

## SPECIAL PURCHASING CONDITIONS FOR IT – SERVICES AND WORK –

### 1. SCOPE

- 1.1 These special provisions of the GPC-IT ("**GPC-IT Services**") apply to services and work including consulting, preparing expert assessments, adjusting and developing software, training sessions, etc. (referred to jointly as "**Services**") by the Supplier in the area of information technology, including telecommunications technology in the version applicable at the time the contract was concluded, and the general conditions of GPC are considered a standard contractual component.

The current valid version is available on the DEKRA procurement website [www.dekra.com/en/general-purchasing-conditions-and-it](http://www.dekra.com/en/general-purchasing-conditions-and-it)

### 2. GENERAL PERFORMANCE REQUIREMENTS, QUALITY AND ORGANIZATION OF SERVICES

- 2.1 **Requirements.** Before beginning to perform its Services, the Supplier shall check whether the task description of DEKRA for the provision of the Services is complete, clear, appropriate and free from contradictions, and shall immediately inform DEKRA in writing if this is not the case.
- 2.2 The Supplier has, and shall independently take into account, the necessary comprehensive understanding of the applicable statutory, official and technical requirements required in order to provide the Services and produce the work results.
- 2.3 The Supplier is obligated to perform Services using existing standards whenever possible (in particular standard software), and to only offer and provide customized solutions if this is not possible. The Supplier is obligated to refer DEKRA to standard solutions, even without a specific request to do so, which are suitable for achieving the results desired by DEKRA in part or in full.
- 2.4 **Content of services and documentation.** The Supplier shall provide all documentation, test protocols, drawings, plans, operating instructions, etc. required for the acceptance, operation, maintenance and servicing of work results (including software) in a reproducible form and free of charge. Unless agreed otherwise, documentation and instructions must be provided in German if the services and work results are intended for German-speaking countries, or otherwise in English.
- 2.5 The Supplier shall present and explain presentable work results (e.g. assessments, software, concepts) to DEKRA at its request.

- 2.6 **Integration.** Work results in the area of software development and adaptation shall be installed, integrated and configured for DEKRA by the Supplier, and shall be handed over and transferred ready to use to DEKRA. The Supplier shall instruct and support DEKRA insofar as this is necessary for an agreed test and sample operation or in order to use the work results.
- 2.7 **Terms and deadlines.** Agreed deadlines and terms are binding unless otherwise agreed.
- 2.8 **Contact persons.** The Parties' contact persons are exclusively the responsible contact persons named in the contract. If no contact persons are named in the contract, the Parties shall each name a contact person and alternate contact person before services are begun.
- 2.9 **Personnel.** The deployed personnel are qualified to provide the services and have sufficient experience with comparable services. DEKRA can request evidence of this.
- 2.10 If the Contractor replaces a person charged with providing the service with another person, the resulting training costs shall be charged to the Contractor. When replacing a person, the Supplier shall take the interests of DEKRA into account to a reasonable extent.
- 2.11 DEKRA is entitled, at its discretion, to demand that the Supplier replace a person deployed by the Supplier to fulfill the contract.
- 2.12 **No personnel leasing.** In principle, the Supplier is free to choose the place of performance when providing its Services. However, if a project requires the Services to be provided within the premises of DEKRA, the Supplier shall be prepared to provide the Services in the respective premises in this respect. Persons deployed by the Supplier do not enter into an employment relationship with DEKRA. The Supplier shall have the sole right of instruction over its own personnel and any subcontractors engaged by it.

### 3. RIGHTS OF USE

- 3.1 Subject to the conditions in the following two paragraphs, the Supplier hereby grants DEKRA an exclusive, permanent, irrevocable and transferable right, subject to sub-licensing, to use and exploit all work results as they are produced, which shall be unlimited in terms of time, content and location. This right shall include, in particular, a right of reproduction, amendment and editing by DEKRA or third parties. The right of use is not affected by the termination of the master agreement or contract.
- 3.2 The Supplier hereby grants DEKRA a non-exclusive right of use and exploitation in the aforementioned scope to works and know-how already in DEKRA's possession at

the start of the Agreement, provided this is necessary for the work results created by the Supplier for DEKRA to be used to the aforementioned extent.

- 3.3 Rights of use to standard software may be sub-licensed only to DEKRA companies. In addition, DEKRA is entitled to grant rights of use to standard software to third parties, insofar as this is necessary so that these third parties can provide services to DEKRA or DEKRA companies.
- 3.4 Insofar as the Supplier creates software for DEKRA, the Supplier hereby commits to hand over the source code of the software, including any further developments, the development documentation and a description of the program.
- 3.5 The Supplier shall enable DEKRA to use any inventions developed in the course of providing services, permanently and free of charge.
- 3.6 The Supplier is not entitled to be mentioned in each publication of its work in the customary manner. The Supplier is obligated to advise DEKRA in writing if there are any persons or events represented in the work results, which could result in the risk of a violation of personal rights.

#### **4. DEKRA'S DUTIES OF COOPERATION**

If standard software is required in order to provide the Services, DEKRA shall obtain this software, insofar as this is expressly regulated by contract and is not impossible for DEKRA.

#### **5. CHANGE REQUEST**

- 5.1 DEKRA is entitled to request changes to the scope of services after the contract is concluded, unless this would be unreasonable for the Supplier.
- 5.2 The Supplier shall review the change request from DEKRA and shall, within 10 business days, either provide DEKRA with an offer, stating the service term, planned deadlines and impact on remuneration, or inform DEKRA that the change request is not reasonable or feasible. If an extensive review of the change request is necessary, the Supplier shall submit a corresponding review offer within the deadline, with information on the required remuneration.
- 5.3 Accepted change requests must be documented with an amendment to the contract.

#### **6. REMUNERATION AND PAYMENT TERMS**

- 6.1 Remuneration based on outlay shall be payable upon receipt of an auditable invoice and proof of performance signed by the Supplier and by DEKRA. The Supplier shall

only issue invoices in accordance with any existing additional requirements and shall use the tools provided by DEKRA for invoicing and for providing proof of performance.

- 6.2 Unless otherwise agreed, the Supplier shall issue invoices monthly for the previous month. A fixed price shall be due, if not otherwise agreed upon, after provision of the Services has been completed, and, if necessary, a subsequent turn-over according to Sec. 7 of this GPC-IT SW,
- 6.3 The Supplier shall immediately inform DEKRA in writing as soon as it becomes clear that the estimated costs for remuneration based on outlay will likely be exceeded. DEKRA shall inform the Supplier in writing whether it consents to these excess costs.
- 6.4 If the Parties have agreed on remuneration based on outlay with an upper limit, the Supplier shall still be required to provide the Services in full even if this limit has been reached. If remuneration based on outlay without an upper limit has been agreed upon, an upper limit for the remuneration of 110 % of the agreed cost shall apply, with the simultaneous requirement that the Supplier shall provide the Services in full. - Services shall refer to all contractual work and services.
- 6.5 Unless agreed otherwise in specific cases, one person day has 8 hours. Additional or reduced work shall be taken into account on a pro rata temporis basis.

Travel and overnight accommodation costs, as well as other incidental costs, are compensated with the agreed remuneration and shall not be reimbursed separately. Travel time is not considered work time.

## **7. ACCEPTANCE AND RELEASE**

- 7.1 A formal acceptance must be carried out for work performed. Acceptance shall be carried out in accordance with the statutory provisions and the conditions below, unless expressly agreed otherwise:
  - 7.1.1 Defects identified during acceptance shall be divided into the following error classes:
    - (a) Error class 1: The defect leads to the work result 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 defects
  - 7.1.2 DEKRA is only required to confer its acceptance if the Service has been provided in full and in accordance with the contract. For this purpose, DEKRA shall have a testing period of at least 10 business days from the time the contractual work is received.

- 7.1.3 If there are defects that prevent acceptance and DEKRA refuses acceptance because of these, the acceptance review shall be repeated as soon as the Supplier submits the work result for acceptance again after correcting the defect.
  - 7.1.4 If the Supplier misses agreed deadlines and periods when correcting defects, the Supplier shall be in default.
  - 7.1.5 A work result for acceptance is deemed to have been accepted as soon as DEKRA uses the Service in productive operation for more than 12 weeks without interruption, without reporting any defects to the Supplier and the Supplier has asked DEKRA to carry out acceptance, stating a reasonable deadline.
  - 7.1.6 Partial acceptances are hereby excluded. Confirmation of parts of the Service shall not constitute acceptance nor partial acceptance.
- 7.2 If the Parties have agreed to a release or similar as part of the provision of Services, the conditions regarding acceptance shall apply accordingly.

## 8. WARRANTY AND LIABILITY

- 8.1 The statutory provisions, any agreed conditions relating to violations of service levels, and the conditions of this GPC-IT, including those of this GPC-ITSW, shall apply without restriction to the rights and claims of DEKRA in case of material defects or defects of title relating to the Service and in case of other breaches of duty by the Supplier.
- 8.2 **Services under an employment contract.** When performing Services, the Supplier is expected to complete them professionally to the best possible extent. If Services are not provided correctly, the Supplier is entitled to a right of supplemental performance and DEKRA is entitled to a claim for supplement performance. If the provided Service is not in accordance with the contract, the Supplier is not entitled to the agreed remuneration or only to reduced remuneration, insofar as DEKRA is entitled to a claim for compensation as a result.
- 8.3 **Supplementary performance.** The Supplier shall immediately correct defects within the warranty period, taking into account the interests of DEKRA.
- 8.4 As a short-term measure, a replacement or workaround solution can be provided in order to temporarily correct or avoid the effects of a defect. However, this shall not constitute a final remedy.
- 8.5 **Defects of title.** If third parties assert claims against DEKRA for breach of commercial property rights or copyrights (hereinafter: "**third-party rights**") through the use of the

services and work results, and if their use is impaired or prevented as a result thereof, the Supplier shall be liable as follows:

- 8.5.1 The Supplier shall choose, at its discretion and at its own cost either to procure the required rights of use, or change or replace the agreed services and work results so that they no longer violate the third-party rights but still correspond to the agreed Service or work results. If it is not possible for the Supplier to do so, upon request by DEKRA the Supplier shall collect the services and work results and refund the remuneration paid, minus an amount pro-rated to the period of use.
- 8.5.2 In addition, the Supplier shall indemnify DEKRA against all third-party claims and claims asserted by third parties due to the breach of third-party rights.
- 8.5.3 Conditions for the liability of the Supplier shall be, that DEKRA
  - (a) must inform the Supplier of third-party claims
  - (b) shall not acknowledge the asserted violation of third-party rights, and
  - (c) shall leave any dispute, including any out-of-court settlements, to the responsibility of the Supplier or shall handle such disputes and settlements only in cooperation with the Supplier.
- 8.5.4 Court and legal costs incurred by DEKRA as a result of the legal defense shall be charged to the Supplier.
- 8.5.5 If DEKRA itself is responsible for the breach of property rights, then no claims may be asserted against the Supplier.

## **9. TERMINATION AND CALL ORDERS**

- 9.1 DEKRA may terminate each Service contract by ordinary means with 2 weeks' notice.
- 9.2 Unless the Parties have expressly agreed otherwise in specific cases, personnel resources to be provided by the Supplier shall not constitute an obligation to accept on the part of DEKRA. This shall also apply if delivery quotas or similar are set forth in the contracts.
- 9.3 DEKRA's additional statutory and contractual rights of termination and withdrawal shall remain unaffected. The Parties' right of termination for good cause shall also remain unaffected.