

## KPMG General Terms and Conditions

### I. Preliminary Comment

In the event of their effective inclusion, these General Terms and Conditions shall apply to contracts concluded with KPMG AG Wirtschaftsprüfungsgesellschaft, any subsidiary of KPMG AG Wirtschaftsprüfungsgesellschaft or KPMG Law Rechtsanwalts-gesellschaft mbH (hereinafter "KPMG").

If the contracting KPMG entity is a professional firm (auditing company, law firm), KPMG is subject to special statutory provisions regarding independence and confidentiality. In addition, KPMG is often bound by contractual agreements to maintain confidentiality. The Contractor provides its services against this background and in the knowledge that the integrity and security of information is of very high importance to KPMG, with particular care and in consideration of the interests of KPMG.

### II. Exclusion of Standard Terms and Conditions of other Parties

General terms and conditions of the Contractor and/or individual clauses of this nature are not applicable. This is also true, if general terms and conditions of the Contractor are not explicitly refuted.

### III. Invoicing, Due Date for Payment

1. Incomplete, incorrectly addressed or inaccurate invoices are not in accordance with the agreement, particularly if VAT is stated incorrectly or not in compliance with VAT regulations. Such invoices cannot be processed.
2. Payment is due 30 calendar days after receipt of a valid auditable invoice in accordance with the requirements of tax law. If an acceptance procedure has to be carried out by KPMG, the service must have been successfully accepted before the invoice is issued.
3. Invoices must – if applicable – provide the KPMG order number.
4. If KPMG pays within 8 days of receipt of the invoice, the Contractor will grant an early payment discount in the amount of 2 %.

### IV. Contractual Penalty in the Event of Delays

If the Contractor fails to meet agreed deadlines (e.g. a fixed deadline), he is obliged to pay a contractual penalty in the amount of 0.2 % of the total net compensation for each commenced working day of the delay, not exceeding 5 % of the agreed total net compensation, without having to provide evidence of any loss. This shall not apply as far as the Contractor is not responsible for the infringement of the obligation. In the event of deliberate actions, each single act shall be deemed to be an individual infringement. Further claims for costs and damages of KPMG are not affected thereby. The contractual penalty is netted against claims for damages attributable to the same violation.

### V. Use of Third Parties

1. The Contractor must provide the agreed services itself and/or with its own employees. If the Contractor intends to use services of third parties for rendering the contractually agreed services, and in particular if the Contractor intends to use subcontractors or group-affiliated companies, KPMG must provide prior written consent for the deployment of such third party services. KPMG can revoke such consent at any time in text form. The Contractor must ensure that the third parties that it engages must comply with all provisions of this contract. In particular, the Contractor is required to make oblige third parties to confidentiality.
2. Employees of the Contractor as well as its vicarious agents and their employees must be able to provide KPMG and its employees at all times with confirmation of their identity as agents of the Contractor for the purpose of carrying out services in accordance with the terms of this agreement (e.g. company ID card with photo).

### VI. Granting of rights

1. The Contractor grants KPMG the exclusive irrevocable right, unrestricted in respect of time, place and content, to use and exploit all service results under this contract, particularly works, data, texts, information, photos, videos, films, layouts, drafts, templates, translations and – as far as software is concerned – the source and object code as well as parts thereof, their primary stages and interim results (hereinafter: 'work results'). These rights of use comprise publishing as well as any and all physical and non-physical utilizations. This particularly includes reproduction, distribution, exhibition, recital, enactment, broadcast, audio

and video broadcasts, radio broadcasts and publication. Rights are granted with the origin of the respective right. The granting of rights of use applies to all known and unknown (as well as future new) types of use, including

- 1.1. permanent or temporary reproductions and copies by any means and in any form (e.g. electronic or printed; where loading, displaying, running, transferring or storing programs requires reproduction - e.g. on CD-ROM, DVD, Blue Ray, loading into memory - these operations are included) and on any medium (including central systems, e.g. cloud servers) for an unlimited number of users (including parallel) and for any type of hardware;
- 1.2. distribution of originals or copies, including rental for all releases and editions, in whole or in part, without limitation in number of copies;
- 1.3. public reproductions, including making them available to the public, in particular for the purpose of advertising, marketing and feeding and keeping them available for retrieval and download on the Internet, intranet, by means of online services, apps and on-demand services, dispatch by e-mail, e-mail newsletters and other use on computers and mobile devices, cloud services; and
- 1.4. the use in archives, also in form of databases.

Free use for test purposes is also permitted prior to acceptance.

2. In the case that the rendering of services results in joint rights, KPMG obtains the corresponding right of ownership to these rights when they arise and has the sole right to the respective joint rights without requiring consent of the respective co-author. The Contractor assures that its subcontractors agree to the aforementioned regulation and have authorized the Contractor to engage in such agreement.
  3. KPMG is authorised, alone or using third parties, to edit, translate, adjust, develop and otherwise transform work results – while maintaining their respective character (hereinafter: 'adaptations'). KPMG itself or through third parties is authorized to use and utilize any and all modifications as set forth in this paragraph.
- Adaptations also include actions according to Sec. 69c no. 2 Copyright Act [UrhG], e.g. by translation into other programming/computer languages, setup for other software environments, extension or reduction, error correction, further development including functionality as well as development of other computer programs from the work results

4. KPMG is authorised to transfer any rights granted in part or in full and/or to grant rights of use to these to third parties.
5. The Contractor guarantees that the rights granted in the foregoing sub-sections are not impaired by third party rights, including vicarious agents of the Contractor, or co-authors; and that the Contractor has granted itself all necessary rights to do so. The Contractor warrants that the legally required consent (especially under the EU General Data Protection Regulation [EU DS-GVO], the German Act Against Unfair Practices [UWG], the German Art Copyright Act [KUG]) of all participants is in place. Unless otherwise agreed, the Contractor of KPMG will obtain the relevant rights and consent at its own expense.
6. If third parties assert a claim against KPMG from their actual or alleged legal position in respect of the service(s) of the Contractor, the Contractor will defend unjustified claims at its own expense and release KPMG from justified claims unless it is not responsible for this or liable for this irrespective of fault. The same applies for any claims asserted by third parties or vicarious agents in accordance with Section 32a (2) of the German Copyright Act [UrhG].
7. All documents, data and data storage media prepared by the Contractor within the scope of the relevant contract/project will become property of KPMG. The Contractor is required to transfer these to KPMG at the end of the project.
8. The Contractor is obligated to abstain from any use, utilization and distribution of work results or parts thereof. This does not apply if the Contractor is an academic institution. In this case the parties are in accord that academic, research and teaching freedom remains unaffected by this contract and the Contractor obtains a simple right of use for the work results which is necessary to ensure the freedom of science, research and teaching.
9. KPMG is entitled, either itself or through third parties, to make back-up copies of work results including their documentation in unlimited numbers as part of regular data backup.
10. The preceding paragraphs and the rights granted, consents and obligations hereunder shall remain valid after termination of the contract – regardless of reason.

## VII. Confidentiality and Data Protection, Penalty for Breach

1. Confidential information are all facts, circumstances, data, materials, documents and transactions – in particular business or company secrets or client data in accordance with § 203 German Criminal Code [StGB] – of which the Contractor obtains knowledge out of or in connection with its activities for KPMG that are not generally available, which at the date of disclosure are not known to the Contractor or lawfully made public and which do not form part of general specialist knowledge or the general state of the art (**'confidential information'**).

2. The following duty of confidentiality no longer applies insofar and as soon as, following the time of disclosure, the confidential information

2.1. is individually disclosed to the Contractor by a third party without the third party breaching the duty of confidentiality or

2.2. is independently recognised and developed by the Contractor irrespective of the confidential information.

3. The Contractor undertakes, subject to the following paragraphs, to observe absolute secrecy with respect to all information disclosed to him, to treat the information confidentially, not to use any of the information for himself or a third party, not to pass on or make accessible any information to others and to take all required technical and effective precautions in order to prevent any such disclosure.

4. The Contractor undertakes:

4.1. to use confidential information solely for the purpose of fulfilling its contractual obligations to KPMG;

4.2. to disclose confidential information to its employees only to the extent required for contract performance;

4.3. to secure data protection, i.e. to handle personal data under the data protection requirements – in particular Regulation (EU) 2016/679 (General Data Protection Regulation/EU GDPR) and the German Federal Data Protection Act [BDSG], in particular to take risk-appropriate measures to secure processing pursuant to Article 32 EU GDPR and to demonstrate this upon request of KPMG by submitting appropriate documentation;

4.4. its employees and other vicarious agents must be accordingly informed and these must undertake to

- respect confidentiality, also in respect of all personal data, in general for an unlimited term, even beyond the end of service performance with respect of all parties,
- to observe telecommunications secrecy pursuant to Section 3 of the German Telecommunications-Telemedia Data Protection Act [TTDSG] if in the course of their activities they collaborate with the provision of commercial telecommunication services.

For this obligation, template under **Appendix Declaration of Confidentiality** is to be used.

The Contractor is required (i) to submit to KPMG upon request evidence that the obligation is undertaken and (ii) to not release its employees and other vicarious agents from their obligation to maintain confidentiality without the prior written consent of KPMG.

5. The disclosure of confidential information to third parties requires the prior consent of KPMG in text form.

6. If the Contractor is permitted to involve other persons to perform this contract for the purposes of its assignment, the Contractor will require these persons to declare in writing that they will maintain confidentiality at least to the same extent that it is required under this provision.

7. Violation of the obligation to maintain confidentiality and/or arising from the aforementioned paragraph (6) can be a criminal offence pursuant to Section 119 of the German Securities Trading Act [WpHG], Section 23 of the German Act on Protecting Trade Secrets [GeschGehG], Section 42 of the German Federal Data Protection Act [BDSG], Sections 202a, 203, 204, 206 of the German Criminal Code [StGB]

8. In the event that the Contractor is instructed by a court or administrative authority to disclose confidential information, it is obligated – to the extent legally permissible – to inform KPMG promptly and comprehensively and to request KPMG's response prior to disclosure.

9. If information is subject to legal privilege (Section 97 (3) of the German Code of Criminal Procedure [StPO]) or if there is a right to refuse to give evidence or information (Section 53a (1) sentence 1 StPO), the Contractor will invoke these rights as long as KPMG does not release it from this.

10. Upon termination of the contractual relationship or at any time upon request, the Contractor must return all or, as determined by KPMG, only certain materials, documents and data (in electronic or paper form) containing confidential information pursuant to paragraph (1) or are based on such information to KPMG in a compiled form or delete

(anonymization or pseudonymization is not sufficient) these completely in consultation with KPMG. This is not applicable if the Contractor is legally required to retain records or this concerns information in automatically created backups or in similar archiving systems, provided that the Contractor will no longer make use of such copies. In such cases, the confidential information must be returned or deleted immediately after expiry of the statutory retention obligation and, in the case of backups, after the purpose of the backup has ceased to exist. Upon request of KPMG, the Contractor submits appropriate evidence of deletion.

11. If the Contractor obtains access to insider information in the course of carrying out the engagement, it is required to inform its employees and other vicarious agents comprehensively on the legal obligations which result as well as the legal consequences of violations. If KPMG is required under statutory provisions to maintain an insider list for contract/engagement relationships containing the services rendered by the Contractor and the access obtained to insider information, KPMG will include the Contractor (and an individual of the Contractor as contact along with the legally required information) in the insider list that is to be maintained.

12. The Contractor grants KPMG the right at all times to verify compliance with the requirements in accordance with this section itself or by involving third parties that are obligated to confidentiality by review on site or by requesting the relevant supporting documents.

The Contractor is required to inform KPMG promptly in writing of any (suspected) cases, if and to the extent to which such cases compromise or could compromise compliance with the provisions of this section.

13. A violation of an obligation given in the foregoing paragraphs of this section gives KPMG the right to terminate this contract without notice.

14. In the event of breach of any of the obligations set forth in the foregoing paragraphs by the Contractor, its staff or other vicarious agents, KPMG shall be entitled to demand payment of a contractual penalty by the Contractor for each infringement in an amount it considers fair and just (pursuant to Section 315 of the German Civil Code [BGB], the criteria for determining such penalty include for example: severity of violation, potential risks and damage to KPMG, aspects of consolidation of damage into a lump sum/provability of damage, requirement of sanctions, Contractor's performance, risk of recurrence). This shall not apply if the Contractor is not liable for such breach of duty. In the event of deliberate actions, each single act shall be deemed to be an individual infringement. This does not affect any further claims for damages and further contractual penalties due to the same action. In the event of claims for damages, the contractual penalty shall be offset against the claim arising from the same infringement.

15. Subject to the following sentence the obligations referred to in the above paragraphs shall continue to apply without restriction in terms of content and time beyond any termination of the remaining contractual relationship between the parties to this agreement. If the duty of confidentiality is not based on applicable law or regulation, it expires two years after the end of the contractual relationship between KPMG and the Contractor.

16. If any provisions of this agreement set forth by the parties contradict or deviate from the foregoing paragraphs, the provisions under this clause shall have precedence.

## VIII. IT Security Standards

1. The Contractor undertakes to take technical and organisational measures to protect all data of KPMG (**"KPMG data"**) in accordance with best practice and the respective current state of technology.

2. The Contractor undertakes in particular:

2.1. To process KPMG data only for the purpose of performing the agreement and to the extent necessary for this purpose;

2.2. to use only data, hardware and software which correspond to the state of the art, in particular to

- ensure that no viruses or malicious programs compromise systems used by the Contractor to provide services for KPMG.
- to ensure that no viruses or harmful programmes are introduced to KPMG via systems used by the Contractor and
- to use the latest version of anti-virus software (with current anti-virus definitions) in accordance with best industry practice;

2.3. to refrain from connecting hardware not provided by KPMG to KPMG networks or computers.

3. The Contractor shall oblige its employees and other vicarious agents to comply with the agreed information security standards and shall immediately provide KPMG with proof of this in text form upon request.

## IX. Insurance

1. The Contractor is obliged to take out public liability insurance and professional liability insurance with the following amounts of cover for each loss event and to maintain such cover for the entire duration of the agreement:
  - Personal injuries and property damage: € 5 million
  - financial loss: € 2.5 million
2. Evidence confirming that insurance has been contracted must be provided within two weeks after the agreement is signed.
3. If the Contractor fails to provide evidence on time confirming that the insurance has been contracted, KPMG is authorized, after the expiration of a reasonable extended period without result, to contract appropriate insurance at the expense of the Contractor or to terminate the contract.

## X. Professional Requirements

As an accounting and audit firm or as a law firm, KPMG is subject to the (professional and) legal requirements applicable to auditors and audit firms, lawyers and law firms and their affiliated and associated companies. Should, on completion of the agreement, an activity and/or measure, service or return service, which was subject to the agreement, no longer be consistent with the (professional and) legal requirements or, having taken these into account, no longer be usable by KPMG for its intended purpose due to a change in circumstances or legal situation, KPMG shall have the right in particular to cancel this agreement or terminate affected parts thereof without notice. The parties shall invoice services and return services rendered until (partial) termination takes effect pursuant to or in keeping with any existing legal provisions on a pro rata basis.

## XI. Advertising Measures, Use of Logo

The Contractor will not include KPMG in any list of reference clients, will not use the name and the logo of KPMG and also will not in any other way draw the attention of third parties to this contractual relationship or mention KPMG in an advertising manner.

## XII. Unlawful Gifts/Favors

The Contractor undertakes not to grant or offer KPMG staff any gifts or favours as an incentive or reward for the future or past performance or omission of activities in relation to the conclusion of this agreement or any other contract with KPMG, or to accept to such gifts or favours. This shall not preclude courtesies and/or occasional gifts, insofar as these are in accordance with usual practice and legally permissible.

## XIII. Use of SAP Ariba for the conclusion and execution of contracts

KPMG and Contractor undertake to use the [SAP Ariba Network](#) in particular for the initiation and execution of contracts, i.e. without limitation the conclusion and processing of contracts as well as the receipt of orders and invoices.

## XIV. Incidental Costs, Possible Transport Risks

1. Unless otherwise agreed in text form, the Contractor does not have any right to claim reimbursement for costs, and in particular does not have a right to claim the reimbursement of traveling or accommodation expenses as these costs are included in the agreed amount of compensation.
2. Any transport risks are borne by the Contractor.

## XV. Termination, Withdrawal

1. Notwithstanding statutory provisions, KPMG is entitled to terminate or revoke the agreement for good cause, i.e. the framework agreement and/or the individual/project agreement. Failure to comply with Section X. below (Professional Requirements), with any data protection or confidentiality obligations or deadline schedules are, in particular, deemed to be good causes.
2. If neither of the contracting parties is responsible for the good cause, both contracting parties are, in the case of revocation, equally obliged to return the received performance.

## XVI. Relevant Law, Legal Venue, Miscellaneous

1. This agreement is governed by German law excluding the United Nations Convention on Contracts for the International Sale of Goods

[CISG]. The place of jurisdiction shall be Berlin. If, in an individual case, an exclusive place of jurisdiction is not established under the law, the parties to this agreement shall agree upon an exclusive place of jurisdiction.

2. Without prejudice to any potential special provisions of this agreement, the Contractor agrees to maintain confidentiality with respect to the conclusion, existence, subject matter and content of this agreement.
3. The Contractor shall not have the right to transfer the agreement or claims and rights arising therefrom, or assign these as a whole or in part, without the prior written consent of KPMG.
4. In the event that any provisions of this agreement, an addendum, an addition, etc. or a subsequently included provision, are or become invalid or unenforceable, as a whole or in part, or omissions become apparent in this agreement or addenda, the validity of the remaining provisions shall not be affected, unless the performance of the agreement constitutes an undue hardship for one of the parties to this agreement.