



Scania Specific IT Terms & Conditions for IT-Project

These Specific IT Terms & Conditions for IT-Project (“**STC-P**”) shall govern Scania’s purchase of IT-projects typically agreed on fixed price and time and on specific requirements. The Supplier shall perform the IT-project in accordance with these STC-P which form an integrated part of Negotiation Protocols, Frame Agreements, IT Contracts and Purchase Orders together with Scania General Terms & Conditions for IT Purchase.

1 DEFINITIONS

Unless the context or circumstances clearly suggest otherwise, the following capitalized terms shall have the meanings stated below:

“**Acceptance test**” means a test performed by Scania to control that the Deliverables are delivered in accordance with the Contract.

“**Acceptance test period**” means the period for performance of Acceptance test, if not otherwise agreed in writing, a period of thirty (30) days before Agreed Delivery Date.

“**Delivery test**” means a test performed by the Supplier to control that the Deliverables are delivered in accordance with the Contract.

“**Delivery test period**” means the period for performance of Delivery test, if not otherwise agreed in writing, a period of ten (10) days before the first date of the Acceptance test period.

“**Description Requirements**” means Scania’s requirements for the Deliverables as specified in appendix to the Contract.

“**Open Source**” means computer software with its source code made available to the public by the copyright holder with a license that regulates the rights to study, change, and distribute the software to anyone and for any purpose.

“**Project**” means the IT-project which the Supplier is to perform and any Products which are to be delivered in order to achieve the Deliverables in accordance with the Contract.

“**Project Plan**” means the description of how the Project shall be performed including activities, time schedule, project organisation, allocated personnel, test criteria etc. according to appendix to the Contract.

“**Scania Data**” means any data owned and/or provided by Scania.

“**Scania ISec Requirements**” means the requirements and standards for information security applicable to the Project in accordance with appendix to the Contract.

“**Scania’s Equipment**” means computers, network components and other equipment which Scania owns, rents, or leases including documentation to the equipment.

“**Scania’s Project Model**” means the model for the performance of the Project in accordance with appendix to the Contract.

“**Scania’s Software**” means software owned by Scania or that Scania is entitled to use under the terms of a licence agreement including documentation to the software.

“**Third Party Application**” means a software a) for which the copyright obviously belongs to a company other than the Supplier or b) is stated as a Third Party Application in appendix to the Contract.

Definitions governing this STC-P are also found in Scania General Terms & Conditions for IT Purchase (hereinafter also referred to as “**SGTC-IT**”).

2 PERFORMANCE OF THE PROJECT

2.1 The Supplier shall perform the Project in accordance with agreed Project Plan and Description Requirement and thereby provide Scania with the Deliverables at the Agreed Delivery Date.

2.2 The Deliverables and the result of the Supplier’s performance shall in all parts meet the Description Requirement and Project Plan.

2.3 The Supplier shall have the overall responsibility for the Project and manage the Project in accordance with Scania’s Project Model as set forth in appendix to the Contract.

2.4 The Supplier shall perform the Project with due skill, care and in a professional manner, and in accordance with the instructions provided by Scania and generally accepted practice in the industry.

2.5 The Supplier shall perform the Project using personnel who are appropriate, suitable and with a qualification profile suitable for the purpose.

2.6 The Supplier shall manage the Project in line with the Project Plan including agreed time schedule and immediately inform Scania of any circumstances that could affect the execution of the Project Plan.

2.7 Scania shall participate in, and contribute to, the Project to the extent specified in the Project Plan and in accordance with Scania’s Project Model.

2.8 During the period when the Project is managed, the Supplier undertakes not to use the personnel conducting the Project for assignments for companies that in any way compete with Scania.

2.9 The Supplier undertakes, during the term of the Contract and for a period of six (6) months thereafter, not to directly or indirectly attempt to solicit personnel who is or has been employed by Scania and that has been directly involved in the Project.

3 DELIVERY AND TESTS

3.1 The Supplier shall perform a Delivery test to control that the Deliverables fulfil the Description Requirement. The Parties shall agree on a Delivery test period. Scania shall be entitled to be present during the Delivery test.

3.2 The Supplier shall notify Scania with five (5) days’ notice when the Deliverables are ready for Acceptance test.

3.3 The Supplier shall on Scania’s written request assist Scania with the Acceptance test with competent personnel.

3.4 Scania shall within the Acceptance test period notify the Supplier in writing if Scania approves the Deliverables or not. If Scania does not approve the Deliverables during the Acceptance test, Scania shall inform the Supplier in writing of the reasons therefore.

3.5 Scania shall not refrain from approving the Deliverables under the Acceptance test unless Scania can demonstrate reasonable cause.

3.6 The Actual Delivery Date shall be the date on which:

- i) Scania approves the Acceptance test in writing; or
- ii) the Deliverables fulfil the Description Requirement, after Scania has made a justified objection during the Acceptance test and a new Acceptance test has been performed, and Scania has accepted the Deliverables in writing.

4 DELIVERY DELAY AND PENALTY

4.1 Unless otherwise agreed the Supplier shall be deemed to be in delay when the Actual Delivery Date for the Project occurs after Agreed Delivery Date.

4.2 The Supplier is entitled to a reasonable extension of time where the delay is due to circumstances for which Scania is liable or due to circumstances set out in Clause 27 of the SGTC-IT (Force Majeure).

4.3 In the event of a delay, Scania shall be entitled to receive a penalty. The penalty shall be paid per each commenced week of delay, with four (4) percent of the compensation for the Project, subject to a maximum thirty (30) percent of the compensation for the Project.

4.4 If the Project is delayed in any respect more than ten (10) weeks, Scania is entitled to terminate the Contract, including relevant Purchase Orders, in whole or in part.

4.5 Scania shall also be entitled to damages due to the delay, subject to the limitations set forth in Clause 17. Penalties which are paid due to delay shall be set off when the amount of damages is calculated.

5 PROJECT ADJUSTMENTS

5.1 Scania may, by written request to the Supplier, propose a change to the Project Plan and/or the Description Requirement. Within one (1) week from receipt of any such request, the Supplier shall inform Scania, in writing, whether it accepts the changes and inform about the consequences of the proposed change, including information on how the change will affect the Project in respect of Project Plan, compensation, and the Deliverables.

5.2 If Scania accepts these consequences, the Contract and appendices shall be updated in writing in respect of the agreed change. The Supplier shall thereafter perform the Project in accordance with any agreed change. In the event that the Parties have not reached a written agreement regarding change the Contract shall remain in force with the content prior to the proposed change.

5.3 The Supplier shall not be entitled to refuse Scania's request for change, additions or modifications unless the Supplier can demonstrate cause for such refusal, e.g. that a change to the Description Requirement has a large negative impact on the Supplier's margin.

5.4 Scania's request for change of the Description Requirement or the Project Plan shall not give the Supplier right to additional compensation if the request only constitutes a minor modification or alteration which does not affect the Supplier's total cost for the Project.

6 SUBCONTRACTORS

6.1 The Supplier shall only be entitled to use subcontractors for the performance of the Project to the extent agreed at the time of execution and as stated in the Project Plan or agreed thereafter by the Parties in writing. The Supplier has the same responsibility for work performed by subcontractor as for its own work.

7 COMPENSATION

7.1 The Supplier is entitled to compensation for the Project in accordance with the Purchase Order and other applicable terms in the Contract.

7.2 The compensation is a fixed compensation specified in an appendix to the Contract, unless otherwise agreed. Ninety (90) percent of the compensation shall be paid when the Deliverables have been delivered and the Actual Delivery Date has occurred. The remaining ten (10) percent will be paid after three (3) months from Actual Delivery Date if the Deliverables still are free from defects or shortcomings.

7.3 Scania has the right to withhold the last ten (10) percent of the compensation for the Project until the Supplier permanently has corrected the reported defect or shortcoming in the Deliverables.

7.4 The fixed compensation shall be the Supplier's only compensation for the Project. The compensation shall include, e.g. the Supplier's cost for wages, overtime, expenses and travel and accommodation costs.

7.5 Terms and conditions governing compensation, currency, invoicing and payment etc. are regulated in Clause 4-6 in SGTC-IT and in an appendix to the Contract.

8 PAYMENT

8.1 The Project shall be invoiced at a fixed rate in accordance with Clause 7, unless otherwise stated in the Purchase Order, determined payment plan or other agreement between the Parties.

8.2 All invoices issued by the Supplier shall include at least the following details:

- (i) Reference to the Contract number and Purchase Order number;
- (ii) Supplier company name and address;
- (iii) Supplier VAT-number and Supplier company registration number;
- (iv) Scania's invoice address (as shown in the Purchase Order);
- (v) Scania Requestor and Requesting Department;
- (vi) Project name and/or number [Insert other Scania preferences]

9 WARRANTIES AND LIABILITY FOR DEFECTS

9.1 The Supplier warrants that the Deliverables are delivered without defects or shortcomings and the Project is performed in accordance with the Project Plan.

9.2 The Deliverables shall be deemed defective if they:

- (i) in any way deviate from the Description Requirement or,
- (ii) in any way deviate from what otherwise follow from the Contract or Purchase Order or
- (iii) otherwise deviate from what Scania reasonably could have expected.

9.3 In the event of a defect or shortcoming in the Deliverables, the Supplier shall immediately correct or remedy any defects or shortcomings, free of charge, if requested by Scania.

9.4 If the Supplier does not immediately correct or remedy the reported defect or shortcoming, Scania shall be entitled to a reduction of the compensation for the Project, reasonably corresponding to the reduced value from the defect or shortcoming.

9.5 Scania is also entitled to damages due to defects and shortcomings, subject to the limitations set forth in Clause 26 of the SGTC-IT (Limitation of Liability). Reductions which are given due to defects or shortcomings shall be set off when the amount of damages is calculated.

10 GOVERNANCE

10.1 The Parties shall cooperate and consult with each other during the performance of the Project. The Parties shall, as soon as possible, inform each other of any and all relevant circumstances and events under the Project which may be of significance for the performance of the Project.

10.2 The cooperation between the Parties shall be according to Scania's Project Model, as set forth in detail in an appendix to the Contract.

11 ACCESS TO SCANIA'S ENVIRONMENT AND SECURITY

11.1 If the Supplier in any way requires Scania's Equipment or Scania's Software for performing the Project, such requirement shall be specified in the Project Plan.

11.2 The Supplier, the Supplier's employees and any subcontractor shall comply with applicable security provisions in Scania ISec Requirements in conjunction with provision of the Project.

11.3 The Supplier shall procure that its personnel shall, while on site at Scania, comply with Scania's health and safety and security policies.

11.4 If the Supplier has access to Scania's IT-environment, the Supplier shall indemnify and keep Scania harmless from any damages or losses due to the Supplier's actions in Scania's IT-environment.

12 INTELLECTUAL PROPERTY RIGHTS

12.1 The Supplier hereby transfers to Scania the ownership of the Deliverables of the Project, including the ownership of any and all Intellectual Property Rights and know-how. The Supplier warrants that it at the time of transfer owns all rights to such Deliverables as well as that it is entitled to transfer such rights to Scania.

12.2 The transfer of rights to Scania is exclusive, worldwide, perpetual and complete and covers the right to use, transfer and publish Deliverables in any form, for any purpose and to any medium, as well as to modify and alter the Deliverables. In addition, hereto, Scania is also without restriction entitled to transfer or license, wholly or partially, all rights to the Deliverables to third parties. The right to any patent resulting from the Project accrues to Scania.

12.3 The Supplier shall not be entitled to use the Deliverables in its future business.

12.4 In light of the purpose of Scania's acquisition of the rights to the Deliverables of the Project – which must be possible to alter and modify in order to be used in different contexts – the Supplier warrants that the respective originators of the Deliverables have waived their right to oppose changes in the Deliverables and their right to be mentioned as originators with regard to use of or modification and alteration of the Deliverables in accordance with the provisions of the Contract.

12.5 The Supplier warrants that the rights to the whole or parts of the Deliverables of the Project have not been granted to any third party and that Scania will not infringe any third party's right if the Deliverables are used in accordance with the provisions of the Contract.

12.6 The Supplier warrants to indemnify Scania in the event Scania's use of the Deliverables of the Project in accordance with the Contract should be found to constitute or be alleged to constitute an infringement in the rights of a third party. Moreover, the Supplier undertakes, at its own expense, and at the request of Scania, to acquire from third parties the rights necessary in order for Scania to be able to use the Deliverables in accordance with the provisions of the Contract.

12.7 Scania also acquires the ownership of the originals of the Deliverables in the form of prototypes, forms, manuscripts, photographic negatives, image creations or the like, in analog and/or digital form and the Supplier undertakes, at the request of Scania, to hand over any and all such originals to Scania.

12.8 The Supplier undertakes, in return for reasonable compensation, to assist Scania in the drafting and signing of documents which are necessary for Scania to be able to register rights relating to the Deliverables of the Project.

13 OPEN SOURCE

13.1 The Supplier shall not include any Open Source in the Deliverables.

13.2 However, if the Parties have agreed that Open Source shall be included in the Deliverables, the relevant Open Source, special conditions and copyright owners shall be specified in an appendix to the Contract. The Supplier shall in all other parts be responsible towards Scania for the Deliverables including Open Source according to the terms and conditions of the Contract.

14 THIRD PARTY CLEARANCES

14.1 In case the Supplier also provides Third Party Applications in the Deliverables, the Supplier's licensing provisions, according to appendix to the Contract, shall apply for the licensing of the Third Party Applications.

15 PART APPROVAL

15.1 In case the Project Plan contains milestones which shall be completed under the Project before specified deadlines, the provisions regarding acceptance testing and approval in Clause 3, the Supplier's delay in Clause 4 and liability for defects and shortcomings in Clause 9 respectively, shall apply to each such milestone and part and the corresponding part of the Description Requirement.

16 DOCUMENTATION

16.1 The Supplier shall ensure that Documentation for Deliverables is prepared and kept up to date. The Supplier shall deliver the Documentation as from the start of Acceptance test period.

17 LIMITATION OF LIABILITY

17.1 In addition to what is stated in Clause 26 of the SGTC-IT (Limitation of Liability), and in the absence of intent or gross negligence, a Party's liability in damages shall per annum be limited to two-hundred (200) percent of the total compensation for the Project.

18 PREMATURE TERMINATION

18.1 In addition to what is set forth in other parts of the Contract regarding premature termination the following shall apply. The Contract may be prematurely terminated by Scania, in whole or in part, with one (1) month prior written notice, without Scania providing reasons therefore, as regard to unperformed parts.

18.2 In case of premature termination according to Clause 18.1 above, Scania shall pay compensation for work performed up to termination of the Contract.