

Terms and Conditions of the Deutsche Telekom Group for the Purchase of Telecommunications Equipment (EB TC Equipment)

1. Area of Application

- (1) These EC TC Equipment shall apply for the purchase of telecommunications equipment including the hardware and software required for its operation and for its installation (hereinafter referred to as "Construction Measures") as well as for the provision of further services.
- (2) These EB TC Equipment and any other contractual conditions indicated in the Order shall apply exclusively. Any conflicting or deviating terms and conditions of the Contractor shall not apply, even if the services provided by the Contractor are unconditionally accepted despite knowledge of such terms and conditions.
- (3) Only purchase orders, calls, contracts, etc. (hereinafter referred to as "Order") and other declarations of intent which are placed in writing by a procurement unit of Deutsche Telekom AG or any of its affiliated companies within the meaning of section 1, subsection 4 (hereinafter referred to as "Customer") shall be legally valid. The requirement of written form in the sense stated above is also satisfied by communication methods provided electronically, by fax or e-mail or electronic communication methods provided by the Customer for handling purchasing transactions, including full integration, web-based applications or declarations transmitted via an Order Management Tool. An electronic declaration of intent is received on the day on which it is available for retrieval by the recipient under its electronic address during normal business hours; otherwise, it is received on the next business day. In the event that a special electronic communication method provided by the Customer to handle purchasing transactions is used, the relevant terms and conditions of use of the Deutsche Telekom Group shall apply to such electronic communication methods provided by it (NB e-commerce; published on www.telekom.com/en/company/global-procurement).
- (4) If Customer and Contractor have entered into a frame agreement with reference to these EB TC Equipment, Deutsche Telekom AG and all companies affiliated with it in accordance with sections 15 and following of the German Stock Corporation Act [Aktiengesetz] shall be beneficiaries and thus shall be entitled to place Orders under such frame agreement as well as all companies worldwide in which Deutsche Telekom AG, directly or indirectly, holds at least 25% of the shares and/or has management control.

2. Parts of the Agreement

The following documents shall be integral parts of the agreement in the order set forth below:

- a. the Order,
- b. the specification and all agreed technical documents,
- c. these EB TC Equipment,
- d. the Supplier Code of Conduct in its most current version (published on www.telekom.com/en/company/global-procurement).

3. Quality Management, Environmental Protection, Information Security

- (1) The Contractor shall adhere to the Customer's requirements for quality management and environmental protection and information security. If stipulated in the specification, the Contractor shall document the application of (i) a quality management system in accordance with DIN EN ISO 9001, TL 9000 or a comparable quality management system and shall provide data with respect to the metrics described either in the TL 9000 Quality Management System Measurements Handbook or in the agreed upon quality management system, (ii) an environmental management system in accordance with either DIN EN ISO 14001 or the Eco-Management and Audit Scheme and (iii) an information security management system in accordance with ISO/IEC 27001 or comparable.
- (2) The Contractor shall adhere to all applicable laws, regulations, decrees and ordinances with respect to the delivery of the delivery of goods or the provision of services. With respect to the ElektroG [German Act Governing the Sale, Return and Environmentally Sound Disposal of Electrical and Electronic Equipment], the Contractor shall assume the Customer's obligations resulting therefrom and if such obligations are not transferable support the Customer in meeting his obligations without remuneration. In particular the Contractor shall, at no extra costs and according to the Customer's instructions, mark the products with an identification of the producer (Section 7, sentence 1 ElektroG) and the required symbol (Section 7, sentence 2 ElektroG in conjunction with Exhibit 2 of the ElektroG).
- (3) The Contractor is obliged to take back, free of charge, the packaging material and to collect and dispose of it properly. Upon request, proof of such disposal in compliance with the law is to be furnished. If the Contractor fails to comply with this obligation, the Customer is enti-

tled to have the collection and disposal effected at the Contractor's expense.

- (4) The Contractor is obliged to meet all obligations arising from the German Packaging Regulation [Verpackungsverordnung], to provide the Customer with proof thereof on request and to assume the Customer's obligations resulting from the German Packaging Regulation and, if such obligations are not transferable, support the Customer in meeting these obligations free of charge. Should, by way of exception, the Customer be to be regarded as the initial distributor who puts sales packaging filled with goods and typically arising at the private end consumer into circulation for the first time ("Erstinverkehrbringer"), the Contractor shall be obliged to inform the Customer of this fact at the latest at the time of placing the Order.
- (5) The Contractor ensures to comply with all the obligations regarding the registration, evaluation, authorization and restriction of chemicals (hereinafter referred to as "REACH Regulation") being imposed on the Contractor and on the Customer at its own expense. If, according to the REACH Regulation, such obligations are not transferable, the Contractor shall immediately inform the Customer thereof and support him free of charge in meeting such obligations to the maximum extent possible. If the Contractor's registered office is outside of the European Union, the Contractor shall, at its own expense, appoint a representative registered within the European Union that shall comply with the obligations under Article 8 of the REACH Regulation and inform the Customer about such appointment.

4. Integrity, Cooperation

- (1) Deutsche Telekom AG has designed core principles and values which demonstrate the willingness of Deutsche Telekom AG to share its business ethics, the social and environmental commitments with its suppliers. The Contractor agrees to take all necessary measures to prevent and to sanction any case of active or passive corruption. Details are set forth in the Supplier Code of Conduct.
- (2) The Contractor shall (i) immediately inform the Customer in writing as soon as he becomes aware of indications suggesting that there might be problems regarding compliance with the Supplier Code of Conduct within his area of responsibility and in particular (ii) avoid anything which might harm Deutsche Telekom Group's brand image or endanger the security of supply.
- (3) The Contractor is obligated to comply with the security provisions of the Deutsche Telekom Group (published on www.telekom.com/en/company/global-procurement) which apply to him and his vicarious agents and to inform all persons and/or subcontractors

deployed to perform the contractual services and to obligate them to do the same.

- (4) If work is to be performed at the Customer's security-sensitive sites, the Contractor shall ensure that only staff are employed who have passed the security check in accordance with the Security Clearance Check Act [Sicherheitsüberprüfungsgesetz] in Germany or a comparable security clearance check elsewhere.
- (5) The Contractor ensures to comply with all the obligations regarding the minimum wage legislation [Mindestlohngesetz] for himself and his subcontractors. In this sense and upon request by the Customer, he is – among others – obliged to document respective minimum wage payments. The Contractor shall indemnify the Customer from any legal consequences (including fines) resulting from the failure to comply with minimum wage requirements. He shall further immediately inform the Customer as soon as any suspicion arises in case any of its subcontractors does not comply accordingly.

5. Terms of Delivery, Scope of Services, Prices

- (1) The price agreed upon in the agreement is either a fixed price or a maximum price (total net) in each case including delivery "free place of destination" or "free installation site" in the event of Construction Measures. The price covers the entire transport, insurance, packaging and other incidental costs and charges through to delivery/setting-up ready for service at the place of receipt/installation site indicated by the Customer, unless otherwise agreed in writing. The individual prices of the original Order shall apply for subsequent supplements.
- (2) Unless explicitly agreed otherwise in writing, in case of deliveries from abroad the delivery clause "DDP excl. Import VAT" (Incoterms 2010) named place of destination shall apply, so that import-VAT shall be borne by the Customer.
- (3) Unless otherwise agreed, the price includes the costs of any installation, integration and transference work which may become necessary and which shall be performed by the Contractor without disturbing current operations, if necessary outside normal working hours.
- (4) The relevant instructions for the operation, handling, use and service and other documents shall be delivered in the language customary in the country of Customer's contracting unit. If they are not available in this language, they shall be delivered in the English language. The instructions and documents are included in the price.
- (5) Every delivery shall be accompanied by a delivery note or a proof of performance. Delivery notes, proofs of per-

formance and, if specifically agreed, dispatch notes, must contain:

- number, reference number and date of the Order,
- number of any partial delivery/partial performance,
- number and date of the delivery note/proof of performance,
- date of dispatch/service provision,
- any information on the type and size of the delivery/service provision along with materials numbers and position numbers specified in the Order and
- mode of dispatch.

- (6) If invoicing at an hourly or daily basis is agreed, travel and waiting times as well as travel expenses shall not be paid separately.
- (7) The Contractor is obligated to offer Deutsche Telekom AG and all companies of its group within the meaning of section 1, subsection 4 his goods and services at the most favourable terms, conditions and prices which he grants Deutsche Telekom AG and/or any company of its group worldwide with regard to amount, quality and market conditions of comparable goods and services. Deutsche Telekom AG and its group companies reserve the right to exchange the respective information.

6. Obligations on the Part of the Contractor

- (1) The Contractor shall observe the recognized rules of technology, the statutory regulations and official provisions. This does also apply to the Customer's regulations for the protection of buildings if they have been brought to the Contractor's attention in good time before performance of the Construction Measure.
- (2) The individual implementation documents required for the telecommunications equipment shall be supplied fourfold for each Construction Measure by the earliest delivery date or by the start of installation at the latest. Revisions made to the documents ("Grünberichtigung") shall be submitted at the latest at the time of provision for acceptance. If requested by the Customer, the Contractor shall provide instruction in the operation of the equipment system, without special payment, at the latest at the time of provision for acceptance or for partial acceptance.

7. Default

- (1) The statutory provisions shall apply in case of default ("Verzug") by the Contractor, unless otherwise provided herein below.
- (2) If the Contractor is in default, he shall pay the contractual penalty for the duration of the default. The Customer's claim for the contractual penalty shall not depend on proof that damage occurred or of the actual extent of the damage. The contractual penalty can be asserted until the final payment has been made.

- (3) Unless otherwise agreed in the Order, the Contractor shall pay the contractual penalty if he is in default in respect of observance of an agreed deadline for provision for acceptance (BzA) or provision for partial acceptance (BzTA). This shall also apply if the acceptance period is extended for reasons under the Contractor's control. The contractual penalty shall amount to 0.3% of the total value of the agreed goods and services without value-added tax, for each calendar day of the default and limited to a maximum of 5% of this value.

- (4) If the part of the goods and services that is not provided on time is a sub-quantity - with an unspecified price - of a larger function or price unit, then the price of this larger function or price unit shall apply.

- (5) If several cases of default accrue for an Order, then the contractual penalty shall be charged for each of these default cases, the sum of the amounts calculated in this way being restricted to a maximum of 10% of the value of the total Order without value-added tax.

- (6) The statement of default by the Customer in the acceptance certificate shall be deemed to be the assertion of the contractual penalty.

- (7) In the case of default, any partial payments made shall be deemed to be premature. These payments shall be in full (incl. value-added tax) subject to interest charged for the duration of the default at the level of the legal interest rate, unless proof of a greater or lesser benefit is provided.

- (8) In addition to the contractual penalty, the Customer may demand compensation for the damage arising as a result of the default. In this case any contractual penalty that has been incurred shall be credited towards this compensation.

- (9) If the Contractor is in default, the Customer may grant the Contractor an additional reasonable period of time. After the deadline has expired, the Customer may assert a claim for damages and rescind ("Rücktritt") the agreement either wholly or partially.

- (10) The Customer has the right to assert a claim for contractual penalty alongside performance.

- (11) Further statutory claims on account of default shall remain unaffected hereby.

- (12) Customer's default also with regard to payment requires a reminder of no avail.

8. Time of Performance

- (1) The agreed time of performance is binding.

- (2) Early or partial performance requires the Customer's explicit consent in writing. Any performance effected prior to the agreed date shall not affect the start of a payment period linked to the date of performance.
- (3) The Contractor shall immediately inform the Customer in writing if circumstances arise or become noticeable which could result in failure to meet the agreed time of performance.
- (4) Duly performance requires provision ready for acceptance.

9. Rescission or Termination for Good Cause

Either party may in particular rescind or terminate the agreement for good cause, if a petition for insolvency proceedings has been filed with the court, the other party has suspended payments on a not merely temporary basis, ceases its business operations or the part thereof relevant for the contractual performance, or if a similar event occurs which corresponds to the aforementioned situations under the laws in effect at the place of business of the affected party. The Customer is further entitled to extraordinary terminate the agreement in case the Contractor or its subcontractors do not comply with the regulations of the minimum wage legislation.

10. Product Liability

- (1) Insofar as the Contractor is accountable for a damage on the basis of product liability, the Contractor undertakes to indemnify the Customer against any claims for damages by third parties upon first written request. Same applies in cases of joint and several liability in accordance with the product liability law.
- (2) In addition, the Customer shall be entitled to reimbursement of all costs and expenses incurred in this context, in particular those incurred by product recalls. The Customer shall notify the Contractor of the type and scope of recall actions, if this is possible and can be reasonably expected.
- (3) The Customer shall immediately inform the Contractor of the assertion of claims based on product liability and not make any payments or recognise any claims without consultation with the Contractor.
- (4) Other statutory claims shall remain unaffected.

11. Transfer of Risk, Acceptance, Inspection for Defects

- (1) For the transfer of risk and title the statutory provisions shall apply, unless otherwise agreed.
- (2) The supply of movables which are to be manufactured or produced as well as installation services require a written acceptance ("Abnahme") by the Customer. The Contractor shall ensure the provision ready for acceptance (BzA). This shall also apply for agreed partial ser-

vices (BzTA). The transfer of risk occurs with acceptance of the entire services.

- (3) In other respects with regard to deliveries the risk is transferred to the Customer upon arrival at the place of receipt and upon counter-signing of the delivery note by an authorized employee of the Customer. Upon delivery the Customer shall inspect only for obvious defects (identity, completeness and damages in transit). In case of deliveries of large quantities the Customer shall be allowed to narrow the inspection to random checks. In all other respects, the Customer is released from the obligation to inspect and object to defects set forth in Section 377 HGB [Commercial Code].
- (4) All documents prepared by the Contractor in connection with the performance shall become the property of the Customer upon creation. They shall, in principle, remain in the actual possession of the Contractor until the end of the agreement period, unless the Customer requests these documents at an earlier date.
- (5) For all consignments, at least 24 hours notice shall be given before delivery. The start of installation shall be announced in good time, in general, seven calendar days in advance. Should it become necessary to shut down any operating equipment, this shall be agreed in advance with the Customer. Any costs that arise due to a failure to notify the Customer in advance shall be borne by the Contractor.
- (6) If the Customer has made it a proviso that there has to be a special release of system equipment for operational use, this is a prerequisite for the BzA or the BzTA. If the release of the system is delayed for reasons not attributable to the Contractor, new implementation dates shall be agreed.
- (7) The Contractor shall give the Customer written notice of the time of the actual BzA/BzTA in due time, at the latest three calendar days in advance, unless otherwise agreed. The Customer shall complete the acceptance tests within 30 calendar days (acceptance period) after BzA/BzTA. If the acceptance tests require network suitability tests or performance and reliability tests, the acceptance period shall be extended by this period. This shall also apply if Construction Measures can only be provided for acceptance during operation. If the acceptance period is not sufficient for reasons attributable to the Contractor, it shall be increased by the period of the delay. The default provisions shall apply for this delay period.
- (8) If the acceptance period is not sufficient due to the scope of work involved or an unusual accumulation of acceptance dates, the acceptance period shall be increased by a suitable period of time.

- (9) Upon completion of the acceptance tests, the Customer shall declare
- acceptance, in the case of complete performance in accordance with the agreement,
 - partial acceptance, for agreed partial performance in accordance with the agreement.

The acceptance certificate shall be forwarded to the Contractor.

- (10) If the goods and services are not accepted, the Contractor shall be informed thereof and shall receive without delay the list of defects that have been ascertained as a result of the acceptance test. The Contractor shall, without delay, provide the goods and services again for acceptance, at the latest within a reasonable period stipulated by the Customer.

- (11) If error prioritizations are defined in the technical documents and serious defects described, this description shall be decisive for the assessment of the defect. Individual errors that alone do not justify the refusal to accept the goods and services may lead to refusal of acceptance if they occur several times. If acceptance is refused wholly or partially, it shall be deemed that the originally agreed deadline for BzA/BzTA has not been met.

The following are not reasons for refusing acceptance or partial acceptance:

- work that by nature can only be executed after BzA or BzTA,
- system errors without significant impact that can be cleared within an agreed error reporting and change procedure,
- other defects that represent an insignificant reduction in the suitability of the goods and services.

- (12) For agreed partial acceptances, the last of the partial acceptance tests shall be carried out as an acceptance test with respect to conformity to the agreement of the entire goods and services provided.

- (13) The result of the acceptance test and compliance with deadlines shall be documented by the Customer and, at its request, ascertained jointly.

Both parties shall receive a copy in each case.

If the statement is drawn up by the Customer alone, the Contractor may raise an objection to this statement within a period of two weeks. Otherwise, it shall be deemed to be accepted.

- (14) Defects that do not prevent acceptance must be cleared without delay, unless there is a need for a new delivery or reinstallation. The Customer shall be informed of the relevant dates in writing immediately.

- (15) Any implied acceptance, in particular by Customer's use of the goods and services, is excluded.

- (16) At the latest, on the day on which the goods and services have been provided for acceptance, the Contractor shall issue the Customer with a list of all available devices and equipment in the system (inventory directory). Any devices and equipment that have been dismantled or exchanged shall remain the property of the Customer unless otherwise agreed.

12. Liability for Defects

- (1) The Contractor shall be liable for defects during the statutory periods, commencing on the date of transfer of risk or, if acceptance has been provided for, upon acceptance by the Customer, and guaranteeing the contractual and defect-free condition and defect-free functioning of the goods and services for which the Contractor is responsible. The warranty period is extended by the time the goods and services can not be used correctly.

- (2) Unless otherwise agreed below, the statutory provisions shall apply.

- (3) The Contractor shall also be liable for defects that have not yet appeared in the same kind of telecommunications equipment at other places of use, provided the defects are system errors and arise during the warranty period. The Customer shall be entitled to the replacement (free of charge) of all equipment affected by a system error, regardless of whether the defect has already become apparent or not with regard to an individual item of equipment. In addition, the Contractor shall compensate the Customer for all additional costs and expenses arising due to a system error (such as, but not limited to, costs and expenses for inspections of incoming goods, logistics, etc.). Any further claims available to the Customer shall remain unaffected.

- (4) System error means any defective functions that are inevitably contained in all equipment with these functions. Software errors are always system errors unless they are data errors specific to individual equipment. Hardware errors are system errors whenever they cannot be cleared by restoring the delivery target status. Errors in the system documentation are treated as system errors. In case of an epidemic failure (frequency of errors distinctively above the error frequency rate specified or to be expected normally) the rules stipulated for system errors shall apply accordingly.

- (5) The Contractor is responsible for the quality of the goods and services in total even if the Contractor does not provide immediate information in writing of discernable defects, when applying the usual care, in supplies of the Customer or third parties commissioned by the Customer.

This shall also apply in the event that the Contractor provides plans, drawings and calculations for the Customer's perusal before effecting performance and these are the basis of the Order.

- (6) The Contractor shall clear all defects occurring within the warranty period without delay and to undertake everything necessary to ensure the operability of the telecommunications equipment or to restore it in full without delay.
In the event of defects with significant impact, the Contractor shall take immediate measures and, if necessary, lend operable telecommunications equipment. The Contractor shall bear the transport costs and the transport risk.
- (7) In urgent cases and to avoid property damage and personal injury, the Customer has the right to take immediate measures himself. The Contractor shall bear the costs thereof.
- (8) The Contractor shall bear the cost of all expenses arising in connection with the liability for defects. This shall be without prejudice to any additional statutory claims.
- (9) Provided the statutory law does not provide for a longer warranty period, the Customer's claims based on defect in title are subject to a warranty period of two years from the time a third party alleges infringement of intellectual property rights or any other rights or the Customer takes note of the defect in title otherwise.

13. Rights of Use, Interfaces

- (1) With regard to the software included in order to meet the agreed functions the Contractor grants the Customer the non-exclusive, irrevocable, unrestricted, worldwide right to use in any way such software, which is transferable to a purchaser of the telecommunications equipment or an affiliated company of Deutsche Telekom AG within the meaning of section 1, subsection 4 for the purposes of operation and for which all payment claims are settled with the agreed payment. The Customer is entitled to reproduce and change the software for purposes within Deutsche Telekom Group, unless otherwise agreed.
- (2) The Contractor is obliged to name the external and internal hardware and software interfaces to the Customer and to immediately disclose them upon request. The Contractor specifically grants the Customer the right to disclose specifications, external and internal interfaces, etc. from the Contractor's domain to be used by third parties for Customer's purposes such as to ensure the interoperability with third parties' deliveries or to have run or maintained systems, applications, etc. by third parties, etc. The aforementioned obligations are settled with the agreed remuneration.
- (3) The Customer shall pass on the software received with the rights specified in subsection 1 to third parties (network operators) – after previously informing the Contractor – only to the extent this is necessary for the operation of the telecommunications equipment and shall

impose the same obligations on the third party as he has undertaken himself.

- (4) Insofar as something is concerned which has been individually made or customized for the Customer the Customer shall have the exclusive, irrevocable, with regard to time, territory and manner unrestricted and transferable right of use which is compensated by the agreed upon remuneration.
- (5) All results achieved in the course of providing telecommunications equipment individually made or customized for the Customer as well as derivations thereof shall be owned by the Customer and the Customer shall solely be entitled to apply for Intellectual Property Rights world-wide regarding such results or derivations thereof. "Intellectual Property Rights" means copyrights, patents, utility models, trade marks, service marks, design rights, database rights, semiconductor topography rights, proprietary information rights and all other similar proprietary rights, whether registered or unregistered. The Contractor has to provide support in the application for such Intellectual Property Rights and will provide any and all necessary documents and approvals. The Contractor has to oblige its employees and subcontractors in the same manner.
- (6) The Contractor is obligated to immediately - at latest upon the delivery of goods or the provisioning of services - notify the Customer in writing if open source software is to be used and which licensing terms and conditions shall apply. Section 14 shall apply accordingly.

14. Third Party Intellectual Property Rights

- (1) The Contractor guarantees that no intellectual property rights of third parties exist that might restrict or prevent the Customer from the contractual use of the products and services provided by the Contractor and that no additional licenses, permissions, consents or payments with regard to third party intellectual property rights are necessary for Customer's contractual use of the products and services.
- (2) Each Party shall immediately notify the other Party of any claim related to said third party intellectual property rights made or threatened against the other Party or if it becomes aware of any infringement or alleged infringement of any third party intellectual property rights in connection with the products and 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 intellectual property rights. In addition to these duties, the Contractor shall, at its own discretion and at its own expense either

- (a) modify or replace the products and/or services in a way that prevents third party intellectual property rights from being infringed or allegedly infringed, however which ensures that the products and/or 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 products and/or services in accordance with the contractual agreement.
- (4) If the Contractor fails to cease the infringement of third party intellectual property rights within a reasonable 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.
- (5) The limitations on liability under section 21 shall not apply to this section 14.

15. Confidentiality, Data Protection

- (1) Both parties hereto shall treat in confidence all information from the business of the other party which they become aware of through the business relation and which is not generally available. Such information shall not be used for own or third parties' purposes. The aforementioned confidentiality obligations shall not apply within Deutsche Telekom Group.
- (2) The Contractor shall undertake to comply with secrecy of telecommunications and 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) All documents made available to the Contractor by the Customer shall remain the Customer's property. Upon the Customer's request Contractor shall return or destroy the documentation together with all copies.
- (4) The Contractor undertakes to explicitly and demonstrably inform its employees, vicarious 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, town and country. The following information shall 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 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.

- (5) Any mention of the Customer as a reference 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.
- (6) These obligations shall survive after the expiry of the agreement.

16. Contractual Performance by Third Parties

- (1) The deployment of third parties as subcontractors shall require the prior written consent of the Customer.
- (2) If the Customer gives its consent, the Contractor shall ensure that all subcontracts awarded under the relevant Order are drawn up in such a manner that the Contractor is fully able to meet its obligations to 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 to this by the Customer.

17. Independent Service Provision, Residence and Work Permit

- (1) The Contractor shall provide the contractual services independently and on his own responsibility.
- (2) In principle, the Contractor is free to choose the place of performance in providing its services. However, if the project requires the services to be provided, in part, on the Customer's premises, the Contractor shall be prepared to provide the services to this extent in the relevant facilities. The parties shall agree on the relevant place of performance, taking the project requirements into account.
- (3) The Contractor is solely responsible for providing instructions to its employees and those of the subcontractors it engages. The Contractor is free to organize the provision of his services and to schedule his activities. If required by the project, however, the Contractor shall cooperate with other parties involved in the project to coordinate the working time and to observe agreed deadlines.
- (4) Where employees, vicarious agents or subcontractors are deployed, the Contractor hereby assures that all 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 these requirements.
- (5) As an independent contractor, the Contractor shall undertake to properly submit any value-added tax received to the tax office and to independently and

properly pay tax on any remuneration received from the Customer.

18. Program Maintenance after Expiration of Warranty

Upon request by the Customer, the Contractor shall take over the program maintenance after the expiration of the warranty period. The above shall require a separate agreement. Such obligation shall not be applicable to any programs not modified by the Customer, unless the Contractor has agreed to such modification. The Contractor shall be notified about such request in writing in due time, three months prior to the expiration of the warranty period at the latest.

19. Deployment Bans

- (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 subsection 1 or personnel as defined by subsection 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 subsection 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 this section 19, the Customer shall be entitled to terminate the agreement for good cause. The Customer also expressly reserves the right to assert damage claims due to such violation.

20. Invoices, Terms of Payment, Taxes

- (1) Invoices shall be submitted upon complete provision of the goods and services.
- (2) Invoices shall be sent solely to the invoice address specified in the Order.
- (3) The Contractor shall submit a verifiable invoice. For each Order a separate invoice is required. Collective invoices which refer to various Orders are not permitted. In particular, invoice line items must match the order items. As a rule, upfront and partial invoices are not allowed. If in an Order upfront or 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 and the place of receipt. In case of services, the proof of performance has to be attached. The invoice shall be in accordance with Section 14 UStG [Value Added Tax Act]. In case an invoice does not comply with the aforementioned requirements, the Customer reserves the right to return such outstanding invoice in order for the Contractor to complete and/or correct it. In such a case the payment period starts not until the receipt of the completed and/or corrected invoice. Even if the Customer does not make use of the aforementioned proviso, any default in payment due to an invoice which does not comply with the aforementioned requirements is not the fault of the Customer. The invoice with the address given in the Order shall not be issued before the day of performance in accordance with the agreement.

- (4) Amendments and supplements to the agreement shall only be paid for if agreed upon in writing prior to performance.
- (5) The prices agreed are net prices. If applicable, value-added tax to the statutory amount shall be added.
- (6) The invoice shall not be paid before performance. The payment period shall be 30 calendar days net. The payment period shall commence on the first day after receipt of the verifiable invoice which meets the requirements of this section, but not before delivery/acceptance of the service.
- (7) Unconditional payment of the invoiced amount by the Customer does not constitute recognition of the Contractor's performance as being in accordance with the agreement.
- (8) If a credit note procedure has been agreed, the following provisions shall apply in deviation from respectively in addition to the provisions of this section:

The Customer effects payments without the Contractor submitting invoices. The payment period shall commence when the Customer has finished entering the data, but not later than three working days after submission of the delivery note/ certificate of performance, but not before provision/acceptance of the goods and services.

The goods and services shall be billed on the basis of the delivery note/certificate of performance. The Contractor shall receive a credit note from the Customer on a monthly basis by the third working day of the following month as proof of the provided goods and services recorded electronically by the Customer. The credit note shall show the goods and services per delivery note/certificate of performance according to type,

quantity, net price, value-added tax, value-added tax rate and total amount.

- (9) The liability for value-added tax shall pass to the Customer if the Contractor is not a German company and the services ("Dienstleistungen") or sales performed under a contract for work and materials ("Werklieferungen") by the Contractor are taxable in Germany (Section 13b Value-Added Tax Act [Umsatzsteuergesetz]). In such a case, the Contractor shall not itemize German value-added tax in the invoice. If the Contractor brings items from a third country to Germany in order to provide the aforementioned services or work and if in this connection turnover taxes on imports are levied, these taxes shall be borne by the Contractor.
- (10) The Customer may deduct any withholding taxes which may possibly accrue from the price to be paid and pay them to the fiscal authorities for account of the Contractor unless a valid certificate of exemption is provided by the Contractor.

21. Liability

- (1) The parties' liability shall be capped per event at the higher of 150% of the contract value or 3 million Euro.
- (2) The limitations on liability as set out in subsection (1) shall not apply in the event of damages caused by intentional or grossly negligent acts or omissions, in the event of personal injuries or death, in the event a guarantee has been furnished and in cases where an unlimited liability is mandatory by law or expressly provided for contractually.

22. Assignment of Claims

- (1) The Contractor's claims against the Customer may only be assigned with the express written consent of Customer's contracting procurement unit. Section 354a HGB [German Commercial Code] shall apply if the transaction is a commercial transaction for both parties.
- (2) The Customer shall be entitled to assign his rights and obligations arising from the agreement individually or in whole to any company of the Telekom group within the meaning of section 1, subsection 4. Such an assignment shall not require Contractor's consent.

23. Set-off

- (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.

24. Foreign Trade Regulations

- (1) The Contractor shall be accountable for the compliance with all applicable foreign trade regulations in connection with any delivery and, in particular, for obtaining all authorizations or any other permissions required under foreign trade regulations or export laws on his own responsibility and at his own expense.
- (2) For any delivery of goods the Contractor shall, in particular, provide the Customer with the following information:
 - a. the Statistical Commodity Code of the goods in accordance with the Harmonized System of the World Customs Organization (WCO),
 - b. the country of origin of the goods (where applicable, in accordance with EU Preferential Agreements),
 - c. any foreign trade information and documents relevant for shipment (weight of the goods, customs number, value-added tax identification number).

The information described above under a. and b. must unsolicited be provided as separate information prior to the shipment or latest as separate annotation on the Contractor's respective invoices.

- (3) If the Contractor delivers goods with US origin or goods with predominant US origin, the Contractor shall be obliged to provide the Customer with the Export Classification Number (ECCN) and to identify any applicable "license regulations" and "license exceptions" according to the US-Re-Export-Regulations.
- (4) To the extent that the Contractor has procured the delivered goods in to or in part from third parties, he guarantees that these goods have been procured from reliable sources and that they have been exported or imported in compliance with the export regulations of the country of manufacture/ dispatch.

25. Final Provisions

- (1) The place of performance shall be the place of final destination indicated by the Customer.
- (2) The laws of the Federal Republic of Germany shall apply, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods and provisions referring to foreign law.
- (3) The venue shall be at the court with jurisdiction at the Customer's principal place of business. However, the Customer shall also be entitled to have recourse to the court with jurisdiction at the Contractor's principal place of business.
- (4) Notwithstanding the legal invalidity of individual items, the remainder of the agreement shall remain binding. This shall not apply if adherence to the agreement

would constitute an unreasonable hardship for one party.