



LKAB Minerals

## General Sales Conditions

These general sales conditions ("GSC") shall govern the offering, sale and delivery of all Goods from LKAB Minerals AB ("LKAB Minerals") to Buyer and apply to all similar dealings between LKAB Minerals and Buyer and shall apply in preference to and supersede any and all terms and conditions of any order placed by Buyer and any other terms and conditions submitted or referred to by Buyer.

### 1. Definitions

For the purpose of these GSC, the following terms shall have the meaning hereby assigned to them.

"Agreement"	means these GSC, the Order Confirmation and/or the Frame Agreement as applicable.
"Business Days"	means normal business days excluding Saturdays, Sundays and public holidays where banks generally are closed at the place of business of LKAB Minerals or the place of delivery.
"Buyer"	means the buyer of the Goods.
"Documents"	means any drawings, technical documents or other documents relating to the Goods in whatever medium or format submitted to Buyer by LKAB Minerals.
"Frame Agreement"	means a written agreement between LKAB Minerals and Buyer referring to these GSC.
"Goods"	means industrial minerals and manufactured industrial mineral products, to be supplied to Buyer by LKAB Minerals as specified in the Agreement.
"Order Confirmation"	means a written acknowledgement sent by mail, facsimile, or, if applicable and agreed, electronically, from LKAB Minerals to Buyer with regard to the Purchase Order and specifying among other things VAT, delivery terms, mode of transport, loading date, requested delivery date, conditions of payment and interest for delayed payment.
"Purchase Order"	means a written specific order, sent by mail, facsimile, or, if applicable and agreed, electronically, from Buyer to LKAB Minerals with regard to the Goods under the Frame Agreement or otherwise.
"Specification"	means a specification of the content and the characteristics of the Goods.

### General Sales Conditions 2013-07



## **LKAB Minerals**

### **2. Ordering procedure**

2.1 A Purchase Order does not become binding upon LKAB Minerals unless and until LKAB Minerals has sent a corresponding Order Confirmation.

2.2 LKAB Minerals shall endeavor to send an Order Confirmation to Buyer within ten (10) Business Days from LKAB Minerals' receipt of the Purchase Order. If there are terms and conditions in the Purchase Order or referred to in the Purchase Order that differ from or are contradictory to the Agreement, any subsequent communication or conduct by LKAB Minerals, including, without limitation, Order Confirmation and delivery of Goods, constitutes a counter-offer and not acceptance of such terms and conditions submitted by Buyer. Any communication or conduct of Buyer which confirms an agreement for the delivery of Goods by LKAB Minerals, as well as acceptance by Buyer of any delivery of Goods from LKAB Minerals shall constitute an unqualified acceptance by Buyer of the counter-offer (including these GSC).

2.3 A Purchase Order shall be considered firm and definitive and may not be cancelled following LKAB Minerals' Order Confirmation, except as provided in Article 5.2.

### **3. Information with regard to the Goods, samples**

3.1 Other than as explicitly set forth in the Agreement or in these GSC, LKAB Minerals makes no warranties, whether express or implied, of any nature whatsoever with respect to the Goods, including, without limitation, warranties of merchantability or fitness for a particular purpose unless expressly agreed in writing.

3.2 The Goods shall be in compliance with the Specification.

3.3 Unless otherwise agreed in writing, samples provided are to be regarded as type samples and conformity of delivered Goods with samples is not guaranteed.

### **4. Documents**

4.1 All Documents shall remain LKAB Minerals' exclusive property and shall be returned to LKAB Minerals, at Buyer's cost, upon written request. Buyer may not copy, reproduce or distribute the Documents, in whole or in part, without the prior written approval by LKAB Minerals. Buyer is responsible for ensuring that Documents and other information provided by LKAB Minerals orally or in writing, is not disclosed to third parties, without the prior written approval by LKAB Minerals.

## **General Sales Conditions 2013-07**



## LKAB Minerals

### 5. Delays

5.1 If LKAB Minerals reasonably believes that the agreed time for delivery or Buyer reasonably believes that receipt of the Goods under the Agreement cannot be met, the delayed party shall immediately give the other party written notice to that effect, stating when delivery or receipt of Goods reasonably can be expected ("Notice of Delay").

5.2 If LKAB Minerals gives Notice of Delay, Buyer shall be entitled to cancel the delivery in question, provided that the expected delay exceeds ten (10) Business Days and LKAB Minerals has understood or should have understood that such delay would cause Buyer material inconvenience, by giving notice in writing thereof to LKAB Minerals. Buyer must exercise its right to cancel the delivery in question within two (2) Business Days from receipt of the Notice of Delay otherwise Buyer's right to cancel the delivery is forfeited and the new delivery time stated in the Notice of Delay shall be deemed to be the new agreed time of delivery. In all other respects the Agreement shall remain in full force and effect. In no event shall LKAB Minerals have any liability for any costs or losses of Buyer by means of a delay in delivery unless caused by the gross negligence or wilful misconduct of LKAB Minerals.

5.3 If the Buyer gives Notice of Delay, LKAB Minerals shall be entitled to either (i) extend the delivery time by a period that is reasonable in consideration of the circumstances, in which case LKAB Minerals shall arrange for storage of the Goods at Buyer's risk and expense and at the Buyer's written request, LKAB Minerals shall insure the Goods at the Buyer's expense, or (ii) cancel the delivery in question provided that Buyer has understood or should have understood that such delay would cause LKAB Minerals material inconvenience, by giving notice in writing thereof to Buyer. LKAB Minerals must exercise its right to cancel the delivery in question within five (5) Business Days from receipt of the Notice of Delay otherwise LKAB Minerals' right to cancel the delivery in question is forfeited and the new time for receipt of the Goods stated in the Notice of Delay shall be deemed to be the new agreed time for receipt of the Goods. In all other respects the Agreement shall remain in full force and effect. If LKAB Minerals exercises the right to cancel the delivery in question, Buyer shall indemnify and hold LKAB Minerals harmless from any costs or losses incurred by LKAB Minerals in relation to such cancelled delivery.

5.4 Buyer's right to cancel a certain delivery shall not give Buyer any right to cancel any other or successive delivery of the Goods.

5.5 Buyer's cancellation right in this Article are in substitution for all other rights of cancellation or any other rights by operation of law or otherwise due to delays in delivery.

## General Sales Conditions 2013-07



## **LKAB Minerals**

### **6. Inspection of Goods, claims**

6.1 Prior to delivery, LKAB Minerals shall inspect the Goods to verify compliance with the Agreement.

6.2 Buyer acknowledges and agrees that due to the specific characteristics of the Goods, where the Goods following loading and during transport or subsequent handling can change in character, volume and weight, LKAB Minerals cannot and does not warrant the Goods' compliance with the Agreement upon Buyer's receipt of the Goods.

6.3 Upon receipt of the Goods, Buyer shall inspect the Goods and satisfy itself that the Goods meet the contractual requirements. Complaints about the Goods shall be made in writing to LKAB Minerals no later than five (5) Business Days from the date of receipt of the Goods in respect of any defect, fault or shortage which would be apparent from a reasonable inspection on receipt of the Goods, but in no event later than one (1) year, in which case Buyer's right to make complaints is forfeited. Any use or processing of the Goods shall be deemed to be an unconditional acceptance of the Goods and a waiver of all claims in respect of the Goods. Complaints shall in sufficient detail specify the nature and the extent of the defect, fault or shortage. Claims, if any, do not affect Buyer's obligation to pay for the Goods.

6.4 Claims regarding loss or any fault in the Goods caused during transportation carried out by an independent carrier shall be addressed directly to LKAB Minerals's insurance company in writing, as instructed by LKAB Minerals, in accordance with the terms and conditions applicable to the carriage. Claims regarding loss or any fault in the Goods which occurred when LKAB Minerals bore the risk for the Goods shall immediately be addressed to LKAB Minerals in writing. In no event shall notice be made in writing to LKAB Minerals' insurance company or LKAB Minerals as set out above later than;

By ship: within two (2) days  
By lorry/rail: within seven (7) days  
By air: within fourteen (14) days

from the date of receipt of the Goods in respect of any defect or fault which would be apparent from a reasonable inspection on receipt of the Goods, otherwise Buyer's right to make claims is forfeited.

### **7. Remedies and liability**

7.1 If it is finally determined or agreed that there exist defects, faults or shortages in the Goods and Buyer has notified LKAB Minerals of such defect, fault or shortage in accordance with Article 6 above, Buyer's sole remedy and LKAB Minerals' sole liability for any such defect, fault or shortage shall be, at LKAB Minerals' discretion, for LKAB Minerals to either (i) make a

## **General Sales Conditions 2013-07**



## **LKAB Minerals**

replacement delivery at LKAB Minerals' expense, or (ii) issue a credit note in a corresponding amount.

7.2 LKAB Minerals shall in no circumstances be liable to Buyer for any kind of special, incidental, indirect, consequential or punitive damage or loss, cost or expense, including without limitation to, loss of business, or goodwill, loss of revenue, work stoppage or production failure and whether arising out of or in connection with breach of warranty, breach of contract, misrepresentation, negligence or otherwise, unless caused by the gross negligence or wilful misconduct of LKAB Minerals.

7.3 The remedies in this Article are in substitution for all other rights by operation of law or otherwise.

## **8. Indemnification**

8.1 Buyer shall hold LKAB Minerals harmless from, against, for and in respect of any and all damages, losses, suits, costs and expenses (including reasonable attorneys' fees) resulting from or arising out of any product liability or other claim which a third party may bring or assert against LKAB Minerals in relation to the Goods delivered by LKAB Minerals or Buyer's import, use, storage, distribution, marketing, promotion or sale thereof, except where such claim is resulting from LKAB Minerals' gross negligence or wilful misconduct.

## **9. Force majeure**

9.1 Neither party shall be responsible to the other for any failure or delay in performing any of its obligations under the Agreement or for other non-performance hereof if such delay or non-performance is caused by strike, slowdown, labour disturbances, difficulty in obtaining necessary labour, fire, flood, riot, civil commotion, accident, act or ordinance of any governmental or local authority, terrorism, or by any other cause beyond the reasonable control of that party. The party that is prevented to perform under the Agreement due to a force majeure event shall immediately inform the other party of such event and use reasonable commercial efforts to remove or overcome the hindrance for performance. Should hindrance due to a force majeure event continue for more than three (3) months, the other party shall have the right to terminate the Agreement with immediate effect. If, in such case, the Buyer cancels the Agreement, LKAB Minerals shall be entitled to receive compensation for the costs incurred by discharging delivery obligations up to the time of the cancellation of the Agreement.

## **10. Retention of title**

10.1 The Goods shall remain the property of LKAB Minerals and LKAB Minerals reserves the title to and property in the Goods delivered until paid in full. Buyer shall upon LKAB Minerals' request

### **General Sales Conditions 2013-07**



## **LKAB Minerals**

assist LKAB Minerals in taking any measures necessary to protect LKAB Minerals' title to the Goods in the country concerned. Buyer accepts and authorises LKAB Minerals to retake possession of any unpaid Goods without prior notification and allows LKAB Minerals to enter into Buyer's premises. Buyer shall bear any and all costs relating to LKAB Minerals' actions under this Article 10.

### **11. Termination**

11.1 LKAB Minerals may at any time terminate the Agreement with immediate effect and without compensation to Buyer if:

- (i) Buyer should pass a resolution, or any court should make an order, that Buyer shall be wound up or if a trustee in bankruptcy or insolvency, liquidator, receiver, or manager on behalf of a creditor should be appointed or if circumstances shall arise which would entitle the court or a creditor to make a winding-up order, or if it otherwise is likely that the Buyer is insolvent.
- (ii) Buyer has committed a material breach of the Agreement and not rectified the same within ten (10) Business Days after receipt of a written notice of termination specifying the breach.
- (iii) Buyer has not paid any amounts due to LKAB Minerals within thirty (30) Business Days.

11.2 Upon termination of the Agreement all LKAB Minerals' outstanding claims shall be accelerated and immediately become due and payable in proportion to the quantity of Goods delivered to Buyer and not re-possessed by LKAB Minerals.

11.3 Provisions contained in the Agreement that expressly or by their nature are intended to survive termination of the Agreement, shall survive notwithstanding any termination of the Agreement.

### **12. Assignment**

12.1 Neither party may assign any of the rights or obligations under the Agreement without the prior written consent of the other party, provided however, that LKAB Minerals may assign such rights and obligations, wholly or partly, to any of its parent company, subsidiaries or affiliates.

### **13. Governing law and arbitration**

13.1 The Agreement shall be governed by Swedish law, with exclusion of its conflict of law rules as well as the International Sale of Goods Act (1987:822).

13.2 Any dispute, controversy or claim arising out of or in connection with the Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration administered by the Arbitration Institute of the Stockholm Chamber of Commerce (the SCC Institute).

## **General Sales Conditions 2013-07**



## **LKAB Minerals**

13.3 The Rules for Expedited Arbitrations of the Arbitration Institute of the Stockholm Chamber of Commerce shall apply, unless the SCC Institute, taking into account the complexity of the case, the amount in dispute and other circumstances, determines, in its discretion, that the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce shall apply. In the latter case, the SCC Institute shall also decide whether the arbitral tribunal shall be composed of (1) one or (3) three arbitrators. The arbitration proceedings shall be conducted in Stockholm and in the English language.

13.4 The parties undertake and agree that all arbitral proceedings conducted under this Article shall be kept confidential, and all information, documentation, materials in whatever form disclosed in the course of such arbitral proceeding shall be used solely for the purpose of those proceedings.

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