Terms and Conditions of the Deutsche Telekom Group for Purchasing Consulting Services (EB Consulting)

1. Scope

(1) These Purchasing Terms and Conditions shall apply to the purchase of consulting services. The present Purchasing Terms and Conditions shall apply exclusively. Any conflicting or deviating conditions of the Contractor shall not apply, even in the event of unconditional acceptance of the service despite knowledge of such conditions.

(2) Only orders, calls, contracts, etc. (hereinafter referred to as the "Order") and other declarations of intent that are made in writing by a Procurement unit of Deutsche Telekom AG (hereinafter referred to as "DTAG") or a Group Company (hereinafter referred to as the "Customer" respectively) shall be legally valid. The written form requirement in the sense stated above shall also be satisfied by communication methods provided electronically, by fax, e-mail, or electronic communication methods specially provided by the Customer for carrying out purchasing transactions, including full integration, web-based applications, or statements transmitted via the Order Management Tool. An electronic declaration of intent shall be received on the day on which it is available for retrieval by the recipient under his electronic address during normal business hours; otherwise, it shall be received on the next business day. In the event that a special electronic communications method provided by the Customer to carry out purchasing transactions is used, the relevant terms and conditions of use of the Deutsche Telekom Group shall apply to electronic communications methods provided by it (NB e-commerce - see under: www.telekom.com/en/company/global-procurement)

(3) If the Customer and the Contractor have concluded a framework agreement that provides for the applicability of these AEB, DTAG and all companies in which DTAG is able to, directly or indirectly, exert more than 20% of the voting rights (hereinafter referred to as "Group Company") shall be beneficiaries of the framework agreement and thus entitled to place Orders. In the event of an Order, a corresponding contract under the terms and conditions of such framework agreement is concluded directly between the respective Group Company and the Contractor. There is no joint and several liability of DTAG and the Group Companies.

2. Components of the agreement

The following components shall be part of the agreement in the order set forth below:

a. The Order
b. The service specifications
c. The framework agreement, if one exists,
d. These EB Consulting
e. The Supplementary Agreement “Sales Agents and Lobbyists”, where agreed,
f. The “DTAG Supplier Code of Conduct” in its most current version (hereinafter referred to as “Code of Conduct” or “SCoC”; see under www.telekom.com/en/company/global-procurement)

3. Integrity and cooperation/quality management and information security

(1) The Parties commit to adhere to the applicable law. DTAG has designed core principles and values which demonstrate the Customer’s willingness to share its business ethics, the social and environmental commitments with its contractors. Detailed information can be found in the SCoC.

(2) The Contractor shall comply and shall oblige its sub-suppliers, subcontractors and any person under its control to comply with the SCoC. In case of any non-compliance with the principles and obligations of SCoC, the Customer is entitled to request a remedy of such non-compliance without undue delay, including but not limited to an alignment on action plans to remedy the non-compliance. Further, the Contractor is entitled to suspend the contractual relationship and fulfillment until the non-compliance is remedied. Further contractual and statutory rights of the Contractor shall remain unaffected.

(3) The Contractor shall take all measures required to avoid and sanction any instance of active or passive corruption, both in the public and private sector.

(4) The Contractor undertakes to immediately notify the Customer in writing as soon as it becomes aware of any problems relating to compliance with the SCoC within its area of responsibility, and in particular, to avoid anything that may damage the Deutsche Telekom Group’s brand image or endanger the reliable provision.

(5) The Contractor shall be obligated to comply with the security provisions of the Deutsche Telekom Group that apply to it and its vicarious agents, (see under: www.telekom.com/en/company/global-procurement) and to observe the persons and/or subcontractors deployed to provide the service to comply with the security provisions accordingly.

(6) If work is to be performed at the Customer’s security-related sites, the Contractor shall ensure that only staff who have passed the security check are employed in accordance with the Security Clearance Check Act (Sicherheitsüberprüfungsgesetz) in Germany or a comparable security clearance check elsewhere.

(7) The Contractor shall ensure that both it and its subcontractors comply with the statutory provisions of the German Minimum Wage Act (Mindestlohngesetz). In this context, it shall be obligated, for example, to provide proof that the minimum wage is being paid by it and its subcontractors if requested to do so by the Customer in writing. The Contractor shall indemnify the Customer against any and all claims in connection with minimum wage payments; this shall also apply to any fines incurred. It shall also immediately inform the Customer if there are reasons to suspect that it or one of its subcontractors is violating statutory minimum wage requirements.

(8) The Contractor shall adhere to the Customer’s requirements for quality management, environmental protection, and information security. To the extent that this is requested in the specification, the Contractor (i) shall provide evidence of quality management in accordance with DIN EN ISO 9001, TL 9000, or an equivalent quality management system and provide data on the metrics described in the TL 9000 Quality Management System Measurements Handbook or agreed otherwise, (ii) shall provide evidence...
of an environmental management system in accordance with DIN EN ISO 14001 or the EC Eco Audit Regulation, and (iii) shall provide evidence of an information security management system in accordance with ISO/IEC 27001 or equivalent.

4. Independent service provision/residence permit/work permit

(1) The Contractor shall provide the contractual services independently and on its own responsibility.

(2) In principle, the Contractor shall be free to choose the place of performance for providing its services. However, if the project requires the services to be partially performed on the premises of the Customer, the Contractor shall also be prepared to provide the services on the respective premises to the extent required; the parties shall agree on the respective place of performance, taking the project’s requirements into account.

(3) The Contractor shall be solely responsible for issuing instructions to its employees and any subcontractors it deploys. The Contractor shall be free to organize the service provision and the allocation of time for its activities. However, to the extent required by the project, the Contractor shall coordinate with others involved in the project for the purpose of meeting agreed deadlines.

(4) The Contractor undertakes to independently and properly tax the remuneration received from the Customer in compliance with the relevant tax laws.

(5) If employees, vicarious agents, and subcontractors are deployed, the Contractor shall ensure that all of the necessary official approvals (e.g., work permit/residence permit) have been obtained. The Contractor shall indemnify the Customer from any legal consequences resulting from failure to comply with this requirement.

(6) The Contractor shall be fully responsible for the deployment and performance of its staff in connection with the provision of services. When working at the Customer’s facilities, the Contractor shall be obligated to ensure that its staff handle the Customer’s property with care.

(7) The Contractor shall be obligated to notify the Customer at any time of the status of the work...

(8) The Contractor shall entrust only sufficiently qualified employees with the fulfillment of the contractual obligations and, in particular, ensure compliance with any consulting skills required by the Customer. Upon request, the Contractor shall submit to the Customer a description of the training and job profiles of the employees deployed or to be deployed, showing their qualifications for the services to be provided.

(9) If, in exceptional cases, a consultant must be substituted, the Contractor shall notify the Consultant of the consultant change during the term of the agreement in advance in writing. When consultant changes are made, the project-specific transfer of know-how shall be at the expense of the Contractor.

5. Scope of service and remuneration

(1) Payment shall be made on a time and material basis with a maximum price (total net) or on a fixed price basis. The respective type and rate of remuneration will be determined in the Order.

(2) The Contractor shall be obligated to immediately notify the Customer’s Procurement units, without being asked to do so, if the Contractor or any staff it deploys for the provision of the contractual services (employees or any subcontractors) are simultaneously employed in other parallel projects within the Deutsche Telekom Group during the period of assignment, or if such deployment is being planned. The Contractor shall provide information on all projects, their precise scope, their duration, the associated SAP order numbers, and the contact person at Deutsche Telekom’s end. Should the Contractor not meet this obligation to provide information, the Customer shall expressly reserve the right to arrange for an audit of all payments made by units at the Deutsche Telekom Group for such parallel-running projects and to reclaim payments made in this respect.

(3) If time units are taken as the basis for invoicing the services actually provided, then proof of these time units must be provided to the Customer. For this purpose, the Contractor shall submit detailed proof relating to the specific services provided and attributable to the named consultants in each case, indicating the respective category of consultant. Remuneration shall be determined on the basis of the proof of performance provided by the Customer.

(4) The agreed remuneration shall cover all expenses incurred in connection with the provision of the service, in particular services of any subcontractors, all incidental expenses, travel expenses, travel and waiting times.

(5) Early performance and/or partial performance that has not been contractually agreed shall require the express written consent of the Customer. Any performance effected prior to the agreed date shall not constitute the start of a payment period associated with this date.

(6) Additional services and expenses that become necessary during the term of agreement and have implications for costs must be agreed between the parties in writing before they are provided, even if they are essential for the performance of the agreement.

(7) The Contractor shall offer DTAG and its affiliated companies pursuant to Item 1 (3) its services at the most favorable conditions, which the Contractor shall grant worldwide to DTAG itself and/or to a company affiliated with Deutsche Telekom AG for comparable services with regard to quantity, quality, and market conditions. It shall be possible for DTAG and its affiliated companies to exchange relevant information at any time.

(8) The Customer will not pay the remuneration to third parties or in third countries. Payment in cryptocurrencies is excluded.

6. Default

(1) In the event of default, the statutory provisions shall apply, unless otherwise specified below.

(2) The Contractor shall be in default on payment only if it fails to make the payment following a reminder from the Contractor.

(3) If a contractual penalty is agreed, the Customer may reserve the right to apply the contractual penalty until the final payment has been made.

7. Recognition of performance, acceptance

(1) The Customer shall recognize the services or partial services when the Contractor has provided and documented the services in accordance with the service specifications.

(2) If specific results are to be delivered, then the services shall only be accepted when the work results provided correspond to the agreed requirements.

(3) Slight defects shall be rectified without delay, provided no new service is required.

(4) In the event that acceptance is refused, the Contractor shall improve or subsequently provide the outstanding services without

The German version shall prevail.
8. Rights of use

(1) The Customer shall be entitled to the exclusive, irrevocable, transferable, sublicensable, and global right to use the work results, unrestricted in terms of time, space, and content, and covered by the agreed remuneration.

The right of use shall also in particular include the right to publish the documents in full or in part, and to duplicate, alter, or edit the documents, including making further use of them for follow-up agreements with third parties.

The Customer’s right of use shall also continue to apply in the event of termination of the relevant Order.

(2) The Contractor shall inform the Customer of any existing industrial property rights and copyrights that it may hold if these are necessary for creating, using, and exploiting the work results. This shall also include information on the group of persons eligible to exercise these rights. The Customer shall obtain a non-exclusive and transferable right to use the Contractor’s industrial property rights and copyrights. The agreed remuneration shall cover any right to remuneration arising in this connection.

(3) The Customer shall obtain a non-exclusive, irrevocable, transferable right, which is not limited in time, space, or content and which is covered by the agreed remuneration, to use the knowledge and findings of the Contractor introduced during the process of performing the Contractor’s tasks.

(4) All work results that the Contractor produces during the course of providing the contractual services or that can be derived from these shall belong to the Customer and solely the Customer shall be entitled to have these registered worldwide as industrial property rights. The Contractor shall support the Customer with the registration of these industrial property rights and shall provide all documents and approvals that are required for this. The Contractor shall obligate its employees and subcontractors to do the same.

(5) If, as part of service provision, the Contractor also provides the Customer with open source software (hereinafter referred to as “OSS”), the Contractor shall inform the Customer thereof in writing as early as possible, but no later than the date the services are provided or the OSS components and the relevant applicable license terms and conditions are supplied in writing. Item 9 shall remain unaffected.

9. Third party rights

(1) The Contractor shall ensure that the services to be provided by it are free of third-party rights, in particular third-party industrial property rights, that could restrict or exclude the contractual use.

(2) Each party shall immediately notify the other party of any claim related to said third party rights made or threatened against the other party and/or if it becomes aware of any infringement or alleged infringement of any third party rights in connection with the contractual services.

(3) On the first written request, the Contractor shall fully indemnify the Customer from any and all legal actions, demands, costs, charges, losses, claims, and expenses suffered by the Customer as a result of the infringement or alleged infringement of any third-party industrial property rights. In addition to these duties, the Contractor may, at its own discretion and at its own expense either (a) modify or replace the services in a way that prevents third-party rights from being infringed or allegedly infringed, however which ensures that the services continue to comply with the contractually agreed requirements in all respects; or (b) obtain the right for the Customer to (further) use of the services in accordance with this agreement.

(4) If the Contractor fails to cease the infringement of third-party rights within a reasonable time period, the Customer shall, at its own discretion, be entitled to withdraw from the relevant Order and to assert claims for compensation or for a corresponding reduction of the purchase price and/or the licensing fee.

10. Liability for defects

(1) The Contractor guarantees that its services shall be provided in accordance with the contractual agreements, with customary professional diligence and on the basis of the state of the art in science and technology, and that they shall comply with the relevant statutory provisions and agreed guidelines, etc.

(2) The Contractor shall in particular be obligated to bear all costs and expenses arising in connection with defects and the remediating thereof. Further statutory claims of the Customer shall remain unaffected.

(3) If the Customer unsuccessfully grants the Contractor a reasonable grace period to effect subsequent performance, or if the subsequent performance is ultimately unsuccessful, the Customer shall be entitled to reduce the remuneration or to rescind the agreement and demand compensation.

(4) Unless longer periods are provided by law, the Customer’s claims due to defects of title shall be subject to a limitation period of two years from the time a third party asserts a claim for infringement of industrial property rights or any other rights or the Customer becomes aware of the defect of title through other means.

(5) The period of liability shall be extended by the time the defective service cannot be used for the intended purpose.

11. Confidentiality, data protection, Protection of Professional Secrets

(1) Both parties hereto undertake to treat as confidential all information from the business of the other party which they become aware of through the business relationship and which is not generally available; such information shall not be used for their own or third parties’ purposes. This duty to maintain confidentiality shall not apply within the Deutsche Telekom Group.

(2) The Contractor undertakes to maintain telecommunications secrecy, comply with data protection provisions and, in particular, the protection of personal data. In the event that the Contractor processes personal data on behalf of the Customer, the Contractor agrees to conclude with the Customer an “Agreement on Commissioned Data Processing (CDPA)” in accordance with the Customer’s current model agreement.

(3) If the Contractor provides its services for the Customer vis-à-vis a person subject to a legal obligation of professional secrecy (“Berufsgeheimnisträger”), the Contractor shall observe the “Obligation to protect confidential information pursuant to section 203 StGB (German Criminal Code)” (www.telekom.com/en/company/global PROCUREMENT).

(4) The Contractor shall be responsible for requiring a written commitment to act accordingly on the part of all people it involves in the provision of the service.

The German version shall prevail.
(5) The Contractor may only pass on to third parties or publish work results from this agreement and any information about them after obtaining the prior written consent of the Customer.

(6) At the Customer’s request or following termination of the agreement, the Contractor shall surrender to the Customer all documents it has obtained and worked on in the performance of this agreement, including all copies and duplicates. Duplicates of documents in electronic media and on data carriers that cannot be surrendered must be deleted or rendered permanently unusable by the Contractor. This shall also apply in the event of termination of the agreement. The Contractor shall not have a right of retention, irrespective of the legal grounds.

(7) Any mention of the Customer as a reference and any use of its logos shall require the Customer’s prior express consent in writing. Once granted, this consent shall continue to be valid until it is withdrawn. The Customer shall be entitled to withdraw such consent at any time without notice and without stating the reasons.

(8) The Contractor undertakes to explicitly inform its employees, agents, and subcontractors that the Customer may collect and process the following personal data on them for the purposes of guaranteeing statutory regulations and its legitimate business interests: title, surname, first name, date of birth, street, zip code, city, and country. The following information may also be collected on employees, vicarious agents, and subcontractors to be deployed who require a work or residence permit as per applicable German and European law in order to take up work in Germany: validity period of the work permit and/or residence permit, restriction of weekly working hours as per the work permit, restriction of place of deployment as per the work permit, restriction of duties/position as per the work permit.

(9) The above obligations shall continue to apply after the agreement has expired.

12. Termination, rescission

(1) The Customer shall have the right to terminate the agreement, in part or in full, at any time without indicating the reasons by giving 14 calendar days’ notice. The agreement shall be terminated, in particular, if the Customer concludes that the consulting objective cannot be achieved.

(2) The work results achieved up until the point of termination shall be documented and handed over to the Customer with all documentation.

(3) In the event of termination, the remuneration for the result achieved up to the termination shall be measured against the required end result; it shall not exceed, however, the extent of the useful, proven services actually provided up to the point of termination.

(4) The right to terminate the agreement for good cause shall remain unaffected.

(5) Either party shall be entitled to terminate the agreement for good cause or to rescind the agreement in particular:
   a. if an application to initiate insolvency proceedings in respect of a party’s assets has been filed;
   b. if the other party has suspended payments on a permanent basis;
   c. if the other party ceases its business operations or the portion of its business operations that applies to the contractual services;
   d. or if an event occurs that corresponds to the aforementioned situations under the laws in effect at the affected party’s place of business.

13. Representation

(1) The Contractor shall observe the rights and interests of the Customer within the scope of the services to be provided by it. The Contractor shall not be entitled to represent the Customer to third parties in legal transactions or to pose as the Customer’s representative.

(2) The Contractor shall indemnify the Customer against all claims that may arise from any breach of the agreement, in accordance with the principles of apparent authority.

14. Performance of the agreement by third parties

(1) The deployment of third parties as subcontractors shall require the prior written consent of the Customer.

(2) If the Customer grants its consent, the Contractor shall ensure that all subcontracts awarded under the relevant Order are organized in such a manner that the Contractor is fully able to meet its obligations toward the Customer.

(3) The Contractor’s liability shall remain unaffected by the subcontracting, by the information on the structure of the subcontracting relationship, or by the consent thereto by the Customer.

15. Ban on deployment

(1) Contractor’s attention is expressly drawn to the fact that it is strictly forbidden for civil servants who left the Deutsche Telekom Group by taking early retirement to perform any further work for the Deutsche Telekom Group, either directly or indirectly. This shall also apply, in principle, to former employees of the Deutsche Telekom Group for a period of 15 months after leaving the company, if they have received severance payment in connection with termination of employment. In addition, if in the specific instance the Customer’s procurement department has not issued in advance a written exclusion, a general deployment ban shall exist for current employees of the Deutsche Telekom Group.

(2) Against this background, the Contractor, in turn, shall undertake to ensure that in providing its service to the Customer, the retired civil servants stated in number 15 (1) or personnel as defined by number 15 (1), sentence 3 shall not be deployed as employees or temporary workers or as subcontracted work or service providers or in any other way, and none of the former employees specified in number 15 (1) are deployed as subcontracted work or service providers or as temporary workers lent to units of the Deutsche Telekom Group.

(3) If the Contractor violates the provisions of number 15, the Customer shall also be entitled to terminate the agreement for good cause if the Contractor (and/or its subcontractors) do not meet the requirements of the German Minimum Wage Act.

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particular, invoice line items must match Order items. As a rule upfront and partial invoices are not allowed. If in an Order partial settlement is agreed, the upfront, partial, partial final and final invoice are to be marked as such and listed individually in numbered sequence. The invoice shall contain the unit placing the Order, the Order number, the recipient of the service and the proof of performance. The invoice shall be in accordance with §14 of the German Value Added Tax Act (Umsatzsteuergesetz – UStG). If the invoice does not comply with the aforementioned requirements, the Customer reserves the right to return the outstanding invoice in order for the Contractor to complete or correct it. In such a case, the payment term shall begin only after the completed or corrected invoice has been received. Even if the Customer does not make use of the aforementioned provision, it shall not be responsible for any delay in payment. The invoice with the address given in the Order shall not be issued before the day on which the service is rendered in accordance with the agreement.

17. Assignment of claims

(1) The Contractor's claims against the Customer may be assigned only with the express written consent of the Customer's contracting unit. § 354a of the German Commercial Code (Handelsgesetzbuch – HGB) shall apply if the transaction is a commercial transaction for both parties.

(2) The Customer shall be entitled to assign the rights and obligations arising from the agreement collectively or individually to each affiliated company pursuant to Item 1 (3). This shall not require the Contractor's consent.

18. Offset

(1) The Contractor has no rights of retention insofar as they are based on counterclaims resulting from other legal transactions with the Customer.

(2) The Contractor may only offset such claims which are undisputed or recognized by final and binding judgment.

19. Foreign trade regulations

(1) The Contractor undertakes to obtain all approvals required in accordance with export regulations for cross-border provision of services on its own responsibility and at its own costs, and to comply with all relevant laws and regulations.

(2) Where the Contractor has obtained services either wholly or partially from third parties, it shall guarantee that they have been obtained from secure sources, and exported, imported, or provided observing and complying with the export and other relevant legal regulations of the country of manufacture/dispatch.

20. Final provisions

(1) The place of performance shall be the place of receipt indicated by the Customer.


(3) The place of jurisdiction shall be the Customer's principal place of business. The Contractor shall, however, also be entitled to have recourse to the court with jurisdiction at the Contractor's principal place of business.

(4) In the event of legal invalidity of individual items of the agreement, the remaining items shall remain binding. However, this shall not apply if adherence to the agreement would constitute an unreasonable hardship for one party.

The German version shall prevail.