

SEPARATE CONDITIONS OF GPC-IT

– SOFTWARE –

1. SCOPE

- 1.1 These separate conditions of GPC-IT ("**GPC-IT SW**") apply to the temporary or permanent transfer of standard Software "**Software**") and the provision of Software as a service by the Contractor in the respective current version applicable at the time of conclusion of the contract with the general conditions of GPC-IT as a standard contractual component.
- 1.2 The respective version of the GPC-IT shall apply without requiring a new reference to all future Services from the Contractor. The respective version is available on the DEKRA website <https://www.dekra.com/en/it-procurement>. Upon request, the respective applicable IT-GPCs can also be posted.

2. GENERAL SERVICE OBLIGATIONS, QUALITY AND ORGANIZATION OF THE SERVICES

- 2.1 **Documentation.** Unless agreed otherwise, Documentation and instructions must be provided in German form if the Software is destined for German-speaking countries, otherwise in English.
- 2.2 **Quality and certification** Software is certified to the required extent and it must correspond to the latest state of technology. The Software has been checked by the Contractor in advance for freedom from viruses, Trojans and other malware. The Contractor guarantees that the check did not result in any evidence of such malware. The Software does not contain any copying or use blocks.
- 2.3 **Integration and test operation.** The Contractor shall instruct and support DEKRA, insofar as this is necessary for a test and sample operation or in order to use the Software. Insofar as this is contractually agreed, Software shall be supplied and transferred to DEKRA ready for use. In order to achieve readiness for use, the Contractor shall install, configure and integrate the Software. DEKRA shall then perform a release check. Release shall be performed in accordance with the statutory provisions and the conditions of acceptance below, unless expressly agreed otherwise:
 - 2.3.1 Defects identified during the release review shall be divided into the following error classes:
 - (a) Error class 1: The defect leads to the Software or an important part thereof not being usable for DEKRA

- (b) Error class 2: The defect causes considerable restrictions to important functions
- (c) Error class 3: Other defect

2.3.2 DEKRA is only required to declare release if the Software has been installed, configured and integrated in accordance with the contract. For this, DEKRA shall provide a testing period of at least 10 work days from receipt of the Software.

- 2.4 **Delivery date and location.** Software shall be supplied at the agreed location on the agreed date in a condition in the object code ready for launch or, at DEKRA's choice, shall be provided in an appropriate way for downloading.
- 2.5 If the contractual item is the provision of Software as a service, DEKRA shall be granted a possible use in the agreed way. Agreed deadlines and periods are binding unless agreed otherwise.
- 2.6 Unless agreed otherwise by the parties, DEKRA shall be granted unrestricted rights of use to the Software.

3. RIGHTS OF USE

- 3.1 Unless agreed otherwise, upon delivery or provision of the Software, the Contractor shall grant to DEKRA and the DEKRA Affiliated Companies as defined in sections 15 et.seq. AktG a non-exclusive, irrevocable transferable right of use to the Software unrestricted in terms of time, location and content. This shall apply respectively to patches, updates, upgrades and new versions of the Software and the accompanying Documentation provided by the Contractor.
- 3.2 DEKRA reserves the right to reproduce the Software at least to the extent necessary for the correct use, and to use and allow the use of the Software by and form DEKRA Affiliated Companies as defined in sections 15 et.seq. AktG. DEKRA reserves the right to produce copies of the Software for backup purposes.
- 3.3 With regard to the limited transfer of Software, the above rights shall apply for the duration of the contractual term. If the Contractor provides Software as a service, DEKRA reserves the right to the above extent to access the Software for the duration of the contractual term by means of telecommunications and to use or allow the use of the functionalities associated with the Software.
- 3.4 The Contractor shall immediately inform DEKRA in writing, citing the applicable licenses and transfer of the license conditions, if so-called "Free Software" or "Open Source Software" ("**OSS**") is to be used in the solution. Without prior written consent from DEKRA, the Contractor does not have the right to use OSS in the fulfillment of

the contract. The use of OSS without the prior written consent of DEKRA is deemed as a material contractual breach of duty and represents a service defect.

- 3.5 DEKRA also reserves the right after the end of the right of use to retain and use a copy of the Software and the accompanying Documentation for audit and archiving purposes.

4. CHANGES TO SOFTWARE

- 4.1 **General information.** If the Contractor changes Software, which DEKRA uses, the Contractor shall immediately inform DEKRA of these changes in writing.

4.1.1 DEKRA is not required to install updates, upgrades or new versions of the Software from the Contractor if this is unreasonable for DEKRA, in particular due to costs incurred by DEKRA or due to technical conversion risks as a result.

4.1.2 DEKRA reserves the right to reject the installation of updates, upgrades or new versions of the Software if this has significantly different functionalities and compatibilities compared to the replaced part of the Software.

- 4.2 DEKRA reserves the right to edit the Software or have it edited in order to adjust the Software to the altered technical and legal requirements. Edits by third parties, which are not DEKRA Affiliated Companies as defined in sections 15 et.seq. AktG, require the consent of the Contractor; the Contractor shall grant consent if it does not offer the required edits itself at usual market rates. DEKRA's statutory rights of edit shall remain unaffected; this shall apply in particular to the rights in sections 69d no. 2 and 69e UrhG.

- 4.3 **Additional conditions relating to the limited transfer of Software and the provision of Software as service.** The Contractor shall ensure the continuous further development of the Software and shall provide DEKRA with updates, upgrades and new versions of the Software. It shall provide DEKRA with an update, upgrade or a new version of the Software at regular intervals, but at least once a year.

- 4.4 The Contractor shall adjust the Software to altered statutory conditions, insofar as the Software cannot be used or can only be used with restrictions under the altered statutory conditions.

5. REMUNERATION

- 5.1 Agreed remuneration apply for the term of the contract. An automatic increase in the remuneration or a unilateral increase in remuneration by the Contractor is not permitted.

- 5.2 All services according to no. 2 to 4 of this GPC-IT SW are included in the agreed remuneration and shall not be remunerated separately. The remuneration is divided by the individual programs contained in the service description. The remuneration shall also include the costs for data carriers and shipping.
- 5.3 If the duty to pay starts or ends during a calendar month, the remuneration shall amount to one thirtieth of the monthly remuneration per calendar day.

6. GUARANTEE AND LIABILITY

- 6.1 **General information.** The statutory provisions shall apply without restriction to the rights and claims of DEKRA in the case of material or legal defects relating to the service and in the case of other breaches of duty by the Contractor.
- 6.2 As a short-term measure, a replacement solution or work-around can be provided as a temporary correction or avoidance of the effects of a defect. However, this does not represent a final remedy.
- 6.3 The Contractor shall immediately correct defects during the guarantee period – and, for limited transfer of Software and the provision of Software as a service, during the term of the contract – taking into account the interests of DEKRA.
- 6.4 **Legal defects.** If third parties assert claims against DEKRA for breach of commercial property rights or copyrights (hereinafter: "**third-party rights**") through the use of the Software, and if their use is impaired or prevented as a result, the Contractor shall be liable as follows:
- 6.4.1 The Contractor shall choose at its own cost either to procure the required rights of use or shall change or replace the Software so that it no longer breaches the third-party rights but still corresponds to the contractually owed Software. If this is not possible for the Contractor, upon request from DEKRA it shall collect the Software and refund the remuneration paid, minus an amount that takes into account the time of use.
- 6.4.2 In addition, the Contractor shall indemnify DEKRA from all third-party claims and asserted claims by third parties due to the breach of third-party rights.
- 6.4.3 Prerequisites for the Contractor's liability are that
- (a) DEKRA shall inform the Contractor of third-party claims
 - (b) The claimed breach of third-party rights is not acknowledged, and
 - (c) Any dispute, including any out-of-court settlements, shall be the responsibility of the Contractor or shall only be managed in cooperation with the Contractor.

6.4.4 Court and legal costs incurred by DEKRA as a result of the legal defense shall be charged to the Contractor.

6.4.5 If DEKRA itself is responsible for the breach of property rights, claims against the Contractor are ruled out.

7. PRODUCT LIABILITY

7.1 Insofar as the Contractor is responsible for damage on the basis of product liability, it shall indemnify DEKRA from any third-party claims for compensation.

7.2 In addition, the Contractor shall reimburse DEKRA for all costs and expenditure incurred by DEKRA in this context, in particular in conjunction with recall campaigns. DEKRA shall inform the Contractor of the type and extent of recall campaigns, where possible and reasonable.

7.3 DEKRA reserves the right to assert further claims.

8. EXPORTS

8.1 The Contractor shall comply with all export provisions applicable in conjunction with with a delivery of Software and in particular shall independently obtain all authorizations required under export legislation at its own cost and shall provide DEKRA with all information required.

8.2 Insofar as the Contractor procures the Software in full or in part from third parties, it shall ensure that it comes from secure sources and has been exported, imported and supplied subject to and in compliance with all applicable provisions of the country of manufacture / shipping under export legislation.

9. MANUFACTURER GUARANTEES

9.1 The Contractor shall forward any manufacturer guarantees to DEKRA. The Contractor shall provide corresponding declarations and documents to DEKRA immediately and without reminder.

9.2 DEKRA reserves the right to assert guarantee claims directly against the manufacturer. Upon request from DEKRA, the Contractor shall assert corresponding claims against the manufacturer.

10. MISCELLANEOUS

- 10.1 The Contractor shall correct errors in the Software within the goals and deadlines agreed in a Service Level Agreement. Unless expressly agreed otherwise by the parties, guarantee claims by DEKRA shall remain unaffected by the conclusion of a Service Level Agreement.
- 10.2 If the Contractor provides Software as a service, it shall ensure the availabilities agreed in a Service Level Agreement. If availabilities are not agreed, the Software shall be provided at all times and without interruption.
- 10.3 For Software, to which DEKRA has an unrestricted right of use, upon request from DEKRA the Contractor shall assume the management of the Software in return for payment of a standard remuneration according to conditions of a standard agreement to be concluded between the parties.
- 10.4 If DEKRA no longer has a usable version of the Software as a result of an inadvertent deletion or similar incidents, the Contractor shall provide DEKRA a replacement free of charge.
- 10.5 The transfer of data or other information by DEKRA to the Contractor as part of using the Software as service is not connected with the granting of a right of use for the Contractor or third parties. Unless agreed otherwise between the Parties, DEKRA's data may only be processed and used in the territory of the Federal Republic of Germany, also within the framework of the use of Software as a service.
- 10.6 If the Contractor provides Software as a service, upon request from DEKRA the Contractor shall provide any saved data free of charge in a standard electronic format selected by DEKRA.