

## GENERAL CONDITIONS OF DZ BANK AG FOR THE PURCHASING AND CONTRACTING OF SERVICES

**1. SCOPE**

- 1.1. For the contracting relationship between CONTRACTOR and DZ BANK AG (referred to in the following as "CLI-ENT"), the following General Conditions for the Purchasing and Contracting of Services (abbreviated to "GPCs") apply unless other arrangements have been made in writing (e.g. in a Master Agreement). These GPCs shall also apply to all future services provided by the CONTRACTOR for the CLIENT, even if no separate agreement is reached to this effect.
- 1.2. The General Terms and Conditions of the CONTRACTOR do not apply even if specific reference is made to them by the CONTRACTOR in its quotations, order confirmations or other documents.
- 1.3. The companies listed in the **Annex "Qualifying Companies"** are entitled to place orders while making reference to these GPCs. Beneficiaries on the part of the CLIENT are the companies in aforesaid **Annex**.

**2. PERFORMANCE, CURRENT DOCUMENTS, DOCUMENTATION**

- 2.1. The CONTRACTOR agrees to provide its services in a professional manner while observing the rules recognized at the time the services are being rendered and the current status of scientific and technical developments as well as any statutory regulations, provisions and specialist norms.
- 2.2. If the CONTRACTOR becomes aware, on account of circumstances and requirements meanwhile known, that the agreements on the fulfilment of the contractually intended purpose are in need of modification, it shall notify the CLIENT immediately thereof in writing, stating the reasons and making proposals for changes.
- 2.3. For agreements on the CONTRACTOR's work and services, aforesaid must prepare detailed documentation and other documents necessary for the provision of its services in the German language and initiate the CLIENT into the use of the services.

**3. PERFORMANCE**

- 3.1. With the consent of the CONTRACTOR, the CLIENT shall permit the persons named by the CONTRACTOR access to its operating facilities to the extent this is necessary for the provision of the services. Said persons agree to observe the control regulations and safety provisions applicable in the operating units of the CLIENT.
- 3.2. The CLIENT agrees to cooperate within the extent agreed. If the CLIENT fails to discharge its obligation to cooperate or does not do so in a timely manner, the CONTRACTOR must immediately inform CLIENT of these circumstances in writing together with an outline of the consequences (in particular regarding the agreed remuneration, deadlines and time limits). To this end, the CONTRACTOR must describe in as much detail as possible the cooperation that has not been provided or has not been provided in a timely manner.
- 3.3. The CONTRACTOR is not permitted to connect to or install hardware or software on the CLIENT's system without the previous written authorisation of the CLIENT.
- 3.4. The CONTRACTOR shall inform the CLIENT on a regular basis or on request about the progress and status of the

services. As soon as the CONTRACTOR is aware that it is unable to meet the deadlines or dates set, it will inform the CLIENT immediately of this fact and outline the cause and anticipated length of the delay.

- 3.5. The CONTRACTOR has no right to retain items of property belonging to the CLIENT.
- 3.6. The CONTRACTOR shall state the order numbers/contract numbers of the CLIENT in all dispatch papers, invoices and correspondence.
- 3.7. Costs of transport, including packaging, insurance and all other peripheral costs, shall be borne by the CONTRACTOR unless other written arrangements have been reached.
- 3.8. For the commercial obligation of examination and notification of defects, the statutory regulations are applicable (sections 377, 381 HGB (German Commercial Code)), with the following provision - the CLIENT's obligation of examination shall remain limited to defects which come to light while controlling the received merchandise in the course of an external examination, including the delivery documents, as well as during quality control within the framework of random tests. No obligation of examination exists if an acceptance has been agreed. Otherwise this depends on the extent to which an examination, which allows for the circumstances of the individual case, is feasible in the ordinary course of business. The CLIENT's notification of defects for defects discovered later shall remain unprejudiced by this. In all cases, a notification of defect is deemed to be immediate and timely if it is received by the CONTRACTOR within 12 working days after discovery of the defect.
- 3.9. The CONTRACTOR shall immediately inform the CLIENT if a delivery is subject in whole or in part to export restrictions in accordance with German or other law.

#### **4. ALLOCATION OF PERSONNEL, SUB-CONTRACTORS AND MINIMUM WAGE**

- 4.1. The CONTRACTOR shall perform the contractually agreed services in a responsible and independent manner. Employees of the CONTRACTOR are not subject to instructions from the CLIENT. If an employee of the CONTRACTOR has broken the contractual obligations of the CONTRACTOR on several occasions or if an employee does not meet the agreed and/or necessary qualification requirements for the allocated service, the CLIENT may request that this employee be replaced immediately at the cost of the CONTRACTOR.
- 4.2. The performance of the contractually agreed services of parts thereof by sub-contractors is only permitted with the prior written consent of the CLIENT. If requested by the CLIENT, the CONTRACTOR must evidence qualification of the sub-contractor to be deployed.
- 4.3. If the CONTRACTOR must pay a statutory minimum wage (for example in accordance with the provisions of the Minimum Wage Act), it must ensure that its employees as well as the employees of any sub-contractors receive the statutory minimum wage. If requested by the CLIENT, the CONTRACTOR must provide evidence of payment of the minimum wage through appropriate documents. If the CONTRACTOR violates his obligation to pay a statutory minimum wage, it shall release the CLIENT from any claims arising therefrom. Breach of such an agreement on the part of the CONTRACTOR constitutes an important reason for the CLIENT to effect extraordinary notice of termination, as set forth under number 14.1.

## 5. CONFIDENTIALITY AND DATA PROTECTION

- 5.1. The CONTRACTOR agrees to confidentially treat all information and data, regardless of the form (especially written, verbal, electronic), concerning all matters pertaining to the CLIENT, made accessible to the CONTRACTOR by the CLIENT or having otherwise been made known to aforesaid, regardless of the way in which this happens (referred to hereafter as "confidential information").

Confidential information particularly includes the following

- a. business secrets;
  - b. information that constitutes competition-relevant expertise;
  - c. information subject to bank secrecy, professional secrecy or data protection and
  - d. information labelled as confidential.
- 5.2. Subject to the provision in the paragraphs below, the CONTRACTOR shall not pass confidential information on to third parties, shall prevent unauthorized access to said information and ensure that the use of said information is confined solely to the purpose set forth in the agreement. Furthermore, said information may not be recorded or saved, copied, passed on in any form or used in any form for other purposes.
- 5.3. Subject to the provision in the following paragraph, the CONTRACTOR shall only disclose or allow third parties access to confidential information with the written consent of the CLIENT. Before disclosing or allowing a third party access to confidential information, the CONTRACTOR must oblige the third party in writing to also observe the obligations undertaken by the CONTRACTOR in respect of confidentiality towards the CLIENT. The CONTRACTOR shall provide evidence of this to the CLIENT on request. Third parties are also companies affiliated with the CONTRACTOR in accordance with sections 15 ff AktG (German Stock Corporation Act) (in the following: "affiliated companies").
- 5.4. All employees of the CONTRACTOR in receipt of confidential information for the provision of services in accordance with the above paragraph must have stated their agreement - if applicable in their working contracts - to treat this information confidentially and use it solely for the purpose intended in the contract. The CONTRACTOR shall be held liable for ensuring that its employees observe the obligations accepted by them for the period of their employment at the CONTRACTOR as well as afterwards. The same applies to ensuring compliance on the part of the accessory agents.
- 5.5. After fulfilling the intended purpose or at the CLIENT's request at any time, the CONTRACTOR shall immediately pass over to the CLIENT all confidential information received and still held by aforesaid, and confirm in writing the complete fulfilment of this obligation. The CONTRACTOR has no retention rights in this respect. In the case of information electronically stored on recordable storage media, the CONTRACTOR can, with the consent of the CLIENT, delete said information instead of handing it over. The deletion must be carried out in such a way that the information can no longer be recovered. However, if the CONTRACTOR is legally obliged to store information, it is entitled to keep a copy of the necessary documents solely for this purpose. Upon expiry of the legal retention period, the CONTRACTOR is obliged to destroy these copies in such a way that the information can no longer be recovered. Deviating from the period defined in the paragraph below, the obligations to ensure confidentiality in respect of this agreement for the confidential information not returned or not deleted for the reasons named above shall continue to apply until their final destruction.

- 5.6. These obligations to maintain confidentiality shall apply for the period of five years after termination of the agreement. However, confidential information subject to bank secrecy, professional secrecy or data protection laws must be treated confidentially for an unlimited period of time.
- 5.7. Insofar as an individual agreement service relates to the Commissioned Processing pursuant to Article 28, 29 GDPR (General Data Protection Regulation), the parties shall separately agree in writing the necessary specifications under Article 28 (3) GDPR in accordance with **Annex "Data Protection"** under [www.einkauf.dzbank.de](http://www.einkauf.dzbank.de).
- 5.8. The CLIENT shall save personal data relating to the CONTRACTOR or the CONTRACTOR's employees in order to fulfil (pre-) contractual obligations, or on account of a legitimate or public interest, statutory guidelines or a concrete granted consent. Access to the CONTRACTOR's data shall be allowed to those bodies which need them for the aforementioned purposes. Commissioned processors in the categories credit services, IT services, logistics, print services, telecommunication, debt collection, advisory and consulting, and sales and marketing may also receive data for these purposes. Data shall only be transferred to third states provided that this is necessary for contractual fulfilment, legally required, or if the CONTRACTOR has, or the affected employees have, granted consent thereto. To the extent that the CONTRACTOR is a natural person, or the company of the CONTRACTOR contains personal data, it may be necessary that, in order to enter into contract, the CONTRACTOR provide the CLIENT with the data concerned as well as his contact details and possibly additional personal data required by law. Should the CONTRACTOR fail to provide these data, conclusion of contract shall not be possible. For further information, please refer to the "General Data Protection Notice" on [www.dzbank.de](http://www.dzbank.de).
- 5.9. The CONTRACTOR undertakes to inform his affected employees about the remarks set out in the preceding paragraph as well as the "General Data Protection Notice" on [www.dzbank.de](http://www.dzbank.de).

## **6. LEGAL CONSEQUENCES OF A BREACH OF PARAGRAPH 5 OR THE DATA PROTECTION ANNEX**

- 6.1. For each culpable breach by the CONTRACTOR of a clause in Paragraph 5 or in the obligations outlined in the Data Protection Annex, a contractual penalty shall be payable as determined at the CLIENT's discretion. This shall not prejudice the enforcement of statutory legal rights to compensation.
- 6.2. The provisions of Paragraphs 5 and 6 shall remain in force after termination of this agreement.

## **7. REMUNERATION AND PAYMENT CONDITIONS**

- 7.1. Unless otherwise agreed in writing, the CONTRACTOR is not authorised to invoice the CLIENT for any (preliminary) services in connection with the examination of the service requirements.
- 7.2. The agreed daily rates are based on a workload of at least 8 working hours per day. Any work performance above and beyond this shall not be remunerated. Any workload less than this shall be remunerated on a *pro rata temporis* basis; separate arrangements can be made for deviations from this.

- 7.3. For services to be rendered outside normal working hours – e.g. on Sundays or public holidays including bank holidays – the agreed daily rates shall apply provided no other agreement has been reached in advance with the CLIENT. This also applies to work performance rendered after 8pm.
- 7.4. Travel times and travel expenses from and to the place of work shall not be separately remunerated, nor shall any expenses for refreshments.
- 7.5. If the parties have agreed to work on the basis of remuneration at cost, and if the CONTRACTOR expects that the planned volume or price estimate will be exceeded, it shall immediately notify the CLIENT of this. Until the written consent of the CLIENT has been given, the CONTRACTOR shall not exceed the volume estimates on which the price estimate is based. Work carried out by the CONTRACTOR without respecting these conditions shall not be remunerated by the CLIENT.
- 7.6. Pre-condition for payment is the presentation of a correct and verifiable invoice. A component of this invoice is the documentation on the working hours of the CONTRACTOR. The CONTRACTOR must keep a written record of the services rendered, which clearly shows the hours worked in a meaningful way in qualitative and quantitative terms. Invoices are payable 30 days after the CLIENT has received them, but can also be paid within 14 days at a discount of 3% and within 21 days at a discount of 2%. Delays are possible if the invoices contain errors.
- 7.7. Should it transpire at some time in the future that the services rendered under this agreement are subject to the reduced VAT rate or are not subject to VAT, the CONTRACTOR shall immediately notify the CLIENT of this and, if requested to do so, refund the difference in VAT in relation to the VAT amount shown on the invoice.
- 7.8. The CLIENT shall withhold from the agreed price any withholding taxes accruable (in particular withholding tax for building contracts under section 48 EStG (German Income Tax Act), withholding tax in the event of limited tax liability under section 50a EStG or § 10 Defence against Tax Havens Act), including any solidarity surcharge payable on this, and shall pay this for the account of the CONTRACTOR to the relevant tax authorities (tax authorities of the CONTRACTOR in the case of section 48 EStG and Federal Central Tax Office (BZSt) in the case of section 50a EStG or § 10 Defence against Tax Havens Act).
- 7.9. If it is possible to abstain from tax withholding or tax reduction, the CONTRACTOR shall present to the CLIENT a valid exemption certificate before payment of the remuneration. The CONTRACTOR must immediately notify the CLIENT if the exemption certificate is revoked.
- 7.10. If the CLIENT fails to withhold and pay the withholding taxes mentioned above but is obliged under statutory regulations to pay these taxes to the tax authorities for the account of the CONTRACTOR, the CONTRACTOR shall immediately refund to the CLIENT the tax amount owed under law, including the solidarity surcharge, to enable aforesaid to pay the withholding taxes to the relevant tax authorities.
- 7.11. Any taxes payable abroad shall be borne by the CONTRACTOR itself.
- 7.12. Sections 615, 616 BGB (German Civil Code) are excluded.

## **8. ASSIGNMENT AND SET-OFF**

The CONTRACTOR is only permitted to assign his claims in respect of this agreement to third parties if has the written consent of the CLIENT to do this.

## **9. RIGHTS TO OUTPUT FROM SERVICES AND RIGHTS OF USE**

- 9.1. The CLIENT shall be enabled to use and exploit all output, including accompanying documentation, in changed or unchanged form and whether for use in its own company or to be passed on to third parties.
- 9.2. The CLIENT has the exclusive, irrevocable, indivisible and unlimited right to use and exploit output in all the usual ways, including reproducing output without express permission, copying it onto visual, audio and data storage media, amending, redesigning, translating, disseminating, storing, publishing or making it available to the public at places and times they see fit. The results of amending, redesigning or translating may be used in the same manner as the original versions of the output and the documentation.
- 9.3. The CONTRACTOR shall grant the respective rights of use as soon as such rights arise to the CLIENT.
- 9.4. Without authorisation from the CONTRACTOR in respect of single or total rights granted to the CLIENT, aforesaid may grant licences to third parties with regard to simple or exclusive rights of use or may transfer part or all of these acquired rights to third parties.
- 9.5. The CONTRACTOR shall ensure that no software under an open-source licence is used within the framework of its services rendered.
- 9.6. For tools or parts of tools which are not to be prepared by the CONTRACTOR during the course of the provision of services, but which are already in existence and are an integral part of the services and are identified as such in the Agreement (hereinafter "existing tools"), the CLIENT shall be granted a simple, transferable, indivisible and unlimited right to use and exploit aforesaid in the manner described in the paragraphs below. The granting of this right is complete after payment of the agreed remuneration for the existing tools.
- 9.7. The CONTRACTOR shall not claim the rights due to it under UrhG (German Copyright Law), especially the rights under sections 13 (2) and (25).

## **10. EXEMPTION FROM THIRD-PARTY RIGHTS**

- 10.1. The CONTRACTOR shall ensure that the services being rendered are free of protective rights of third parties and that no other rights exist which could exclude or limit utilisation.
- 10.2. By means of appropriate agreements with its employees and subcontractors, the CONTRACTOR will ensure that the intended utilisation is not impeded by potential competing copyrights or other rights. At the request of the CLIENT, the CONTRACTOR will provide evidence that such agreements have been reached with all employees or subcontractors involved in rendering the service.

- 10.3. The CONTRACTOR accepts sole and unlimited liability for those breaching property rights or other rights. The Parties shall inform each other immediately in writing of any claims arising from breach of property rights or other rights. The CONTRACTOR indemnifies the CLIENT against any third-party claims arising from the infringement of property rights or any other rights.

## **11. CONSEQUENCES OF DELAY**

- 11.1. In the event of delay, the CONTRACTOR agrees to pay to the CLIENT for every day in which there is a delay a contractual penalty in the amount of 0.3% of the total remuneration due for the service. However, the total contractual penalty may not amount to more than 5% of the total remuneration due. The contractual penalty is due with immediate effect and notwithstanding section 341 (3) BGB (German Civil Code) can be claimed at any time until final payment.
- 11.2. Further claims and rights remain unaffected.

## **12. ACCEPTANCE**

- 12.1. For services subject to acceptance, the CONTRACTOR must notify the CLIENT in writing of the acceptability as defined in section 640 BGB. Acceptability arises at the earliest after the output or delivered object has been test-ed and installed, depending on the nature of the matter. At the CLIENT's request, the data provided by the CLIENT shall be used in the acceptance test. After notification of delivery by the CONTRACTOR, the CLIENT has a period of two weeks to begin an acceptance test.
- 12.2. Faults uncovered are to be documented to the CONTRACTOR in an understandable fashion.
- 12.3. If the acceptance test fails, the CONTRACTOR agrees to correct faults within a reasonable period of notice and offer the results to the CLIENT so that the acceptance test can be carried out again. The acceptance test can be repeated as many times as is reasonable for the CLIENT but not more than twice. If the acceptance again fails after repeating the acceptance test, the CLIENT may withdraw from the agreement in accordance with sections 323 BGB and 326 (5) BGB or reduce the amount of remuneration due to the CONTRACTOR and to demand damages in accordance with sections 280, 281, 283 BGB and 311a BGB or demand replacement of expended costs under section 284 BGB.
- 12.4. The bringing into operation or productivity activation of a faulty service does not amount to acceptance; this remains valid independent of knowledge of the fault.
- 12.5. If different delivery dates are agreed for individual services or for parts of services, the acceptance test applies only to the partial delivery (partial acceptance). Where successful delivery depends on several partial services working together effectively, all parts will be tested together after delivery of the last service to check the acceptance of the whole contractual service (final acceptance test).

**13. INSURANCE**

The CONTRACTOR shall ensure that potential damages that the CLIENT could incur as a result of rendering the agreed services are sufficiently insured. Upon request, the CONTRACTOR shall furnish the CLIENT with evidence of the existence of suitable insurance cover.

**14. TERMINATION**

- 14.1. Both parties are entitled to effect extraordinary termination of the agreement for an important reason. The CLIENT may effect extraordinary termination especially if the CONTRACTOR violates the obligations to maintain secrecy and the data protection provisions.
- 14.2. A service contract can be terminated by the CLIENT by giving written notice of one week unless other arrangements have been made. Termination rights of other types of agreement shall remain unprejudiced by this.
- 14.3. Terminations must be made in writing for them to become legally effective.

**15. SUSTAINABILITY REQUIREMENTS**

- 15.1. The CONTRACTOR shall support the CLIENT in implementing the requirements of the German Supply Chain Sustainability Obligations Act (LkSG) and, if applicable, comply with its own existing obligations under the LkSG.
- 15.2. The CONTRACTOR shall implement and comply with the requirements set out in the annex "Sustainability requirements for suppliers of the DZ BANK Group", available at [www.einkauf.dzbank.de](http://www.einkauf.dzbank.de).
- 15.3. Any further agreements or declarations of the contracting parties shall not be restricted by this provision.

**16. FINAL PROVISIONS**

- 16.1. This Agreement shall be governed by the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods is excluded.
- 16.2. The courts at the registered office of the CLIENT have statutory jurisdiction. The place of performance for all liabilities arising from this Agreement is also the registered office of the CLIENT.
- 16.3. Changes to an agreement must be made in writing in accordance with Section 126 BGB or a electronic signature procedure agreed between the parties. The same applies to this clause as well as to the waiver of this written-form requirement. Insofar as legally relevant declarations and notifications of the parties require the written form, the electronic signature procedure shall also apply to these. In the case of written form, Section 127 (2) and (3) BGB are waived.
- 16.4. The CONTRACTOR shall not use the company or logo of the CLIENT or any of its subsidiaries for reference purposes without the express written approval of the CLIENT.



**Statement of Annexe**

- Qualifying companies in accordance with paragraph 1.3
- Data protection ([www.einkauf.dzbank.de](http://www.einkauf.dzbank.de))
- Sustainability requirements for suppliers of the DZ BANK Group ([www.einkauf.dzbank.de](http://www.einkauf.dzbank.de))

**Annex: Qualifying companies in accordance with paragraph 1.3**

DZ BANK Kunststiftung gGmbH  
Platz der Republik  
60325 Frankfurt am Main

Reisebank AG  
Platz der Republik 6  
60325 Frankfurt am Main

VR-Smart Finanz AG  
Hauptstraße 131-137  
65760 Eschborn

VR Smart Finanz Bank GmbH  
Hauptstrasse 131 - 137  
65760 Eschborn

VR Smart Guide GmbH  
Hauptstrasse 131 - 137  
65760 Eschborn