



## General Contract Terms and Conditions of Deutsche Bahn AG and its Affiliated Companies for the purchase of IT/telecommunications systems

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### 1 General provisions and integrity clause

- 1.1 These Terms and Conditions of Purchase of the Client shall apply exclusively. Any contradictory, supplementary or divergent terms and conditions specified by the Contractor shall form a component part 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 Terms and Conditions of Purchase 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 Terms and Conditions of Purchase of the Client.
- 1.2 Within the framework of the contractual relationship, the contracting parties agree to take all necessary measures to prevent corruption, other criminal offenses and 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
- a) serious offenses that have been committed in the course of business. These include criminal offenses that involve, in particular, fraud, abuse of trust, document forgery or similar offenses,
  - b) 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 to Management Board members, managing directors or other employees of Deutsche Bahn AG or its Group companies (bribery in business conduct),
  - c) 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 or project control officers,
  - d) 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,
  - e) 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,
  - f) Any violation of regulations designed to protect unimpeded competition, in particular violations of hardcore antitrust restrictions in accordance with Article 101 of the Treaty on the Functioning of the European Union and Section 1 of the German Competition Act (Gesetz gegen Wettbewerbsbeschränkungen, "GWB") (price, bidding, quantity, quota, customer allocation and territorial agreements),
  - g) Any violation of economic sanctions or the circumvention of European Union sanctions or of other applicable national, European and international embargo or trade-control regulations, and
  - h) other serious offenses or gross misconduct. These include criminal acts, in particular terrorist

offenses, involvement in a criminal organization, money laundering, and 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 employees, managing directors or Management Board members of the Deutsche Bahn Group are offered, promised or granted undue advantage, and if specific assistance with design and tendering is provided in order to subvert competition.

- 1.3 If, at the time of the contract award, the Contractor or persons appointed by it or acting on its 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 violation. 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 board member of the Contractor, or of any subcontractor appointed by 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 it is not responsible for the violation. The penalty shall amount to

- a) 7% of the net contract value if the gross misconduct was committed by a managing director or board member of the Contractor, or
- b) 5% of the net contract value if the gross misconduct was committed by an agent holding full power of attorney or an authorized representative, or
- c) 2% of the net contract value if the gross misconduct was 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 for misconduct. However, in this case, the contractual penalty shall be offset against any such claims for damages. It shall be possible to assert such claims 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 1.2 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 restriction of competition according to Item 1.3 and concurrent acts of gross misconduct according to Item 1.2 (whereby the same offender commits several separate acts of gross misconduct punishable under criminal law or whereby one and the same act of gross misconduct is an offense against several different statutory provisions) shall not be subject to the contractual penalty. Item 1.3 shall apply conclusively in this regard.

- 1.5 If an act of gross misconduct within the meaning of Item 1.2 is verifiably committed by an employee, managing director or board member of the Contractor,

- a) the Client shall be entitled to invoke extraordinary termination of the contract without notice,
- b) the Contractor can 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 does not have to be enforced. 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 barring contractors and suppliers. These guidelines may be inspected at any time at the Client's premises.



- 1.6 The Contractor undertakes to assist actively with the prevention of gross misconduct within the meaning of Item 1.2 and the investigation of suspected gross 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 impact on the Client, the Contractor is obliged to notify the Client of such in writing (*Textform*) without undue delay. 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 undue delay and to prevent such misconduct in the future. The Contractor shall promptly inform the Client in writing (*Textform*) 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 company, its employees and all other natural or legal persons which have an indirect or direct majority interest (50% or more) in the Contractor or which control 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 company's business operations. This also includes not entering into or maintaining any business relationships with natural persons, companies or organizations that are included 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 contract, as well as fulfilling the order without the use of goods or services related to sanctioned goods that are subject to the aforementioned financial sanctions, embargo measures and foreign trade regulations of the European Union and its Member States, the United Nations, the USA, the United Kingdom and Switzerland.

Furthermore, the Contractor undertakes to disclose to the Client in writing (*Textform*) without undue delay any positive results found during checks against the aforementioned sanctions lists, as well as any instance by which the Contractor or natural persons, companies or organizations which own or control the Contractor become 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 does not apply in the event that the Client is accused of intent or gross negligence. The Client shall be entitled to terminate the contract without notice in the event that the Contractor violates the applicable sanctions or the Contractor or natural persons, companies or organizations which own or control the Contractor, become sanctioned. Further claims shall remain unaffected by this. The Client is entitled to invoke extraordinary termination of the contract if any matches are found during the aforementioned checks.

The rules and obligations of this Item 1.7 shall apply only to the extent that their arrangement or the making or obtaining of 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 Documentation

The Contractor is obliged to deliver the complete documentation in German together with the IT/telecommunications system. The hardware documentation includes all documents required for

operation, maintenance and revision. The software documentation includes the user manual, product information and the installation manual.

## 3 Service execution, provisions, supply chain due diligence obligations

- 3.1 The Contractor shall provide the Client with the necessary information on the contract fulfillment without special remuneration, shall grant the Client access to its documents relating to contract performance at its business premises upon request and shall inform the Client of all circumstances relating to contract performance that are necessary for the Client to know. The confidentiality interests of the Contractor must be taken into account.
- 3.2 The Contractor is responsible for the functional interaction of all services that the Contractor provides as a system.
- 3.3 The delivery and installation/commissioning engineer of the system, together with any agreed software customization services, form a single legal service.
- 3.4 The Contractor must perform its services in accordance with the terms of this Contract and the generally accepted technical rules and standards applicable at the time the contract is executed. The Contractor shall take technical developments into account in the execution of the contract and inform the Client in good time of any expedient changes.
- 3.5 The Contractor is obliged to inform itself about the respective system environment (hardware and software) of the Client before performing its services and to provide only system-compatible services.
- 3.6 The Contractor undertakes to purchase the IT/telecommunications technology intended for decommissioning by the Client at the Client's request, provided that an agreement is reached between the contracting parties on the purchase price.
- 3.7 Free issue materials shall remain the property of the Client and must be stored separately, labeled and managed at no charge. They may be used only for the purposes of the contract in question.
- 3.8 The Contractor warrants that its service will not contain any AI systems or AI models within the meaning of the EU Artificial Intelligence Act without the prior consent of the Client in writing.
- 3.9 The contracting parties shall make reasonable efforts to comply with the human rights and environmental provisions of the agreed code of conduct.

## 4 Notification of reservations, notification of obstructions, force majeure

- 4.1 The Contractor shall notify the Client in writing without undue delay of any reservations it may have about executing the goods/services in the manner requested by the Client or if the Contractor believes that it is being obstructed by a third party or by the Client from executing the goods/services.
- 4.2 If the execution deadline is exceeded as a result of force majeure, the Client may request that the Contractor execute the goods/services at a later point under the terms and conditions originally agreed, or the Client may withdraw from or terminate the contract in whole or in part after a reasonable grace period has elapsed.

## 5 Cooperation on the part of the Client

- 5.1 Insofar as on-site deployment is required for the provision of the services, the Client shall grant the Contractor the opportunity to perform the services in terms of space and time after prior consultation. The Client shall provide the Contractor with all necessary and reasonable support during the preparation and performance of the services; this shall not affect the Contractor's responsibility for the services it has assumed.
- 5.2 The Client is responsible for backing up its programs and data before the installation/commissioning of the systems begins. The Client may commission the Contractor with data backup against payment of a fee.
- 5.3 The Client shall, free of charge, provide the Contractor with all facilities required to carry out work on site.

## 6 Place of performance

The place of performance shall be the Client's receiving location specified in the contract.

## 7 Delivery, acceptance, transfer of risk, transfer of ownership

- 7.1 Insofar as the Contractor is not responsible for installation or making the goods operational, the Client shall confirm delivery of the delivery item at the place of receipt by confirming receipt on the delivery note.



The client's inspection period pursuant to Section 377 (1) of the German Commercial Code (HGB) shall not begin until the delivery item has been installed and commissioned, which must take place within a reasonable period of time. The client must give notice of recognizable defects within 14 calendar days.

If the Contractor installs the system and/or establishes its functionality, the Client shall carry out an acceptance test. Unless otherwise agreed in the contract, the Client is obliged to declare acceptance within 14 calendar days or to refuse acceptance with good reason. If the Client neither confirms nor refuses acceptance within the aforementioned period, the service shall be deemed to have been accepted. The service shall also be deemed to have been accepted if it is used productively and without reservation by the Client.

- 7.2 If agreed items of work are accepted, acceptance shall be restricted to the relevant partial service. Upon acceptance of the final partial service, the overall service shall be accepted by testing the ability of all partial services to interact with one another.
- 7.3 Risk shall transfer to the Client when confirmation of receipt is provided at the point of handover or upon acceptance.
- 7.4 Ownership shall transfer to the Client when confirmation of receipt is provided at the point of handover or upon acceptance.
- 7.5 If, following confirmation of receipt at the point of handover or on the acceptance date, the contractual service or parts of the contractual service is/are rejected as not having been executed in line with the contract, the Contractor shall undertake to take back the service/part of the service at its own expense without undue delay. Once a reasonable grace period has elapsed, the Client shall be entitled to return the contractual service/part of the service to the Contractor at the Contractor's expense. In such cases, risk shall not transfer to the Client before either confirmation of receipt at the point of handover or acceptance takes place once again.
- 7.6 The contractual service or parts of the contractual service that is/are once again to be handed over at the receiving location in return for confirmation of receipt, or accepted, or the items that are to be supplied as replacements, must be supplied by the Contractor to the Client's receiving location once again at the Contractor's own expense and risk.
- 7.7 The Client shall notify the Contractor in writing of any defects identified during acceptance. The right to rectification of defects that have been reported but not yet rectified by the time of acceptance remains reserved, even if this is not declared again at the time of acceptance.

## 8 Assignment of claims, offsetting

- 8.1 The Contractor shall not be permitted to assign its claims against the Client to third parties. Section 354a of the German Commercial Code (Handelsgesetzbuch, "HGB") remains unaffected.
- 8.2 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.
- 8.3 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.
- 8.4 The Client shall be entitled to full rights of lien and offsetting.

## 9 Rights of use

- 9.1 The Contractor shall grant the Client the irrevocable, transferable, non-exclusive, geographically unrestricted right of use in rem to the operating software and documentation in perpetuity without special remuneration at the time of its transfer.
- 9.2 The Client is entitled to make the software available on the Group's own intranet and to reproduce the software and documentation insofar as this is necessary for the purposes of the contract. The legal regulations concerning the right of the Client to reproduce software remain unaffected. Furthermore, the client is prohibited from reproducing the software.
- 9.3 Insofar as the software contains preexisting rights and/or industrial data (Item 9.6) belonging to third parties, the Contractor warrants that the Client may use these rights and non-industrial data as elucidated above.
- 9.4 The client may use the hardware documentation throughout the group for operation, maintenance, conversion, expansion, training and purchasing and reproduce it for these purposes.
- 9.5 The Contractor shall not use any open-source components that trigger a copyleft effect during contract performance. Any usage of open-source software by the Contractor to provide the contractual

services shall require prior written consent from the Client, and it shall relate specifically to certain open-source license conditions.

- 9.6 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 11. All rights to Industrial Data 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 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.
- 9.7 The above provisions shall continue to apply after termination of the contractual relationship.

## 10 Claims for defects

- 10.1 Statutory provisions apply to defect claims asserted by the Client, with the following stipulations:
  - a) The Contractor shall remain responsible for its goods/services and providing them without defects even in cases where the Client has signed, approved, stamped or labeled as "seen" or similar the plans, drawings, calculations and other contract-related documents provided by the Contractor.
  - b) The Client may grant the Contractor a reasonable deadline for removing a defective item. Once this deadline has elapsed, the Client may dispose of the item provided under the contractual service without damaging the economic interests of the Contractor at the Contractor's expense, for example, by selling it.
  - c) The limitation period in which rights and claims arising from defects may be asserted shall be 24 months unless the law specifies a longer period. The period begins upon acceptance. If the system is not installed/commissioned by the Contractor, the limitation period shall commence upon delivery. The period of limitation shall be extended by the time during which the defective goods/services cannot be used as intended due to the defect.
  - d) The limitation on defect claims shall also be suspended if the Contractor checks for the presence of a defect itself. The suspension on the limitation shall not end until the Contractor notifies the Client in writing that negotiation has ended, or the result of the check is sent to the Client, or the Contractor refuses in writing to continue rectifying the defect. If negotiations, checks or attempts to rectify the defect are resumed, the limitation shall be suspended once again.
- 10.2 The Contractor shall be obliged to remedy notified defects without delay on the basis of statutory liability for defects. If the Contractor falls behind with rectification of the defects, Item 15.2 shall apply accordingly.

## 11 Intellectual property right infringements

- 11.1 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 expense and at its own choice, to either change the service or replace it so that the property right infringement is eliminated but the contractual terms and conditions are still complied with, or to obtain the usage right so that the service can be used by the Client in accordance with the contract and without restriction or additional costs.
- 11.2 If the Contractor delivers updates, upgrades or a new version of the software to remedy defects of title, it must ensure that the software is functional at the Client's premises at its own expense and deliver the associated documentation in German and in electronic form.
- 11.3 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 intellectual 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 intellectual property rights. The Client shall support the Contractor here to the extent necessary. The Contractor shall reimburse the



- Client for any necessary expenses incurred in this regard. The Client is obliged to notify the Contractor immediately in writing if claims are asserted against it due to the infringement of property rights. The limitation period for the indemnification claim is two years from the date of knowledge or grossly negligent ignorance on the part of the client of the circumstances giving rise to the claim. Otherwise, the right of indemnity shall lapse after a period of ten years from the date of establishment of this right, irrespective of the Client's knowledge or grossly negligent ignorance.
- 11.4 In all other respects, statutory regulations regarding the liability for defects shall apply.
- 12 Protection against the misappropriation of trade secrets, confidentiality, data protection, return of documents**
- 12.1 The contracting parties shall ensure that any persons they entrust with processing, performance of or handling the contract comply with statutory privacy regulations and the German Federal Trade Secrets Act (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, as well as any 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 in any other way, such as digitally.
- This obligation applies regardless of whether the information that is 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 cases according to the 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.
- 12.2 The contracting parties shall refrain from disclosing the confidential information, take appropriate non-disclosure measures to protect against unauthorized access, and refrain from passing information on to third parties without authorization or using it for purposes other than what has 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 is able to 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; (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 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 protection order against the disclosure of all confidential information or parts thereof.
- 12.3 The contracting parties shall impose the same obligations on all persons – whether they are employees or third parties – that were 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 collaboration. The contracting parties shall also provide evidence of this obligation to the other contracting party on request. Additionally, the contracting parties shall only disclose confidential information to those persons who are reliant on knowing the information for the contractually agreed purpose.
- 12.4 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.
- 12.5 Each contracting party may terminate the contract without notice if the other contracting party is in breach of its aforementioned obligations. Claims for damage compensation and any other claims or rights (according to the GeschGehG, for example) shall remain unaffected. The obligations to maintain confidentiality shall remain in place for a further five (5) years after the contract has come to an end or has been terminated.
- 12.6 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 requirements shall remain unaffected hereby.
- 12.7 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 companies 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 an order data processing contract or any other privacy agreement based on a sample contract specified by the Client.
- 12.8 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.
- 13 Termination for cause**
- 13.1 The right to extraordinary termination for cause without notice shall remain unaffected. In particular, cause exists in cases where a contracting party violates the contract so severely that the other contracting party is unable to reasonably engage in any further collaboration. This may involve, for instance, a significant infringement of the principles and requirements set out in the agreed code of conduct, or multiple individual contractual violations 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 the grace period lapses without rectification of the contractual breach.
- 13.2 The Client is also entitled to extraordinary termination of the contract without notice and without any further preconditions 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.
- 13.3 Notice of termination must be given in writing (*Textform*).
- 14 Spare parts**
- 14.1 The Contractor undertakes to ensure the supply of functionally compatible spare parts at reasonable prices and conditions or the availability of these spare parts for a contractually agreed period. "Reasonable" means that the price at the time of the order may not be more than 3% above the usual market price. The Contractor's obligation to supply spare parts can also be fulfilled in the case of a production task, including that of a subcontractor, by promptly naming a replacement supplier or a substitute product for the purchase of the parts at comparable reasonable conditions to the Client. Substitute products must be state-of-the-art and fully compatible with all components of the system.



- 14.2 In special cases where technical replacement solutions or replacement suppliers have to be found, e.g. in the event of a subcontractor ceasing production or becoming insolvent or restrictions in the availability of spare parts due to discontinuation by the manufacturer, the resulting consequences with regard to security of supply must be agreed with the Client as soon as possible.
- 14.3 The Contractor shall name its own or its subcontractors' sources of supply (final manufacturers) for the spare parts. The client is entitled to procure the required spare parts directly from the subcontractors or final manufacturers. The Contractor shall not prevent or hinder its subcontractors from supplying the Client directly with these spare parts under their own conditions. If the subcontractor is not the final manufacturer of a spare part, this obligation must be ensured throughout the entire "subcontractor chain".
- 15 Delivery/performance time, penalty for delay**
- 15.1 The delivery/performance dates and deadlines specified for the Contractor in the contract are binding.
- 15.2 In case of delay on the part of the Contractor with regard to a goods or obligation to render services, or if the service cannot be accepted on time due to defects, the Client shall be entitled to impose a contractual penalty amounting to 0.3% of the contract value of the delayed service for each calendar day, but not exceeding a total of 10%. The Contractor shall not be in default as long as failure to provide the delivery/service is due to circumstances for which it is not responsible. A paid contractual penalty shall be offset against damage claims for delay. The Client reserves the right to claim the contractual penalty until final payment. These provisions also apply if the on-time work is not accepted due to defects.
- 15.3 The Contractor is obliged to notify the Client in writing (*Textform*) 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.
- 16 Remuneration, invoice, payment**
- 16.1 The price specified in the contract is a fixed price and includes packaging and transportation.
- The remuneration shall cover all services to be provided by the Contractor under the contract as well as all ancillary services of the Contractor, in particular packaging, delivery (subject to Item 7.1), installation and the provision of functionality. Furthermore, rights of use, travel costs, expenses, costs for transportation and insurance etc. are compensated with the rental charge. Section 313 of the BGB remains unaffected.
- 16.2 The remuneration does not include the Contractor's statutory VAT. VAT is paid only if the Contractor is entitled and obliged, pursuant to the relevant legal regulations, to charge the tax, separately, and if the tax is indicated separately in the invoice.
- 16.3 The Contractor shall comply with the specifications of Deutsche Bahn AG when invoicing. They can be found in the supplier portal (<https://lieferanten.deutschebahn.com/supplier/Existing-suppliers/Invoicing>) or can be requested from the Client at any time.
- 16.4 The remuneration due and enforceable is to be paid within 21 calendar days subject to a 3% discount or 30 days net after receipt of a verifiable invoice by the Client's invoice receipt office. Section 353 of the German Commercial Code (*Handelsgesetzbuch*, "HGB") does not apply here. Payment shall be made by bank transfer to the Contractor's account specified in the invoice. 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. If advance payments or installment payments have been agreed, the payment period 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.
- 17 Form, severability clause, applicable law, place of jurisdiction, language**
- 17.1 There are no ancillary agreements to the contract unless the individual contract makes explicit reference to ancillary agreements. Any amendments or additions to the contract - including this clause - shall be agreed in writing (*Textform*) for the purposes of verification. Each party may subsequently request certification in written or electronic form. The use of an advanced electronic signature is sufficient for compliance with the electronic form.
- 17.2 Should any individual provisions of this 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 German law applies exclusively to this contract and the claims arising from it to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- 17.4 The place of jurisdiction is the place where the Client has its registered office. In the case of framework contracts, this responsibility shall also apply to disputes relating to individual requisitions, irrespective of which place is making the requisition. 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. All documents shall be created in German and all statements shall be issued in German.
- 18 Transfer clause**
- The Client is entitled to transfer its rights and duties under the contract to its affiliated group companies without requiring the consent of the Contractor. The provisions concerning the transferability of usage rights, the legal provisions for the transfer of claims and the obligation in accordance with Item 12.7 of this contract shall remain unaffected.
- 19 Overall limit of contractual penalty**
- 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 Items 1.4 and 1.5 (integrity clause) and of claims for damages, independent of the legal basis, shall remain unaffected.

