



General Contractual Terms and Conditions of Deutsche Bahn AG and its Affiliated Companies for Providing Software-as-a-Service

- (GTC SaaS) version issued May 1, 2024 -

1 General provisions and integrity clause

- 1.1 These and any supplementary contractual terms of the Client shall apply exclusively. Any contradictory, supplementary or divergent conditions specified by the Contractor shall form a component of the contract only if expressly accepted in writing by the Client. This shall also apply to any terms and conditions that are specified in order confirmations or other confirmations of the Contractor. Acceptance of goods/services shall not constitute acceptance of the terms and conditions of the Contractor. The contract terms of the Client shall also apply if the contract with the Contractor is executed without reservation, despite knowledge of contradictory terms and conditions, supplementary terms and conditions or terms and conditions that diverge from these contract terms of the Client.
- 1.2 Within the framework of the contractual relationship, the contracting parties undertake to take all necessary measures to prevent corruption, other criminal offenses and any other forms of gross misconduct. They agree, in particular, to take all necessary precautions within their companies to prevent gross misconduct in Germany and abroad. Irrespective of the form of participation in committing, inciting, or aiding and abetting an offense, gross misconduct includes:
- Serious offenses that have been committed in the course of business. These include criminal offenses that involve, in particular, fraud, embezzlement, document forgery or similar offenses
 - Offering, promising, or granting undue benefits to any civil servant, public official or other office holder or person specifically bound to carry out public service duties (bribery or granting an undue advantage), or board members, managing directors, or other employees of Deutsche Bahn AG or its Group companies (bribery in business conduct)
 - Offering, promising or granting undue benefits to any person engaged in a freelance capacity by Deutsche Bahn AG or its Group companies who is active in the award or execution of a contract, e.g. technical designers, consultants and project control officers
 - In connection with the activity of the Contractor for Deutsche Bahn AG or its Group companies, offering, promising, or granting undue benefits to any other German or foreign civil servant, public official or other office holder or person specifically bound to carry out public service duties or to any employee or appointee of any other businesses in relation to the initiation, award or execution of a contract by third parties
 - Any unauthorized procurement, securing, use, or communication of trade or business secrets for competitive purposes, for personal gain, for the benefit of a third party, or with the intention of inflicting damage or loss on the business owner, or any unauthorized use or communication, for competitive purposes or for personal gain, of documents or technical instructions entrusted in the course of business dealings, and any unauthorized use or transmission, for competitive purposes or for personal gain, of documents, technical instructions or trade information of the Client entrusted in the course of business dealings, including any such material supplied on data carriers
 - Any violation of regulations designed to protect unimpeded competition; in particular, violations of hardcore restrictions in accordance with Article 101 of the Treaty on the Functioning of the European Union ("TFEU"), Section 1 of the German Act Against Restraints of Competition ("GWB") (price, bidding, quantity, quota, customer allocation and territorial agreements)
 - Any infringement of economic sanctions or the circumvention of European Union sanctions or of other applicable national, European and international embargo or trade-control regulations
 - Other serious offenses or gross misconduct. These include criminal offenses; in particular, terrorist offenses, involvement in a criminal organization, money laundering and the financing of terrorism, child labor, and other forms of human trafficking or similar offenses.

Gross misconduct in the aforementioned sense shall also be deemed to have been committed if persons who are associated with the

employees, Managing Directors, or Management Board members of the Deutsche Bahn Group are offered, promised or granted undue benefits and if specific assistance with design and tendering is provided in order to subvert competition.

- 1.3 If, prompted by the award procedure, the Contractor, persons appointed by the Contractor or acting on the Contractor's behalf, are shown to have come to an agreement that represents an unlawful restriction of competition, the Contractor shall pay compensation in the amount of 15% of the net contract value, unless it is not responsible for the infringement. This shall not impede the right of the Contractor to prove the damage is lower or of the Client to prove the damage is higher and the right of both to assert any such claims. Furthermore, other contractual or legal claims of the Client shall remain unaffected.
- 1.4 If, in the context of a contract award or providing services, an employee, a Managing Director or member of the Management Board of the Contractor, or any subcontractor working under the direction of the Contractor, commits gross misconduct within the meaning of Item 1.2 to the detriment of the Client, the Contractor shall pay the Client a contractual penalty, unless the Contractor is not responsible for the infringement. The penalty shall amount to
- 7% of the net contract value if the gross misconduct is committed by a Managing Director or member of the Management Board of the Contractor
 - 5% of the net contract value if the misconduct is committed by an authorized representative (Prokurist) or by an officer with full power of attorney
 - 2% of the net contract value if the gross misconduct is committed by other employees or subcontractors of the Contractor

but the minimum contractual penalty shall amount to EUR 5,000. This contractual penalty shall not affect the rights of the Client to claim damages resulting from the misconduct. However, in this case, the contractual penalty shall be offset against any such claims for damages. The above claims can be asserted until the final payment is made.

A contractual penalty in accordance with this provision shall be inapplicable if an act of gross misconduct within the meaning of Item **Fehler! Verweisquelle konnte nicht gefunden werden.** is committed by a subcontractor of the Contractor and the choice of this subcontractor was made obligatory by the Client, and/or if the Contractor or its employees, Board Members or Managing Directors, or other third parties working under its instruction, did not participate in committing this act of gross misconduct.

Cases of unlawful anticompetitive practices according to Item 1.3 and concurrent offenses according to Item 1.2 shall not be subject to the contractual penalty, which is governed conclusively by Item 1.3.

- 1.5 If an act of gross misconduct within the meaning of Item 1.2 is verifiably committed by an employee, Managing Director, or member of the Management Board of the Contractor,
- the Client shall be entitled to invoke extraordinary termination of the contract without notice,
 - the Contractor shall be debarred from competing for orders awarded by Deutsche Bahn AG and its Group companies for a period of up to five years, unless otherwise specified by law. If the Contractor can provide evidence of appropriate and sufficient self-corrective actions, the ban may not be implemented. The severity and the circumstances of the misconduct shall be taken into account.

The extent of the ban and the readmission to the competitive tendering process are governed by the Deutsche Bahn AG guidelines on the debarment of contractors and suppliers. These guidelines may be inspected at any time at the Client's premises.

- 1.6 The Contractor undertakes to actively contribute toward preventing gross misconduct within the meaning of Item 1.2 and investigating suspected misconduct, as well as to cooperate with the Client in this respect.

If the Contractor gains knowledge of facts that constitute a suspicion of gross misconduct within the meaning of Item 1.2 and that impact the Client, the Contractor is obliged to immediately notify the Client of such in writing. Furthermore, if such gross misconduct lies within the sphere of the Contractor, the Contractor is obliged to investigate the circumstances of the case without undue delay. If the suspicion is confirmed, the Contractor is obliged to take appropriate specific technical,



organizational and personnel measures to terminate the misconduct without delay and to prevent such misconduct in the future. The Contractor shall promptly inform the Client in writing on the progress and outcome of the investigation of the circumstances of the case and on any measures taken.

- 1.7 The Client and the Contractor shall each give their consent to the other party within the context of their contractual relationships for regular mutual checks of their information against the latest versions of the sanctions lists, including the European Union Consolidated Financial Sanctions List, the United Nations Security Council Consolidated List, the US Department of the Treasury's Office of Foreign Assets Control (OFAC) sanctions lists, the United Kingdom's Office of Financial Sanctions Implementation (OFSI) sanctions lists and the Swiss State Secretariat for Economic Affairs (SECO) sanctions list. When doing so, they shall observe all relevant provisions based on data protection law, especially with regard to data economy and data security.

The Contractor declares that its enterprise, its employees and all other natural or legal persons in which the Contractor has an indirect or direct majority interest (50% or more) or that are controlled by the Contractor in any other way, legally or actually, solely or jointly, are not included on any of the aforementioned sanctions lists. The Contractor undertakes to use appropriate measures to ensure that the requirements of current sanctions, in particular financial sanctions, embargoes and trade-control regulations of the European Union and its Member States, the United Nations, the United States, the United Kingdom and Switzerland are implemented in its enterprise's business operations. This also includes not entering into or maintaining any business relationships with natural persons, companies or organizations that are on one of the aforementioned sanctions lists or are owned or controlled by sanctioned persons, companies or organizations and not entering into any transactions with such natural persons, companies or organizations within the scope of and in connection with the execution of this agreement, as well as fulfilling the provisions of the agreement without the use of goods or services related to sanctioned goods that are subject to the aforementioned financial sanctions, embargoes and trade-control regulations of the European Union and its Member States, the United Nations, the United States, the United Kingdom and Switzerland.

Furthermore, the Contractor undertakes to disclose to the Client, in writing and without undue delay, any matches found during checks against the aforementioned sanctions lists as well as the fact that the Contractor or natural persons, companies or organizations owned or controlled by the Contractor has been added as a sanctioned natural person, company or organization. The assertion of claims for damages of any type (in particular, due to default or non-performance) and the assertion of other rights by the Contractor are excluded if these are associated with the Client's compliance with applicable sanctions. This shall not apply in the event that the Client is accused of intent or gross negligence. The Client shall be entitled to invoke extraordinary termination of the agreement in the event that the Contractor violates the applicable sanctions or the Contractor or natural persons, companies or organizations in which the Contractor holds an ownership interest or controls become sanctioned. Further claims shall remain unaffected by this. The Client is entitled to invoke extraordinary termination of the agreement if any matches are found during the aforementioned checks.

The arrangements and obligations of this Item 1.7 shall apply only to the extent that their stipulation or making or obtaining a declaration based thereon does not result in the Client or the Contractor violating Article 5 (1) of Council Regulation (EC) No. 2271/96, Section 7 of the German Foreign Trade and Payments Ordinance (*Außenwirtschaftsverordnung*, "AWV") or similar anti-boycott or non-discrimination regulations.

2 Collaboration, due diligence obligations in supply chains

- 2.1 Where required for the purposes of executing the contract, the Contractor shall agree on the key work steps of its services with the Client's contact person before execution begins and before final provision; the Contractor's responsibility for its services shall remain unaffected. The Contractor shall provide the Client with the required information about the status of contract fulfillment without special remuneration and shall, upon request, grant the Client access to its premises to view the documents relating to contract performance. Furthermore, it shall inform the Client about all circumstances relating to contract fulfillment where knowledge of these circumstances is necessary for the Client. The confidentiality interests of the Contractor must be taken into account.
- 2.2 The Contractor shall inform the Client of all details relating to contract fulfillment where knowledge of these details is necessary for the Client.
- 2.3 The contact person nominated by the Client for execution of the contract is authorized exclusively for functional collaboration with the Contractor. The contact person shall not be entitled to make any

declarations relating to the composition of the agreement (e.g. amendments, supplements, rescission or termination).

- 2.4 The contracting parties shall make reasonable efforts to comply with the human rights and environmental provisions of the agreed DB Code of Conduct for Business Partners.

3 Supply and performance periods, contractual penalty for delay

- 3.1 The contractually agreed performance dates or deadlines shall be binding for the Contractor. In the absence of any agreements to the contrary, the supply and/or performance period shall be five (5) working days from receipt of the order.
- 3.2 If the Contractor is in default with a delivery or service, or the service cannot be accepted on schedule due to defects, the Client shall be entitled to demand a contractual penalty from the Contractor in the amount of 0.3% of the order value of the delayed service per calendar day, but not more than 10% in total. The Contractor shall not be in default as long as the delivery/service is not provided due to a circumstance for which it is not responsible. Any contractual penalties paid shall be offset against claims for damages due to default. Sections 340 (1), 341 (3) and 343 of the German Civil Code (*Bürgerliches Gesetzbuch*, "BGB") shall not apply.
- 3.3 The Contractor is obliged to notify the Client in writing without undue delay if circumstances that could lead to non-compliance with the agreed dates and deadlines arise or become apparent. Furthermore, the Contractor is obliged to notify the Client of any circumstances preventing proper performance of the contract due to the failure of the Client to execute services or to execute them in conformity with the contract.

4 Supplies and services to be rendered by the Contractor

4.1 Type and scope of services

- a) The Contractor must perform its services in accordance with the terms of this contract and the generally accepted technical rules and standards.
- b) Any modifications to the SaaS solution ordered by the Client under this contract or in the future, including any purchased interfaces to peripheral systems, must be implemented by the Contractor ready for release so that no additional costs arise for the Client in the event of any changes to the release.
- c) If, prior to the commencement of specific services, the Contractor notices that documents provided by the Client, in particular the statement of work, or the Client's order for the execution of the contract is found to be incorrect, incomplete, objectively not feasible, ambiguous or uneconomical, the Contractor shall notify the Client with information on the ascertained implications in writing without undue delay once these issues are discovered.
- d) The Contractor shall ensure that the SaaS solution is operational for the entire duration of the contract and that its performance is free of defects and suitable for the contractually intended purpose. In the event of changes or further developments of the SaaS solution, the Contractor warrants that the Client shall not incur any additional charges.
- e) If a malfunction occurs in the SaaS solution and/or access to the SaaS solution is interrupted on grounds for which the Contractor is responsible during the performance period, the Contractor must introduce suitable measures to restore the contractual condition and operation of the SaaS solution and to ensure the availability, integrity and confidentiality of the data without undue delay.
- f) During the contract period, the Contractor shall provide an SaaS solution that is free of viruses, Trojans and other malware according to the state of the art at the time of performance of the contract.
- g) The Contractor is responsible for ensuring that unauthorized parties are not able to gain access to the data processed in the SaaS solution, and that the data cannot be lost, damaged or modified.
- h) The Contractor shall ensure that the SaaS solution does not have any undocumented or secret accesses or user accounts.
- i) The Contractor shall, at the request of the Client, release a copy of the Client's data stored by it in the SaaS solution at any time without undue delay. Taking into account the Client's wishes, the data shall be provided on a data carrier or by remote data transmission in the data format in which the data is stored on the data server, or, by way of derogation, in a data format agreed between the Contractor and the Client. The Contractor shall not be entitled to a right of retention and the

statutory security right of the lessor (Section 562 BGB) with regard to the Client's data.

- j) At the request of the Client, the Contractor shall prepare process documentation, which shall also include provisions for backing up data, protection against unauthorized access, checking data for viruses, installing firewalls, etc.
- k) In cases where license keys are required for the use of client software in relation to the SaaS solution, the Contractor shall be required to provide license keys to the Client for the duration of the respective individual contract. In the event that license keys pertain to specific computers or computer types, the Contractor shall be required to provide the Client with new license keys in the event of a change of machine or environment in compliance with the license, provided that the new license keys are required for the continued use of the software.
- l) The Contractor shall provide the services in accordance with the agreed quality and security standards (e.g. ISO standards), in particular DIN ISO 27001.

4.2 Rectification of defects

- a) In the case of defects, the Client shall be entitled to all statutory claims and rights.
- b) In the event of proven material defects, the Contractor shall assume liability through cure by providing the Client with a new, defect-free version of the service or fixing the defect.
- c) The urgency behind remedying the defect shall be determined by the degree to which use is hindered. The Client shall inform the Contractor accordingly.
- d) If the cure ultimately fails after expiration of a reasonable grace period set by the Client, the Client may, at its own discretion, terminate the contract for the service in question (in whole or in part) or reduce the service fee. The Contractor shall be required to pay damages or compensation for futile expenses incurred by the Client due to a defect within the limits set forth in this contract.
- e) The Contractor shall name a contact person to the Client to whom notices of faults/malfunctions and defects are to be addressed.

5 Service level and non-compliance with the agreed service quality

5.1 Service level agreement

- a) The Contractor warrants – irrespective of the other agreed requirements for the services – compliance with the agreed service levels in accordance with the service level agreement.
- b) In cases where no service levels are agreed for individual services, the Contractor shall be responsible for ensuring that the quality adheres to the quality that can be expected from a professional IT service provider at all times in relation to the services concerned. At the request of the Client, in the above case, the contracting parties shall negotiate the conclusion of further service levels in good faith.

5.2 Evaluation, reporting and consequences of non-compliance

- a) The Contractor shall evaluate compliance with the service levels on a regular basis in accordance with the service level agreement. Furthermore, the Contractor shall regularly report to the Client on compliance with the service levels in accordance with the contractual provisions, in particular the service level agreement. In the absence of any agreements to the contrary, reporting on compliance with service levels shall take place on a monthly basis.
- b) The service levels represent a qualitative concretization of the services to be provided by the Contractor and do not constitute a limitation to the Contractor's duty to provide services on a continuous basis. The Contractor shall be liable for culpable breaches of duty within the scope of the provision of services, irrespective of the achievement of the service levels.
- c) Whether the agreed service quality (response times and availability) has been met shall be determined as part of the reports to be issued by the Contractor. In cases where the Client is entitled to decrease the remuneration amount due to failure to adhere to the agreed response times or availability, the Contractor shall list this amount on the next invoice and reduce the SaaS flat rate fee due for the next period accordingly.
- d) If the contracting parties have agreed on financial compensation in the event of non-compliance with service levels, this shall not exclude any further rights of the Client, in particular the right to assert claims for damages. Any contractual

penalties paid shall be offset against claims for damages due to default. Sections 340 (1), 341 (3) and 343 BGB shall not apply.

6 Service refinements

- 6.1 The Contractor shall – at no additional cost to the Client – refine the service covered by the object of this contract and introduce new services within the scope of the performance object, methods, processes or technologies as well as improvements to the cooperation. Service refinements covered by the object of this contract shall not result in a price increase for the services in question. The prices for extra services or new services related to the contract object shall be agreed between the Client and the Contractor in accordance with the price and discount model applicable between the parties.
- 6.2 The Contractor shall be entitled to modify or update the content of the service catalog and the product/service description during the respective performance period, in particular to reflect changes in technologies, industry practices, usage patterns and the availability of third-party content; provided that
 - a) the specifications and requirements agreed elsewhere in this contract are complied with;
 - b) the services do not fall below the originally agreed service level.
 - c) In addition, the changes made by the Contractor to the product/service description (e.g. different licensing) must not result in an increase in the price paid by the Client for the respective service and extent of use prior to the change, or in other additional costs.
- 6.3 Any product/service description of the Contractor initially attached to this contract shall remain in force until amended. The Contractor shall notify the Client of any changes to the product description in text form at an appropriate time before the intended entry into force and shall indicate the changes made.

7 Assignment, offsetting

- 7.1 The Contractor shall not be permitted to assign its claims against the Client to a third party. Section 354a of the German Commercial Code (*Handelsgesetzbuch*, "HGB") shall remain unaffected.
- 7.2 The Contractor shall not be entitled to exercise any lien or other right of retention if this is based on counterclaims from other legal transactions with the Client.
- 7.3 The Contractor shall be entitled to offset its claims only against claims (including claims arising from other legal relationships) that are undisputed or that have been established as final and absolute by a court of law.
- 7.4 The Client shall be entitled to full rights of lien and offsetting.

8 Transfer of use, usage rights

- 8.1 At the time of provision, the Contractor shall grant the Client an irrevocable, non-exclusive and geographically unrestricted right to use the SaaS solution and any software provided under this contract without extra remuneration, including the documentation provided, limited to the duration of the agreed provision period. The Client shall be entitled to transfer the right of use to its affiliated enterprises. In addition, the Client shall be entitled to transfer the right of use to other Group companies ("Third Parties") within the scope of service agreements (e.g. outsourcing of Group-owned processes), provided that the use continues to be for the Client's own purposes or those of affiliated Group companies solely for the duration of the assignment.
- 8.2 The Client is entitled to use the SaaS solution for any purpose. Any client software provided may be used by the Client in any system environment and for all types of use, including as yet unknown future types of use. The Contractor must inform the Client and ordering party if there are any technical restrictions with regard to which system environment can be used.
- 8.3 If the Contractor's services contain the work results of third parties, the Contractor shall ensure that the Client is permitted to use these work results as described above. Item 9 shall apply in all other cases.
- 8.4 To the extent required for the purposes of the contract, the Client shall be entitled to reproduce client software provided under this contract along with its documentation. The legal regulations concerning the right of the Client to reproduce software remain unaffected.
- 8.5 All usage rights are included in the price or remuneration.
- 8.6 With respect to updates, upgrades, new versions and releases as well as adaptations, refinements and documentation, the Client shall receive the usage rights pursuant to Items 8.1 to 8.5.



9 Infringements of intellectual property rights

- 9.1 The goods/service provided by the Contractor must be free of third-party rights. If use in accordance with the contract is restricted or forbidden due to the infringement of third-party intellectual property rights, the Contractor is obliged, at its own choice, to either change the goods/service or replace it so that the property right infringement is eliminated but still complies with the contractual terms and conditions, or to obtain the usage right so that the goods/service can be used by the Client in accordance with the contract and without restriction or additional costs.
- 9.2 If the Contractor delivers updates, upgrades or a new version of the software to rectify defects of title, it shall demonstrate its functional capability to the Client at its own expense and shall deliver the associated documentation in the German language in electronic form.
- 9.3 At the first request, the Contractor shall release the Client from the claims that a third party asserts against the Client due to an infringement of property rights and, from the time of the first request, the Contractor shall handle the dispute with the third party, unless the Contractor is not responsible for the infringement of property rights. The Client shall support the Contractor here to the extent necessary. Any associated necessary and verified expenses shall be reimbursed by the Contractor. The Client is obliged to notify the Contractor in writing without undue delay if claims are asserted against the Client due to the infringement of intellectual property rights. The period of limitation for the right of indemnity shall be limited to a period of two years from the date on which the circumstances establishing this right become known to the Client or would have become known to it had it not acted in a grossly negligent manner. Otherwise, the right to indemnity shall lapse after ten years from the date of establishment, irrespective of the Client's knowledge or grossly negligent ignorance.
- 9.4 The statutory regulations regarding liability for defects shall apply in all other instances.

10 Liability for damages

- 10.1 The contracting parties shall be mutually liable for damages
- in case of intent or gross negligence, in the full amount, irrespective of the type of damage;
 - in case of infringement of duties essential to the agreement, in the full amount;
 - in case of minor negligence, as long as no material contractual duties are breached, to the amount of the typical foreseeable damage; this does not apply, however, to personal injuries and injuries to third parties for which liability is the full amount.
- 10.2 The above limitation of liability shall not apply to claims
- insofar as another arrangement is agreed in this contract including its contract components;
 - related to the integrity clause, in particular Item **Fehler! Verweisquelle konnte nicht gefunden werden.** and Item 1.4 (integrity clause) of this contract;
 - in connection with data protection violations;
 - arising from the Contractor's exemption obligations;
 - related to breaches of confidentiality provisions.

11 Liability insurance

- 11.1 The Contractor shall be obliged to take out liability insurance to cover its risks under the contract and must provide the Client with proof of this insurance cover at any time upon request. The Contractor's liability insurance must include, as a minimum, the following insured sums per incident:
- For personal injury and damage to property, plus any consequential damage EUR 2,500,000.00
 - For financial losses EUR 500,000.00
- 11.2 The above-mentioned coverage shall be provided at least twice per insurance year.

12 Rights to data

All values that have been recorded as a result of contract performance, as well as data and analyses directly based on these values, including all results of measurements and output of sensor devices and statistics, raw data, analysis data, electronic and/or written data, geodata, evaluation data, machine-generated data, such as operational and diagnostic data and statistics ("Industrial Data") – regardless of whether they have been collected by equipment (in particular, measuring devices) belonging to the Contractor or the Client – shall belong to the Client and may be used exclusively by the Client. "Industrial Data" refers to business secrets that are to be handled confidentially according to Item 13. All rights to Industrial Data shall belong exclusively to the

Client. The Contractor may collect, process and use Industrial Data only to the extent to which the Client granted its consent in writing in advance or to the extent necessary to perform the contractually owed services. Any further usage of Industrial Data or of knowledge developed based on Industrial Data on the part of the Contractor or the transfer of such to third parties shall require prior written consent from the Client.

13 Protection of trade secrets, confidentiality, data protection, return of documents

- 13.1 The contracting parties shall ensure that any persons they entrust with processing, performing or handling the contract comply with statutory privacy regulations and the German Trade Secrets Protection Act (*Gesetz zum Schutz von Geschäftsgeheimnissen*, "GeschGehG").

Additionally, the contracting parties shall keep confidential any information, documents, or items concerning personal data, operating secrets, or trade secrets obtained from the other contracting party's sphere and information that is labeled as confidential or is to be assessed as confidential for any other reason, regardless of whether the information has been communicated verbally, in writing, or, for example, digitally.

This obligation applies regardless of whether the information to be assessed as confidential has been labeled accordingly or is subject to technical or organizational protective measures. If the information to be exchanged does not meet the criteria of a trade secret in individual non-disclosure agreement according to GeschGehG, it shall still be subject to the duty of confidentiality in line with the intentions of the contracting parties, provided that it recognizably constitutes confidential information as far as the other contracting party is concerned.

- 13.2 The contracting parties shall refrain from disclosing the confidential information, take appropriate confidentiality measures to protect against unauthorized access, and refrain from passing information on to third parties without authorization or using it for purposes other than those that have been contractually agreed. Appropriate measures for ensuring confidentiality include using technical security measures that are in line with the state of the art (Article 32 of the General Data Protection Regulation (GDPR)) and obligating employees to maintain confidentiality and observe data protection measures in accordance with the GDPR. If the contracting party transferring the information has provided specifications for maintaining the confidentiality of particularly sensitive information based on different confidentiality levels, the other contracting party must maintain the information in line with these specifications. Each contracting party may request that the other contracting party provide information about or evidence of the nature and scope of its security measures. The duty of confidentiality does not apply to information or items that the receiving contracting party can prove (1) was/were generally known or readily available without violations, either wholly or in the format and combination provided, to persons who normally handle such information at the time of their transfer by the transferring contracting party; (2) is/are becoming publicly accessible at a later point without any breaches of the obligation to maintain confidentiality; or (3) was/were verifiably obtained by the receiving contracting party itself without the use of or reference to the confidential information of the other contracting party; or (4) was/were made known to the receiving contracting party from an authorized third party in a legal manner, without any violations of this obligation of secrecy.

If a contracting party is obliged to disclose some or all confidential information due to applicable legislation, court orders or official orders, the contracting party shall notify the owner of the confidential information of this in writing without undue delay and make all reasonable efforts to reduce the extent to which the information is disclosed to a minimum and, where necessary, provide the owner of the confidential information with any reasonable support required to obtain a protective order against the disclosure of all confidential information or parts thereof.

- 13.3 The contracting parties shall impose the same obligations on all persons – whether employees or third parties – that are entrusted with processing, performing or handling the contract at the time of the contract being formed or are entrusted with this occasionally as part of the collaboration. The contracting parties shall also provide evidence of this obligation on request to the other contracting party. Additionally, the contracting parties shall only disclose confidential information to those who rely on knowing the information for the contractually agreed purpose.
- 13.4 Transferring the information does not transfer any rights or licenses to the other contracting party, unless otherwise expressly specified in other contractual provisions. The Contractor shall in no way commercially use or imitate (particularly by means of reverse engineering) the confidential information for purposes outside of this agreement, nor shall it have the confidential information used or imitated by third parties for purposes outside of this agreement. Furthermore, it shall not



register any commercial intellectual property rights in relation to the confidential information – particularly brands, designs, patents, or utility models – where using the confidential information in this way does not conform to the intended purpose of the contract.

- 13.5 Each contracting party may terminate the contract without notice if the other contracting party is in breach of its obligations mentioned above. Claims for damages and any other claims or rights (according to GeschGehG, for example) shall remain unaffected. The obligations to maintain confidentiality shall remain in place for 5 (five) years after the contract has ended or been terminated.
- 13.6 The Contractor undertakes to treat all documents handed over to it by the Client confidentially and, after completion of the contract, to return them without undue delay or securely delete or destroy them if requested. The Contractor is not entitled to the right of lien in respect of these documents. Legal retention obligations shall remain unaffected.
- 13.7 If execution of a service by the Contractor is associated with activities for which, in the opinion of the Client, the conclusion of a commissioned data processing agreement within the meaning of Article 28 of the GDPR or any other privacy agreement is required, the Contractor is obliged to negotiate and conclude such a contract or agreement based on the standard sample contract of the Client or one of its affiliated enterprises without undue delay and with the required specific amendments in each case. In the case of services with a foreign element, the Contractor is obliged, at the request of the Client, to conclude a commissioned data processing agreement or other privacy agreement based on a sample contract specified by the Client.
- 13.8 Without prejudice to the provisions above, the Contractor may provide information about (partial) order values or (partial) prices to third parties only in cases that are strictly prescribed by law. The same applies to any communication of rounded or approximate figures, and to percentage comparisons with previous orders. Press releases and other communications regarding orders that have been issued are only permitted in consultation with the Client.

14 Termination for cause

- 14.1 The right to terminate without notice for cause shall remain unaffected. In particular, cause shall exist if a contracting party violates the agreement so severely that the other contracting party cannot reasonably engage in further collaboration. This may involve, for instance, a significant violation of the principles and requirements set out in the agreed Code of Conduct for Business Partners or multiple individual breaches of contract that exceed the limits of what is considered reasonable. If it is possible to remedy the breach of contract, the right to terminate without notice may only be exercised if a reasonable grace period lapses without rectification of the contractual breach.
- 14.2 The Client is also entitled to terminate the agreement without notice and without any further requirements if the ability to fulfill the contract correctly is put at risk due to the Contractor's financial situation significantly worsening. This applies in particular if (i) the Contractor ceases to pay its creditors on more than just a temporary basis, or (ii) no contractually agreed sureties have been issued, or (iii) insolvency proceedings have been rejected due to a lack of assets.
- 14.3 Notice of termination must be given in writing.

15 Remuneration, invoicing, terms of payment, settling of accounts

- 15.1 The Client shall pay the Contractor the SaaS flat rate fee agreed in the contract for the provision of the services.
- 15.2 If additional customizing services are ordered for the SaaS solution (one-off costs), the SaaS flat rate fee shall remain the same and be unaffected by this.
- 15.3 The Contractor shall invoice the Client the SaaS flat rate fee for the SaaS solution on an annual basis in arrears from the date on which the SaaS solution is provided. If the provision only takes place on a pro rata basis, the SaaS flat rate fee shall be invoiced pro rata for each day of provision.
- 15.4 The price does not include the Contractor's statutory value added tax (VAT). VAT shall only be paid if the Contractor is entitled and obliged by the relevant statutory regulations to charge VAT separately and only if the tax is itemized separately in the invoice.
- 15.5 If the Client is legally obliged to pay German taxes on the contractual remuneration as a liable party directly to the Federal Central Tax Office (withholding tax for withholding taxes and reunification surtax pursuant to Section 50 a of the German Income Tax Act (*Einkommenssteuergesetz*)), the respective amount shall be withheld from the remuneration claim and paid to the Federal Central Tax Office. The withholding tax and reunification surtax shall be borne by the Contractor. The Contractor shall retain the option of applying to the German Federal Central Tax Office to be discharged from this withholding tax regulation in

accordance with the provisions of the double tax treaty (application for exemption).

- 15.6 The Contractor shall comply with the specifications of Deutsche Bahn AG when invoicing. They can be found in the supplier portal (under Supplier Portal/Info/Invoicing) <http://deutschebahn.com/rechnungsstellung> or can be requested from the Client at any time.
- 15.7 The remuneration due shall be paid within 21 calendar days (subject to a 3% discount) or 30 days net after receipt of the invoice by the Client's invoice receipt office. Payment must be made by bank transfer. Compliance with the payment period by the Client shall be determined by the date of receipt of the transfer order by the Client's bank.
- 15.8 If advance payments or installment payments have been agreed, the period allowed for payment shall begin on the agreed payment date if the invoice has been received on time by the contractually specified invoice recipient and the agreed collateral has been provided.
- 15.9 The Contractor hereby undertakes to provide the Client (or its representative), at the Client's request, with a list of the open items due to the Client and/or one or more of the companies appointed by the Client and affiliated with the Client as per Section 15 of the German Stock Corporation Act (*Aktiengesetz*, "AktG") (collectively: DB companies) in relation to all business relationships within a reasonable period of time in order to settle the accounts. The itemization shall include at least all outstanding invoices, credit notes, uncleared payments, overpayments, items posted to an interim account and any other items relating to the Client and/or the DB companies designated by the Client.

16 Post-contractual obligations

- 16.1 The Client may require the Contractor to continue the services under the terms of the contract for up to six (6) months despite the termination of the contract – irrespective of the legal grounds – in order to enable the Client to transfer the processes and data processing enabled by the services to itself or another service provider ("Termination Period"). The request must be made in writing no later than one month before termination or, in the event of termination for cause, within two weeks of termination. In the event of termination of the contract by the Contractor for cause due to default by the Client, the Contractor may demand that the remuneration for the Termination Period be paid in advance. Furthermore, the Contractor may refuse to provide the services during the Termination Period if it has justifiably terminated the contract with the Client for cause and it is unreasonable to expect the Contractor to continue providing the services.
- 16.2 At the request of the Client, and in return for an appropriate fee, the Contractor shall provide comprehensive support to the Client, a company affiliated with the Client and, if applicable, the third party appointed by the Client with regard to the transfer of the contractual services. The Contractor shall provide all information required.
- 16.3 Upon termination of the contract, the Contractor shall return all documents, receipts, data carriers and the data of the Client to the Client in an accessible and readable electronic format, with original copies of archived receipts, or irretrievably delete/destroy them after a corresponding written request from the Client. Statutory retention periods to which the Contractor is subject shall remain unaffected.

17 Form, severability clause, applicable law, place of jurisdiction, language

- 17.1 There are no additional agreements to the contract unless the individual contract makes explicit reference to additional agreements. In order to preserve evidence, changes or additions to this contract – including this clause – must be agreed in the form of the contract of which these General Contractual Terms and Conditions are an integral part.
- 17.2 Should any individual provisions of the contract be or become void, the remainder of the contract shall remain unaffected. The void provision shall be replaced by the relevant statutory regulation.
- 17.3 The contract and any claims resulting from it shall be subject to German law only, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.
- 17.4 If the conditions for a venue clause exist, the legal venue shall be the place at which the Client has its registered office. However, the Client is also entitled to invoke the courts at the place where the Contractor has its registered office.
- 17.5 Only the German version of this contract is valid and legally enforceable. Unless otherwise expressly agreed in the contract, all documents shall be created in the German language, and all statements shall be issued in the German language.

18 Transfer clause

The Client is entitled to transfer its rights and duties under the Agreement to its affiliated Group companies without requiring the consent of the Contractor. The regulations concerning the transferability of usage



rights, the legal provisions for the transfer of claims and the obligation in accordance with Item 13.4 of this contract shall remain unaffected.

19 Upper limit for contractual penalties

Unless otherwise agreed, the total of all contractual penalties claimed from an individual contract may not exceed 10% of the agreed remuneration. The assertion of a contractual penalty in accordance with Item **Fehler! Verweisquelle konnte nicht gefunden werden.** and Item 1.4 (integrity clause) and of claims for damages, independent of the legal basis, shall remain unaffected.

