwissP of the Order Confirmation that is compliant with the order. If SwissP does not receive an Order Confirmation within 5 working days after receipt of the order by the Contractor, SwissP shall no longer be bound to its order.

2.2 Order Confirmations that contradict the order in one or more elements shall be deemed not to be in compliance with the order.

2.3 In the event of contradictions in the individual documents of the contract, the following order of precedence shall apply:

- (a) Latest version of the documents constituting an amendment to the contract
- (b) Order from SwissP
- (c) Specifications and other documents referred to in the order (with the exception of offer documents)
- (d) this GTC
- (e) Contractor's offer documents with the exception of Contractor's general terms and conditions.

B. PROCUREMENT OF GOODS AND WORKS

3. Delivery Conditions

3.1 Delivery shall be made in line with the agreed trade term, for the interpretation of which the Incoterms[®] of the International Chamber of Commerce (ICC) shall apply in the version in force at the time of the contract conclusion.

3.2 If no specific Incoterms[®] trade clause is specified in the contract or subsequently agreed by the parties, delivery shall be made DAP (Delivered At Place), SwissP plant, Allmenstrasse 160, industrial zone "Kleine Allmend", building 672, CH-3602 Thun.

3.3 The Contractor shall inform SwissP at least 10 working days before dispatch about the readiness for dispatch of the scope of supply, in order to allow SwissP to take the measures necessary to take over the same.

3.4 Each delivery shall be accompanied by a detailed delivery bill enabling SwissP to take over the scope of supply. The order reference of SwissP shall be indicated in all shipping documents and correspondence.

3.5 With regard to official permits, such as export, transit and import permits, as well as customs formalities, the provisions of the agreed trade clause shall apply with regard to responsibility, bearing of costs, etc. The same applies with regard to transportation and insurance.

3.6 The Contractor shall, at its own expense, arrange for packaging suitable for the transportation of the scope of supply. If the packaging has been designated as the property of the Contractor, the Contractor shall be obliged to take the packaging back at its own expense.

3.7 The Contractor shall bear all risks of loss and damage of the scope of supply until its delivery.

3.8 SwissP shall not be obliged to accept partial or excess deliveries unless SwissP has agreed to such in advance.

4. Delivery Time

4.1 The agreed delivery dates and delivery periods shall be strictly adhered to by the Contractor. If a delivery date has been agreed, advance deliveries shall only be permitted with SwissP's prior consent.

4.2 In the event of an actual or foreseeable delay in delivery, the Contractor shall inform SwissP immediately and in detail.

4.3 In the event of delays in delivery for which the contractor or its subcontractor(s) are responsible, SwissP may claim a contractual penalty of 2% for each commenced calendar week of delay, but in total not more than 10% of the price of the delayed part of the scope of supply. The contractual penalty is even owed if SwissP accepts the scope of supply without reservation and does not suffer any damage due to the delay. If the damage exceeds the penalty, SwissP may also claim the additional amount, unless the contractor proves that Contractor or its subcontractor(s) are not at fault.

4.4 In the event of late delivery, the Contractor shall automatically be in default, i.e. without a reminder from SwissP.

4.5 In the event of default, SwissP shall, in addition to the contractual penalty, be entitled to the statutory claims. The claim for delivery shall only be forfeited if SwissP claims damages for non-performance or withdraws from the contract. SwissP's unconditional acceptance of the delayed delivery shall not constitute a waiver of claims for damages.

5. Execution

5.1 The scope of supply shall, in every respect, comply with the provisions of the contract, in particular with the agreed specifications. The Contractor shall inform SwissP immediately and in detail of any circumstances that could jeopardize the performance of the contract.

5.2 The Contractor shall bear the overall responsibility for performance in accordance with the contract. Contractor shall be entitled to involve subcontractors, but shall be liable for their acts or omissions as for its own acts or omissions. If Contractor enlists subcontractors, Contractor shall be obliged to contractually include them in its quality assurance and confidentiality obligations towards SwissP. Upon SwissP's request, the Contractor shall disclose its subcontractors. The Contractor may only change subcontractors engaged within the scope of the contract with SwissP's prior consent.

5.3 The Contractor shall be obliged to notify SwissP immediately of any incompleteness, errors and any inconsistencies in the information, data and documents provided to him. The same duty of notification shall apply if Contractor discovers or should have discovered that instructions given to him by SwissP are incomplete, incorrect or contradictory.

5.4 Unless otherwise provided for in the contract, all auxiliary and working equipment as well as the materials to be used for the performance of the contract shall be procured by Contractor at its own expense and risk.

6. Prices and Terms of Payment

6.1 The agreed prices are fixed prices which shall remain valid even in the event of a change in the price basis. The prices cover any and all expenditures required for the proper performance of the contract. Unless the contract provides otherwise, the agreed prices include, in particular, any taxes (including value added taxes) and duties.

6.2 Contractor's Invoices must show the value added tax separately and be clear. Moreover, the invoices must list the order reference of SwissP. Invoices that have not been issued properly will be rejected for correction; the payment period begins with the corrected invoice.

6.3 Payment shall be made in the in the customary manner within 60 days after complete delivery and receipt of Contractor's proper invoice by SwissP. The Contractor shall grant a 2% discount for payment within 30 days.

- 6.4 In the event of delays in quality or other documents that are part of the scope of supply, SwissP shall be entitled to extend the agreed payment period by the duration of the delay in question.
- 6.5 Payments by SwissP shall not constitute acceptance of the scope of supply or parts thereof. Moreover, payments shall not release the Contractor from its contractual obligations towards SwissP.

7. Quality Assurance

- 7.1 The Contractor shall establish and maintain an appropriate quality assurance system. Contractor shall prepare quality records and make them available to SwissP upon request.
- 7.2 If examinations or tests of the scope of supply have been agreed, the Contractor shall perform them in accordance with the contract. In the absence of any other agreement, examinations and tests shall take place at the Contractor's premises. The Contractor shall give SwissP reasonable notice of the date of the examination or the test in order to allow representatives of SwissP to participate in such examination or tests. The Contractor shall prepare a test report on the results showing the target/actual comparison and submit such test report to SwissP. In addition, the Contractor undertakes to issue and hand over a quality certificate. The costs associated with examinations and tests, including the related test reports and quality certificates, shall be borne by the Contractor. SwissP is entitled to reject the part of the scope of supply that is defective or does not comply with the contract. The Contractor shall then improve the defective or non-conforming part of the scope of supply and perform new examinations and tests at its own expense, without this having any effect on the agreed delivery time.
- 7.3 The Contractor shall allow or arrange for representatives of SwissP or its customers to have reasonable access to the scope of supply during normal business hours for the purpose of participating in examinations and tests of the scope of supply or checking compliance with quality assurance measures. Access shall be allowed either at Contractor's premises or other locations where the scope of supply is performed, produced or stored.
- 7.4 The Contractor undertakes to keep quality records in connection with the scope of supply in accordance with the applicable law, however, for at least 10 years from the date of delivery.
- 7.5 Quality assurance measures (such as examinations, tests or approvals of documents, procedures and the like by SwissP) shall in no way release the Contractor from its warranty obligations.
- 7.6 The provisions of a separate quality assurance agreement concluded between the parties shall remain reserved.

8. Material Provided

- 8.1 The material provided by SwissP (such as raw materials, tools and other equipment, devices, samples, etc.), if any, may be used by the Contractor exclusively for the performance of the contract.
- 8.2 The Contractor shall inspect the material provided upon delivery and notify SwissP immediately if Contractor finds that the material is incomplete or defective. If no notification is received by SwissP within 10 calendar days, the material shall be deemed complete and free of defects.
- 8.3 The material provided shall remain the property of SwissP even if the Contractor has performed work on it. Accordingly, the material shall be marked as property of SwissP. The Contractor shall bear the risk of loss and damage to the material provided and shall insure such material within the scope of all risk insurance in the amount of the material's full replacement value. The Contractor shall be obliged to inform SwissP immediately about any loss of or damage to the material provided. In no event shall the Contractor have a right of retention to the material provided.
- 8.4 The Contractor shall be obliged to inventory the material provided at its own expense and to store it separately from its own inventories. Upon request, the Contractor shall provide SwissP with an up-to-date inventory list at its own expense. Representatives of SwissP shall be entitled to inspect the material; section 7.3 shall apply accordingly.
- 8.5 Material which is no longer required for the performance of the contract shall be returned to SwissP; section 3.2 shall apply accordingly.

9. Changes in Performance

- 9.1 SwissP shall be entitled to request a subsequent change to the agreed scope of supply at any time, unless such a change is not reasonable for the Contractor according to the principle of good faith.

- 9.2 If SwissP requests a change to the scope of supply, Contractor shall inform SwissP within 10 calendar days whether such change is possible and what effects it has on the scope of supply, the price, the delivery time and other aspects. If the Contractor has reservations against a requested change, Contractor shall inform SwissP in sufficient detail in his statement.
- 9.3 Prior to its execution, the parties shall agree on a change to the scope of supply and an associated adjustment of price, delivery time and other contractual aspects in an addendum to the contract. An adjustment of the agreed price will be made only to the extent that the price basis has changed as a result of the requested change.
- 9.4 Unless otherwise agreed, the Contractor shall continue its work in accordance with the contract during the review of change requests.

10. Warranty

- 10.1 The Contractor shall be liable for the warranted and otherwise agreed characteristics of the scope of supply and for the fact that the scope of supply does not have any physical or legal defects which nullify or reduce its value or its suitability for the intended use. The Contractor shall be liable irrespective of the cause of the defect and irrespective of fault. If it is disputed between the parties whether an event of warranty exists, the burden of proof in this respect shall lie with the Contractor.
- 10.2 In the event of warranty, SwissP may request, at its own discretion, the free repair at the location of the scope of supply or the free supply of defect-free replacement goods; alternatively, SwissP shall be entitled to the statutory rights to price reduction or rescission (conversion). In urgent cases, SwissP may have the repair or replacement carried out by a third party at the expense of the Contractor or carry it out itself. The Contractor shall bear all accompanying costs of the repair and replacement, e.g. transport costs.
- 10.3 If damage has been caused due to a defect, SwissP shall have a claim for damages in addition to and apart from the above warranty rights.
- 10.4 An incoming goods inspection will not take place or only with regard to obvious defects in the packaging, to any transport damage as well as to the completeness and identity of the scope of supply. The statutory obligation to inspect the scope of supply shall be fully waived.
- 10.5 The warranty period (notification period) shall be 24 months, calculated from the date of delivery. During the warranty period, defects of any kind may be notified at any time without it being possible to hold SwissP responsible for a violation of the statutory periods for inspection of the scope of supply and/or the notification of defects. The Contractor shall be liable for repaired and replaced parts to the same extent; the warranty period in this respect shall last 12 months from delivery of the repaired or replaced parts, however, no longer than 48 months from the original, defective delivery.
- 10.6 If similar defects occur in more than five percent of the scope of supply (serial defects), SwissP shall be entitled to reject the entire delivery and to assert the aforementioned warranty rights for this delivery, even if the scope of supply should not be defective entirely.
- 10.7 Upon expiration of the warranty period, SwissP's right to notify defects expires. However, SwissP's warranty rights with regard to defects already notified remain in force subject to the statute of limitations. Warranty rights become time-barred one year after expiration of the warranty period.

11. Export control

- 11.1 The Contractor represents and warrants that Contractor complies with the requirements of any and all export control laws and regulations in effect at the time of export of the scope of supply in Contractor's country and/or at the time of re-export in the country of origin of the re-exported scope of supply. These requirements include, without being limited to, obtaining all necessary official permits or licenses for the export or re-export of the scope of supply. The Contractor hereby represents and warrants that Contractor will export and/or re-export the scope of supply in accordance with all applicable export control laws and regulations and that the Contractor is not prohibited by any competent authority from exporting, re-exporting, receiving, selling, processing or otherwise disposing of the scope of supply.
- 11.2 Upon request, Contractor shall provide SwissP with any and all information in connection with official permits or licenses required for the export or re-export of the scope of supply. Moreover, the Contractor shall inform SwissP at the latest upon conclusion of the contract if the scope of supply, in whole or in part, is subject to US export control regulations (such as ITAR, EAR), and if US export control regulations are applicable, stating the classification number (ITAR) or Export Control Classification Number (EAR).

11.3 The Contractor shall be obliged to indemnify and hold SwissP harmless from and against any and all costs, fines or losses caused by a breach of the Contractor's obligations contained in this provision.

12. Right of Termination by SwissP

- 12.1 SwissP is entitled to terminate the contract, at any time, in whole or in part, without giving reasons therefore.
- 12.2 In the event of such termination, SwissP shall be entitled to require the Contractor for the completion of certain work. If SwissP requires completion of certain work, the Contractor shall be obliged to perform such work under the terms of the terminated contract.
- 12.3 If the contract ends by termination on the part of SwissP, the Contractor shall be entitled to the following payments: the agreed part of the price for work already completed, reimbursement of the cost price for work not yet completed in addition to a profit margin of five percent as well as reimbursement of all other costs incurred by the Contractor as a result of such termination. Further claims of the Contractor, e.g. for loss of profit, are expressly excluded. Any and all payments to be made by SwissP as a result of the contract being terminated shall not exceed the price to which the Contractor would have been entitled if the terminated contract (or part thereof) had been performed.
- 12.4 Within the scope of the residual compensation, the Contractor shall prove all facts substantiating the claims asserted.
- 12.5 SwissP shall be obliged to make payment with respect to such works and rights, the costs of which are to be reimbursed to the Contractor, only to the extent and insofar as the Contractor transfers or assigns to SwissP such works and rights free of third party rights and for unrestricted use.

C. PROCUREMENT OF SERVICES

13. General

- 13.1 In principle, Art. 394 et seq. of the Swiss Code of Obligations (CO) on the mandate are applicable to service contracts.
- 13.2 In all other respects, the following provisions shall apply.

14. Execution

- 14.1 The Contractor shall be obliged to perform the contract diligently, faithfully and competently.
- 14.2 The Contractor shall only employ carefully selected and well-trained personnel who have the necessary permits. Upon SwissP's request, the Contractor shall replace within a reasonable period of time any personnel who does not possess the required expertise or who otherwise impairs or endangers the performance of the contract. A replacement of deployed personnel requires the prior consent of SwissP.
- 14.3 In principle, the Contractor shall carry out the mandate given to him personally. The engagement of subcontractors shall require the prior consent of SwissP. If the Contractor engages subcontractors, Contractor shall be liable for their actions or omissions as for his own actions or omissions and shall be obliged to contractually include them in his confidentiality obligations towards SwissP. Upon SwissP's request, the Contractor shall disclose his subcontractors. The Contractor may only change subcontractors engaged within the scope of the contract with SwissP's prior consent.
- 14.4 Without a written power of attorney, the Contractor is not authorized to enter into any legal transactions on behalf of SwissP.
- 14.5 Material provided by SwissP, in particular, but without limitation to, tools and other equipment, may be used by the Contractor exclusively for the performance of the contract. In all other respects, section 8 shall apply accordingly to materials provided by SwissP.
- 14.6 The Contractor shall be obliged to comply with SwissP's instructions in the performance of the contract. If Contractor discovers that the instructions given to him by SwissP are incomplete, incorrect or contradictory, Contractor shall notify SwissP thereof without delay.
- 14.7 Upon request, the Contractor shall account to SwissP at any time for its ongoing activities within the scope of the performance of the contract.

15. Social Security

- 15.1 If the Contractor employs personnel, Contractor shall make the registrations for itself and its personnel with the social insurances.

15.2 Self-employed Contractors shall be required to provide evidence that they are registered with a compensation office.

16. Time and Place of Performance

- 16.1 The Contractor shall comply with the agreed deadlines and dates. SwissP shall be notified immediately of any delays, stating the reasons and their duration. A contractual penalty for non-compliance with the time of performance shall only be owed if such a penalty has been agreed.
- 16.2 Unless otherwise agreed, the place of performance of the contractual services shall be at the domicile of SwissP.

17. Remuneration, Expenses

- 17.1 The Contractor shall provide its services on the contractually agreed terms (i) on a time and material basis, (ii) on a time and material basis with an upper limit on remuneration (cost ceiling) or (iii) at fixed prices.
- 17.2 The agreed remuneration covers any and all expenditures required for the proper performance of the contract. Unless otherwise provided for in the contract, the remuneration shall in particular include all taxes (including value added tax) and duties. In addition to the remuneration, the Contractor shall have no claim to reimbursement of its expenses and/or uses; the right to agree otherwise shall remain reserved.
- 17.3 The Contractor shall invoice according to the agreed payment plan. If a payment plan is not agreed, payment shall be made in the customary manner within 60 days after the agreed services have been rendered and the invoice has been received by SwissP.
- 17.4 With regard to invoicing, section 6.2 shall apply accordingly.

18. Termination

- 18.1 The service contract may be terminated by either party at any time (Art. 404 para. 1 CO). However, a party terminating the contract at an inopportune juncture shall be obliged to compensate the other party for the damage caused thereby (Art. 404 para. 2 CO).
- 18.2 In the event of termination by SwissP, the Contractor shall be entitled to remuneration for the services already provided.

D. COMMON PROVISIONS

19. Intellectual Property

- 19.1 The Contractor represents and warrants that the scope of supply or the work result, respectively, and its intended use do not infringe any patent, copyright, design or other intellectual property rights of third parties. The contractor shall fully indemnify and hold SwissP harmless against any and all claims of third parties due to infringement of their intellectual property rights. If SwissP is hindered or prevented from using the scope of supply or work result, respectively, in whole or in part due to asserted claims of third parties for infringement of their intellectual property rights, the Contractor shall have the choice to either modify the scope of supply or work result, respectively, at its own expense in such a way that it does not infringe any third party rights and still complies with the agreed quality, or to procure a license from the third party at its own expense. If the Contractor does not implement any of these options within a reasonable period of time, SwissP may withdraw from the contract in whole or in part and demand compensation for the damages resulting from the omission of the contract.
- 19.2 Pre-existing intellectual property rights of either party shall remain in the property of such party and shall not be affected by the contract. However, if and to the extent that the Contractor's pre-existing intellectual property rights are required for the contractual use of the scope of supply or work result, respectively, the Contractor shall grant SwissP the free, non-exclusive, irrevocable, unrestricted and sub-licensable right to use such pre-existing intellectual property rights. If and to the extent that intellectual property rights of third parties, e.g. subcontractors, are required for the contractual use of the scope of supply or work result, respectively, the Contractor represents and warrants disposing of corresponding sub-licensable rights of use and undertakes to grant such rights to SwissP.
- 19.3 Unless otherwise agreed, SwissP shall be exclusively entitled to the rights to protectable inventions, works (such as software) and designs that are produced in the performance of the contractual obligations. The Contractor is obliged to take all precautions at its own expense so that such rights can be transferred to SwissP. This also applies with regard to corresponding rights of subcontractors. The Contractor shall further be obliged to provide SwissP with all information and documentation required for the registration and

commercial use of such foreground intellectual property rights at its own expense. The transfer of such intellectual property rights to SwissP shall be fully compensated with the agreed contract price. Without SwissP's prior written consent, the Contractor shall be strictly prohibited from using protectable inventions, works and designs produced in the performance of the contractual obligations (or the rights thereto) in any form whatsoever.

20. Confidentiality

- 20.1 Either party (with respect to the disclosed information, the "Disclosing Party") may provide confidential information to the other party (with respect to the received information, the "Receiving Party").
- 20.2 "Confidential Information" shall mean technical, commercial and other information (such as specifications, plans, drawings, prices, details of customers or business partners, etc.) in oral, written, visual, electronic or any other form which is neither in the public domain nor generally accessible. However, this does not include information that (i) is or becomes generally available to the public without action by the Receiving Party, or (ii) is or becomes available to the Receiving Party on a non-confidential basis from third parties who are under no obligation of confidentiality to the Disclosing Party, or (iii) has been independently developed or is subsequently developed by the Receiving Party without reference to the Confidential Information, or (iv) is required to be disclosed by order of a competent court or governmental authority.
- 20.3 The Receiving Party undertakes (i) to use Confidential Information only for the performance of the contract or for the use (e.g. commissioning, operation, use, maintenance, repair, etc.) of the scope of supply or work result, respectively, (ii) to keep the Confidential Information confidential and to take reasonable precautions to prevent unauthorized disclosure, access or use, and (iii) not to disclose the Confidential Information to third parties without the prior written consent of the Disclosing Party. However, the Receiving Party shall be entitled to disclose the Confidential Information to its personnel, consultants, or, if applicable, its subcontractors and their personnel, for the performance of the contract or for the use of the scope of supply or work result, respectively, provided that such persons are bound by confidentiality obligations at least equivalent to those under this section 20.
- 20.4 The obligation to maintain confidentiality shall continue after termination or performance of the contract.
- 20.5 The provisions of a separate non-disclosure agreement concluded between the parties shall remain reserved.

21. Miscellaneous

- 21.1 If SwissP or the Contractor does not exercise any of its rights, this shall not constitute a waiver of such right.
- 21.2 If any provision of the contract is declared void or unenforceable, the remaining provisions of the contract shall not become void or unenforceable thereby. In such an event, the parties shall use their best efforts to replace such provision with a valid provision that comes as close as possible to the original economic intention.
- 21.3 The Contractor shall not be entitled to set off its counterclaims without SwissP's prior written consent.
- 21.4 The Contractor shall not assign or transfer its rights and obligations under or in connection with the contract to any third party without SwissP's prior written consent.

22. Applicable Law and Place of Jurisdiction

- 22.1 The contract shall be governed by Swiss law to the exclusion of the conflict of laws rules of private international law. The application of the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention) of 11 April 1980 shall be excluded.
- 22.2 For disputes arising out of or in connection with the contract, the courts at the registered office of SwissP shall have jurisdiction. However, SwissP shall be entitled to sue the Contractor at its registered office or residence.