



# General terms and conditions

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## General terms and conditions for Tysk-Svenska Handelskammarens Service AB

**Applicable as of 25 May 2018**

### 1. Scope of Application

- 1.1. These general terms and conditions (the **“Terms and Conditions”**) apply to all the services which Tysk-Svenska Handelskammarens Service AB, org. no. 556115-0847, (**“TSHK”**) supplies to the client (the **“Client”**). TSHK and the Client are hereinafter individually referred to as **“Party”** and jointly as **“Parties”**.
- 1.2. TSHK is a wholly-owned subsidiary of Deutsch-Schwedische Handelskammer / Tysk-Svenska Handelskammaren, org. no. 802000-6667, (**“GSCC”**) and provides its services. Consequently, TSHK is the contractual party in relation to the Client for all services provided under an assignment in connection with GSCC.
- 1.3. Under the provisions of GSCC’s statutes, TSHK cannot provide services to consumers. When placing the order, the Client confirms that he does not conclude the agreement as a consumer.
- 1.4. Specially agreed terms take precedence over these Terms and Conditions. Diverging terms which the Client claims against TSHK are only binding if TSHK has agreed to them in writing in each individual case. **“In writing”** means all communication or documentation by letter and e-mail.

### 2. Services

- 2.1. TSHK performs the agreed services in each individual case in a diligent manner and in accordance with the law applicable from time to time.
- 2.2. In order to ensure efficient execution and communication procedures, TSHK communicates in the performance of contracted services even through e-mail and other methods of electronic communication via the web. TSHK takes appropriate steps to arrange these methods as secure as possible. Despite these safety measures, TSHK cannot guarantee the security of this form of transfer and is therefore not responsible for any damage caused by electronic communication. The Client is considered to have accepted this kind of communication and its associated risks, unless the Client objects to it expressly and in writing.
- 2.3. TSHK chooses which employees will be involved in the performance of the service and may at any time replace employees or involve other employees. In addition, TSHK is entitled to hire external subcontractors, such as system operators or consultants, for sub-assignments.



### 3. The Client's Responsibilities

- 3.1. The Client is obliged to provide TSHK with all documents and other information required in order for the agreed service to be provided. The information and documents shall be complete and accurate and shall be provided at the latest at the time agreed in each individual case or in good time for the service to be provided within normal working hours, taking into account applicable deadlines. Such information also includes, in particular, the specific information TSHK needs in order to fulfil its obligations under the Swedish Act on Measures against Money Laundering and Terrorist Financing (lag (2009:62) om åtgärder mot penningtvätt och finansiering av terrorism) (the "**Money Laundering Act**") and other legal requirements as well as to be able to examine a possible conflict of interests (see section 14 below).
- 3.2. Furthermore, the Client is obliged to notify TSHK without delay of any change of circumstance or fact that is relevant for providing the service. It is solely the responsibility of the Client's to verify the accuracy and completeness of any documentation and information submitted. Notwithstanding the above, TSHK will inform the Client if incorrect or incomplete information is found.

### 4. Client Material and Documents

- 4.1. If TSHK no longer needs the Client's original documents and material, the Client must, at the request of TSHK, retrieve the documents and material from TSHK. Upon the Client's request, TSHK provides for them to be sent by third parties at the Client's risk or to be destroyed. TSHK may charge the Client for any costs incurred hereby.
- 4.2. The Client may have at their disposition and, for agreed purposes, use work results that TSHK has generated for the Client within the framework of the assignment. TSHK is not obliged to hand over the software it has used or calculations, etc. TSHK is not responsible for any usage that goes beyond what has been agreed. TSHK owns the copyright and other intellectual property rights to any work results generated by TSHK. The Client may not, beyond what has been agreed upon, distribute or otherwise make the work results accessible to third parties.

### 5. Lack of Cooperation

TSHK is not required to perform according to contract if the Client fails to fulfil its obligation to cooperate or causes delay in the acceptance of the service TSHK is delivering. In such case, TSHK is further entitled to terminate the agreement with immediate effect after a reasonable, additional deadline. In any case, TSHK is entitled to claim compensation for any costs and damage caused by a lack of cooperation or delay. TSHK is not responsible for any damage incurred by the Client as a result of lack of cooperation, delay or termination.

### 6. Payment

- 6.1. The remuneration agreed in writing for the particular assignment prevails. Where remuneration has not been specifically agreed, the prices apply that TSHK at the time of assignment customarily charges for the service agreed.
- 6.2. TSHK generally applies both fixed prices and billing per hour. TSHK's estimation on the expected effort does not constitute an agreement on a maximum sum.



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- 6.3. For hourly rates, TSHK charges for every commenced quarter of an hour. The cost of a service charged per hour may increase as a result of various factors that are not within TSHK's control, such as delays in contacts with official authorities or third parties, or insufficient or unclear information from the Client, etc.
  - 6.4. In addition to such compensation as mentioned above, TSHK may also request reimbursement of expenses and costs in connection with the performance of the service, such as, for example, fees or travel expenses.
  - 6.5. TSHK reserves the right to claim payment in advance.
  - 6.6. All prices are exclusive of VAT.

## 7. Price Adjustments

TSHK is entitled, at any time, to adjust the agreed price within the framework of a general change in prices and costs or if the scope of the assignment changes, for example, as a result of amended legal regulations, by giving written notice to the Client. For any other price change, section 19 of these Terms and Conditions applies.

## 8. Invoicing

TSHK invoices in accordance with statutory provisions and as agreed in each individual case. Unless otherwise agreed, invoicing occurs monthly, with invoices being sent by e-mail. The Client is obliged to provide a reference person, the correct invoice recipient, the correct billing address, a VAT registration number and an e-mail address to which the invoice can be sent. For invoicing by regular post, TSHK charges a fee of SEK 50 per invoice.

## 9. Payment Date and Delayed Payments

- 9.1. Unless otherwise agreed, the invoiced amount will be due for payment 20 days from the invoice date. Payment is to be made without fees and deduction to TSHK's account stated on the invoice.
- 9.2. After the due date, TSHK charges default interest according to law. For payment reminders (Sw. *betalningspåminnelse*), TSHK charges the statutory reminder fee.
- 9.3. TSHK has the right to withhold services, even in other departments or under other assignments, until the delayed Client makes the payment. Furthermore, TSHK has the right to make withdrawals, as appropriate, from the Client's trust account (Sw. *klientmedelskonto*) of an amount corresponding to the sums due, see sections 10.3 and 10.4. These provisions do not affect TSHK's right to use debt collection services.
- 9.4. If the Client does not make payment after a reminder, TSHK is in addition entitled to terminate all agreements with the Client, even those that have been agreed upon by other departments or under other assignments, with immediate effect.

## 10. Client Funds

- 10.1. For certain services, TSHK provides a separate trust account. The extent to which the trust account is to be used is determined by agreement in the individual case.
- 10.2. Via a written notification to TSHK, the Client is entitled to require transfer of its credit balance in the trust account. The right to a reasonable processing time and TSHK's right to retain funds due to unpaid claims (see section 9.3 above) remain unaffected. TSHK is also entitled to pay out credit balances which are not required for the performance of



the assignment to the Client. On TSHK's request, the Client is obliged to specify a bank account for the refund of credit balances.

- 10.3. TSHK is entitled to cover due and unpaid claims which the Client owes by setting them off against the Client's credit balance in the trust account. TSHK will inform the Client of the set-off in advance in writing.
- 10.4. At the same time, TSHK also has a pledge in respect of the Client's credit balance amount in the trust account. TSHK may enforce the pledge with a set-off against its own claims. Where applicable, any excess amount shall remain credited to the Client.
- 10.5. TSHK can only make payment to third parties, such as the Client's employees or authorities, if the corresponding amount has been received in advance in good time in the trust account. The Client has thus to ensure that the payment to the trust account is made in good time and with the required amount. TSHK cannot advance funds or otherwise provide the use of its own resources. TSHK is not responsible for any damage claimed by the Client or a third party that has been caused by an insufficient or late deposit of funds in the trust account.
- 10.6. Credit balance in the trust account is not interest-bearing in favour of the Client.

## 11. Identification and Personal Data

- 11.1. Under the Money Laundering Act, TSHK is in certain cases required to collect and review certain information about the identity of legal entities and physical persons as well as performed transactions and, if necessary, forward that information to the competent authorities.
- 11.2. In certain circumstances TSHK is also required to provide information to the responsible tax authorities regarding the Client's VAT registration number and the value of the service performed.
- 11.3. TSHK also complies with other statutory provisions as well as other obligations imposed by the authorities or courts to provide data.
- 11.4. TSHK is never liable for any direct or indirect damage suffered by the Client in connection therewith.

## 12. Data Protection

- 12.1. TSHK is data controller for the personal data that was provided by or collected from the Client in connection with an agreement or assignment, unless TSHK processes personal data on behalf of the Client in which case TSHK is data processor (see section 12.3 below). TSHK may complement the data by collection of information from external sources, such as private and public registers. TSHK processes personal data in accordance with TSHK's [privacy notice](#).
- 12.2. Further information about the processing and protection of personal data as well as data subjects' rights associated therewith can be found in TSHK's [privacy notice](#). In order to exercise these rights or in case of questions TSHK can be contacted via email to [gdpr@handelskammer.se](mailto:gdpr@handelskammer.se).
- 12.3. If the Client is data controller for personal data and TSHK is data processor, a data processing agreement ("DPA") shall be agreed upon between the Parties. In the event that the Parties have not signed a separate DPA, the DPA that is available on TSHK's website [under this link](#) applies to the Parties.



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### **13. Confidentiality**

- 13.1. The Parties are obliged not to disclose confidential information about the other Party or the assignment to third parties, unless written consent of the other Party has been obtained beforehand. Information of any kind, which is not or will not become generally known or communicated to a Party by third parties, is considered confidential.
- 13.2. The obligation stipulated in section 13.1 does not apply if the information is disclosed in order for the assignment to be fulfilled. TSHK is particularly authorised to disclose confidential information as necessary to authorities, organisations, contracting parties or subcontractors, such as system operators or consultants.
- 13.3. Furthermore, the confidentiality obligation does not apply to any disclosure of confidential information for compliance with law, code of professional conduct or other legal obligation, see also section 11, or upon request from a competent authority or court. The same applies when legitimate interests are observed towards, for example, insurance companies or legal representatives.
- 13.4. TSHK is also entitled to disclose confidential information to GSCC and its subsidiaries which, in turn, shall not disclose confidential information to third parties.
- 13.5. In addition, for the purposes of quality assurance and certification, TSHK is entitled to make confidential information available to industry organisations, of which TSHK is a member, such as, for example, the Swedish business association for accountants (Sw. Srf konsulterna).

### **14. Conflicts of Interest**

- 14.1. Before TSHK can provide a service to a Client, TSHK verifies whether the service would contravene its statutes or the statutes of GSCC and that there is no conflict of interest for other reasons. A conflict of interest for other reasons may arise in particular if an existing business relationship prevents TSHK from performing the service for the Client unbiasedly. Conflicts of interest are also considered to exist if suspicions arise in respect of the Money Laundering Act.
- 14.2. TSHK therefore reserves the right to provide the service first and only if no conflict of interest exists. Where there is a conflict of interest, TSHK can and must refuse to perform according to contract and terminate the concluded contract with immediate effect or withdraw from it.
- 14.3. TSHK is released from any obligation under the agreement when issuing a written notice of termination or withdrawal due to conflict of interest. The Client is not entitled to claim damages due to contract termination or withdrawal from contract.
- 14.4. Due to the confidentiality guaranteed to all Clients and partners or stipulated by law, no further details on the background of the conflict of interest can usually be disclosed.

### **15. Termination of the Agreement**

- 15.1. Ordinary termination
  - 15.1.1. Unless otherwise agreed, each Party may terminate an agreement on services executed on an on-going basis under observance of the following notice periods.
    - A service which is paid for monthly can be terminated giving three months' notice to the end of the month.
    - A service which is paid for quarterly can be terminated giving three months' notice to the end of the quarter.



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- A service which is paid for annually can be terminated giving three months' notice to the end of the contractual year.
- 15.1.2. TSHK reserves the right to require a minimum contract term.
- 15.1.3. TSHK's payment claims under the agreement remain in force until the notice period expires. Where there is no performance, TSHK aims to minimise the Client's costs by crediting the Client, as appropriate, with the expenses it has saved in the form of deductions from the invoice amount. However, TSHK is not obliged to apply that procedure.
- 15.2. Extraordinary termination
- 15.2.1. If any Party substantially or repeatedly breaches the agreement, the other Party is entitled to terminate the agreement with immediate effect. A substantial breach of the agreement by the Client is in particular the following:
- The Client does not fulfil its obligations under section 3 or does not fulfil them on time.
  - The Client is otherwise in breach of the agreement, of a provision which applies by law, of a collective agreement or other provisions, including those applying through case-law, general advice of authorities and good practices in Sweden (Sw. god sed på arbetsmarknaden) or instructions issued by an authority or court or if the Client encourages TSHK to commit such breaches.
  - The Client treats TSHK's or GSCC's employees in a manner that is unethical, offensive or otherwise inappropriate.
- 15.2.2. TSHK is entitled to rectify a breach of contract within ten working days from the Client's request or notice of termination before a Client's notice of termination enters into force.
- 15.2.3. TSHK also has the right to terminate the agreement with immediate effect based on the other reasons which are stated in these Terms & Conditions (especially sections 5, 9.4, 14.2 and 19.3).
- 15.2.4. TSHK has moreover the right to terminate the agreement with immediate effect if the performance of service results in reputation damages for TSHK, GSCC or any of its subsidiaries.
- 15.2.5. TSHK is also entitled to terminate the agreement with immediate effect if more than half of the shareholders in the Client's company change or if there is a change of ownership of more than half of the company's shares (Change of Control). The Client is obliged to notify TSHK without delay of such a circumstance in advance, however, no later than when it actually occurs.
- 15.2.6. Any notice of termination must be in writing.
- 15.2.7. The membership in GSCC is not affected by the termination of an agreement and must be terminated separately, where required.

## **16. Termination of the Agreement Due to Insolvency, etc.**

The agreement terminates with immediate effect if the Client becomes insolvent or over-indebted, if bankruptcy proceedings or reorganisation proceedings have been initiated against the Client or if such circumstances are likely to arise. The Client is obliged to inform TSHK of such circumstances without delay.



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## 17. TSHK's Liability

- 17.1. TSHK is liable solely for any direct damage caused by negligence which has not been rectified within a reasonable time after a written request from the Client. TSHK is not liable for any indirect damage, such as for example loss of profit, loss of goodwill or other consequential damage.
- 17.2. TSHK is only liable to compensate damage actually occurred. In particular, third-party performance (for example payments by insurance companies) will be deducted from any damage claimed.
- 17.3. TSHK shall never pay compensation for damage exceeding five million SEK (SEK 5,000,000). The scope of liability is not extended by the possible right to deductions or similar consequences. TSHK assumes no responsibility for any fines or contractual penalties (Sw. viten).
- 17.4. Claims for damages shall be made in writing no later than two years after the act or omission which caused the damage.
- 17.5. The above-mentioned limitation of liability does not apply to damage caused by TSHK through gross negligence or intent. Liability by mandatory law is not affected either.
- 17.6. The Client is obliged to take appropriate measures to minimise possible future loss occurrence or damage. The obligation to minimise damage means, in particular, to take appropriate and sufficient preventive measures in relation to entitlements or claims from third parties. TSHK is thereby entitled to itself carry out any necessary negotiations with relevant authorities or other third parties or to propose appropriate defense measures. The Client shall notify TSHK of any steps taken to minimise damage and of any claims on third parties in good time and in sufficient detail.
- 17.7. TSHK's share of liability shall be reduced in reasonable proportion in the event of third party contributory negligence. Third party limitation of liability shall not be considered in that respect.

## 18. Force Majeure

- 18.1. The Parties' obligation to perform under the contract shall be declared dormant if one Party is impeded in its execution by circumstances outside the Party's control ("**force majeure**") (for example, disturbances in telephone or electricity networks, strikes or other industrial action, fire or accidents, war, terrorist attacks, natural disasters, legislative amendments, etc.). Force majeure also includes computer viruses or hacker attacks that could not have been prevented by taking reasonable precautions.
- 18.2. If such a circumstance is permanent, the obligation to perform under the contract shall cease and, if applicable, anything supplied in performance of the contract shall be returned to the supplying Party.
- 18.3. In order to be exempted from performance under the contract, regardless of whether the exemption is short-term or permanent, the Party which is impeded from performance shall without delay and as far as possible inform the other Party of the reason for the impediment and its estimated duration.
- 18.4. The Party's rights of retention or to terminate the agreement are not affected hereby. This provision only limits the Party's right to claim fulfilment of the contract, price deductions and damages.



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## **19. Modification of Contract Terms and of the Terms and Conditions**

- 19.1. Changes to an agreement between TSHK and the Client are only valid if agreed in writing by both Parties.
- 19.2. TSHK reserves the right to change the Terms and Conditions from time to time. Changes notified under an existing agreement apply at the specified time or fourteen days after notification.
- 19.3. The Client is entitled to object in writing to changes that are substantially detrimental to him before they enter into force. In such cases, TSHK is entitled to terminate the agreement with immediate effect at the time the change enters into force; however, no later than ten working days after the objection has been received. Section 7 (price changes) is not affected hereby.

## **20. Transfer of the Agreement**

The Client's transfer of an agreement with TSHK to a third party requires prior written approval from TSHK.

## **21. Applicable Law and Forum**

Swedish law shall apply to the agreement, excluding the United Nations Convention on Contracts for the International Sales of Goods (CISG). The place of fulfilment is the seat of TSHK. Any dispute shall be finally decided by a general court, with the Stockholm District Court being the court of first instance.

## **22. Language**

These Terms and Conditions are available in Swedish, German and English. Only the Swedish version is legally binding. The other versions serve merely for information purposes.

## **23. Invalidity of Provisions**

- 23.1. If a provision of the service agreement or of these Terms and Conditions is found to be partly or in whole invalid or becomes invalid, the validity of the remaining provisions shall not be affected.
- 23.2. A Party claiming that a provision is invalid shall, within a reasonable time, notify the other Party and request negotiation of a valid and reasonable alternative provision which replaces the invalid provision in such a way that the economic objectives set by the Parties are still met as far as possible.