

General Terms and Conditions of DB Fahrzeuginstandhaltung GmbH for the Appraisal and Reconditioning of Components

Last modified 1 August 2023

1. General provisions

These General Terms and Conditions of Business govern the contractual terms and conditions for the appraisal and reconditioning and other services on components in DB Fahrzeuginstandhaltung GmbH facilities. In the following, DB Fahrzeuginstandhaltung GmbH will be referred to as the Contractor, and the contracting party as the Client.

The Contractor shall notify the Client, with whom it is contractually associated at the time when the changes are intended to take effect, of any changes to these General Terms and Conditions for the Appraisal and Reconditioning of Components. They are deemed to have been approved unless the Client objects to them in writing within one month of receiving the change notification. Changes shall take effect as of the first day of the second month following the month in which the Client receives the notification of change. Where the contracting party objects on time, the Parties shall have the right to terminate the contract within one month of receipt of the objection, subject to three months' notice to the end of the month. The Contractor shall indicate the right to object and terminate the contract in the change notification.

2. Service content

The Parties undertake to enter into negotiations if and to the extent that the Client's maintenance regulations or other specifications for reconditioning of the component after conclusion of the contract and, as a result, also the content of the scope of services and the statement of work. If no agreement is reached, the Parties are free to terminate the contract extraordinarily by giving four weeks' notice at the end of the month.

3. Remuneration

- 3.1. Remuneration has been agreed in advance based on the requirements issued by the Client and without previous inspection of the component. The Contractor has also assumed that the component exhibits a standard level of wear. This means that, upon receipt at the Contractor, the component does not exhibit any signs of excessive damage, such as a high level of mechanical damage, fire damage or water damage, that had not been notified before the Contract was concluded.
- 3.2. If the Contractor's quotation for a change order for additional services does not contain any information on the change of the remuneration, in case of doubt the depot prices customary at the place of performance shall apply, unless the Client could not assume that the change in the scope of services would lead to a price increase.
- 3.3. All prices are quoted net in euros and do not include taxes and duties. VAT must be indicated separately at the end of each invoice in one amount.
- 3.4. The Contractor shall issue an invoice in paper or e-mail form on an order-related basis once the service has been provided. Section 632a BGB (payments on account) shall remain unaffected.
- 3.5. Invoices shall be payable net, without deductions, twenty (20) days after the invoice date.
- 3.6. The Contractor is entitled to demand interest-free advance payments, down payments, payments on account or part payments, particularly if it has to procure cost-intensive materials. If the Client fails to comply with the request for the provision of security within ten (10) calendar days, the Contractor may refuse to perform the services without further notice until security has been provided. Advance payments, down payments, payments on account or part payments must be made at least five (5) bank working days before the relevant consideration is due and shall be accounted for in the next invoice.
- 3.7. If the Client has repeatedly failed to pay for services already rendered and received, it shall be required to provide financial guarantees to secure the Contractor's existing and likely claims associated with the requested service. The latter shall be determined by the Contractor with an estimate. The security may be provided by the usual means, in particular by way of an absolute guarantee or a bank guarantee, both payable on demand from a major bank domiciled in the European Union, the condition for acceptance of this security by the Contractor being its insolvency protection. Instead of the guarantee, the Client may settle the payment amount for the services already rendered and received in advance along with the estimated amount for the requested service. The Contractor shall not conclude an individual contract without the provision of security or payment.
- 3.8. Should the Client have objections to an invoice, the Client must make such objections known to the Contractor within six (6) weeks of receipt of the applicable invoice. Where no objections are made by the relevant deadline, the Client shall be deemed to have approved the invoice. This does not preclude mandatory legal claims of the Client in case of justified objections after the expiry of the said deadline.
- 3.9. The Client may only declare compensation against claims of the Contractor, or make use of a retention right, if the Client's claims are undisputed or have been found justified in a court of law.
- 3.10. The Contractor may refuse to provide the services if the Client is late in settling a claim in respect of maintenance services already performed; this shall apply until the invoice is proven to have been paid. The same shall apply if the Client is in default with a payment in respect of a claim assigned to the Contractor.

4. Contact persons

The Contractor's contact person at its maintenance depots is not authorised to modify, supplement, cancel or terminate this Contract. The conclusion of supplementary agreements for additional services is excluded.

5. Subsequent change/modification of the service content (additional services)

- 5.1. If the Contractor discovers after the commencement of the work that the scope of services has changed, and for this reason it is necessary to change the content and/or the timeframe of the service, the Contractor shall immediately send the Client a written quotation for a change order (e.g. by e-mail).
- 5.2. The Contractor shall submit a quotation for a change order for additional services if the expenditure for the services to fulfil the purpose of the contract is greater than assumed or the Contractor determines that the scope of services needs to be expanded to achieve the purpose of the services, insofar as a quotation for a change order is not deemed unnecessary.
- 5.3. If the Contractor is unable to submit a quote, it shall send the Client a written notification for the additional services.
- 5.4. The amendment shall be regarded as agreed when the Client confirms the quotation for a change order on its part by e-mail or by sending its order form, unless otherwise agreed in the individual contract.
- 5.5. Additional services have an impact on agreed deadlines and performance periods; in this context, the availability of the required spare parts is particularly important. They are accordingly subject to remuneration.
- 5.6. If the Client does not come to a prompt decision regarding the quotation for a change order within five (5) working days, the Contractor shall only perform such services as have been expressly ordered, and - as far as possible - shall continue the remaining work, even if the additional services cannot be performed anymore.
- 5.7. If it is not conducive to perform the services that have been ordered without the additional service, the Contractor shall be entitled, as an alternative, to suspend performance of the services that have been ordered until the Client comes to a decision. If the Client does not make its decision within four (4) weeks following receipt of the quotation for a change order, the Parties are free to terminate the contract extraordinarily by giving four weeks' notice at the end of the month, provided that the commissioned service is not useful without the additional services. Upon termination of the contract, the Client shall be obliged to collect the component(s) and any materials provided without delay.
- 5.8. If there is a disagreement between the Parties as to whether the service is additional or already covered by the service description of the individual contract, doubts in the interpretation of the statement of work shall be interpreted at the Client's expense since the Client is responsible for specifying the content or scope of the service to be provided. This shall also apply if the contractual performance is remunerated with a fixed price, unless the Client can demonstrate and prove that the disputed performance is usually to be rendered within the agreed scope of performance.

6. Performance periods

- 6.1. If time periods are described in working days, the working days are deemed to be Monday to Friday, excluding public holidays in the German federal state in which the service is provided.
- 6.2. Appointments for the delivery and return of the component shall be made in text form directly with the named contact persons at the maintenance depots carrying out the work.
- 6.3. Performance periods and deadline commitments designated as "expected" are not binding.
- 6.4. If the Contractor determines after the commencement of the services that the performance period needs to be changed, it shall inform the Client immediately in writing (e.g. by e-mail) about this, and shall communicate the new delivery time. This shall be deemed to have been agreed after 5 working days if the Client does not object, or if the Parties do not agree on a different performance period. This shall also apply if the Contractor only communicates a non-binding performance period.
- 6.5. If the Client fails to meet its agreed obligations on time, without fault, or in full, any performance periods of the Contractor shall be extended as needed, including a reasonable lead time, and taking into account the already binding performance times, so that the Contractor is not in default and the agreed performance times and the time spent in depot no longer apply.
- 6.6. The Parties are aware that in the event of a pandemic, delays in performance may occur at any time after commencement of service due to disease-related staff absences, material delivery difficulties, and possible closure of the depot, which the Parties can neither avoid nor foresee. The affected Party shall immediately notify the other Party of any delay, and shall state the specific pandemic-related reasons.

7. Materials

- 7.1. All standard, spare and wear parts required to perform the service shall be provided by the Contractor.
- 7.2. The Parties agree that the Client is solely responsible for deciding on the technical specification and target quality of the materials.
- 7.3. The Contractor shall not be obliged to comply with the material specifications from the maintenance regulations or other documents from the Client if and to the extent that it uses a substitute that is at least of the same quality and specification as the specifications in the documents. The Contractor shall inform the Client upon request whether a substitute is, or has been, used. Furthermore, the Contractor shall also be required to provide proof of an equivalent level of safety in the form of a risk assessment (CSM) for equivalent suitability and specification at the Client's request.
- 7.4. The Contractor shall conduct an inspection according to its standards with due diligence upon delivery of its material orders. A functional test of the material is not required.
- 7.5. The Contractor shall trigger an order for the material when the contract is concluded or when a supplementary agreement has been concluded, whichever comes first. Performance deadlines always depend on the delivery times of the suppliers and shall be postponed according to these delivery times without the Contractor being deemed in default. This shall always apply unless it can be demonstrated that the Contractor caused the purchased order to be placed late.
- 7.6. For materials manufactured or supplied by third parties or services passed on from third parties that are explicitly identified as such, these rights shall be based on the agreements concluded between the Contractor and said third parties in the case of a defect. The Contractor shall disclose the relevant conditions to the Client upon request.
- 7.7. Should materials belonging to the Client be removed in order to perform a replacement, the Contractor shall be entitled to retain said materials without issuing a credit note, to dispose of them or to return them at the Client's expense.

8. Termination of the Contract

- 8.1. Ordinary termination is excluded, as is Section 648 sentence 1 of the German Civil Code (BGB).
- 8.2. This shall not affect the right of the Parties to terminate an Individual Contract without notice for cause.
- 8.3. In order to exercise a right to extraordinary termination of this Individual Contract, a Party must make a complaint in writing to the other Party first, where termination is threatened and a reasonable period to provide remedy offered to the other Party, unless this cannot reasonably be expected from the Party taking such action, or this Individual Contract provides otherwise.
- 8.4. The Contractor may terminate the Individual Contract in particular if the Client fails to comply with its obligations to cooperate, in particular its obligation to provide the complete set of maintenance regulations and other documents required for the performance of the service.
- 8.5. Notice of termination must always be given in writing.

9. Visual inspection and transfer of risk

- 9.1. The Parties may carry out a visual inspection without any aids when the component is delivered. The actual condition as verified by inspection is recorded in a visual report. If the Client or its representative is not present at the visual inspection, the Contractor may perform and document a visual inspection. It shall send the Client the documentation from the visual inspection by e-mail. The visual report shall be deemed approved if the Client does not object to it within a period of two calendar days.
- 9.2. If the Client sends a component without previously agreeing a delivery date, the following shall apply: The risk of deterioration and accidental loss shall only be transferred to the Contractor with a corresponding agreement in the Individual Contract, at the latest when the service begins.
- 9.3. The Client shall bear the burden of proof that any damages to the component were not present at the time of transfer of risk.

10. Obligations of the Contractor

- 10.1. The Contractor undertakes to perform the agreed services for the Client.
- 10.2. The Contractor undertakes to provide its services exclusively in accordance with the maintenance regulations and other specifications issued by the Client. It is neither entitled nor obliged to supplement them.
- 10.3. If the Contractor discovers after the start of the service provision that maintenance regulations or other operational documents are missing, it shall inform the Client immediately.
- 10.4. If documents are missing, the Contractor may replace missing documents with its own instead of terminating the contract. In this case, the Contractor shall use the pertinent reconditioning manual issued by the manufacturer and its own regulations as the basis for performing the reconditioning. Apart from this, the reconditioning shall be performed in accordance with the statutory provisions pertinent for Germany and the recognised rules for engineering.
- 10.5. If it is not possible to perform the services at the agreed maintenance depot for operational or other reasons, the Contractor undertakes to inform the Client of this immediately and provide the name of the new maintenance depot. The Contractor remains obliged to provide the agreed service without change. If the Client has well-founded reservations against the newly selected maintenance depot, it shall inform the Contractor of this without delay, stating the reasons.
- 10.6. The place of performance is the location at which the service is provided.
- 10.7. The Contractor undertakes to use, store and install the material provided by the Client in accordance with specifications.
- 10.8. The Contractor undertakes to engage subcontractors only with the express consent of the Client. The Client shall only refuse consent for a good cause. Good cause shall be deemed to exist in particular if the subcontractor's maintenance depot is not sufficiently certified in accordance with (EU) 2019/779 or the ECM 3 raises other, proven and justified concerns about the subcontractor.
- 10.9. The Contractor shall allow representatives of the Client to have access to its own components and inspect the procedures and documents for these components, provided that this is agreed in good time in advance with the Contractor.

11. Client's Obligations

- 11.1. In addition, the Client shall undertake to hand over to the Contractor all required operational documents (e.g. operating instructions, manuals and specifications for troubleshooting, list of safety-critical components (SCC) pursuant to Regulation (EU) 2019/779), as well as the Client's operational regulations, at least four weeks before the start of the service.
- 11.2. In the case of orders involving non-destructive testing, the Client is obliged to provide a written test instruction for components to be tested in accordance with DIN 27201-7, which the Client has brought into force. In individual cases, the Parties may agree that the Contractor shall provide the test instructions. The remuneration for making this available shall be agreed in an individual contract.
- 11.3. The Client shall make available all maintenance regulations and other documents in accordance with points 11.1 - 11.2, in a well organised manner and in a universal file format; an open document format in German is the minimum requirement.
- 11.4. If the Client does not send missing maintenance regulations or other necessary documents 4 weeks after the Contractor has reported their absence at the latest, the Contractor shall have the right to extraordinary termination of the Individual Contract unless the Client has provided the Contractor with a binding deadline for sending the documents within the 4 weeks. The right of termination shall then apply if the Client does not deliver the missing documents until the agreed date.
- 11.5. The Client shall provide the software required for the provision of the services free of charge and at least 14 days prior to the commencement of the service. The Contractor shall notify the Client of any amendments without request. Where necessary, the Client shall provide the Contractor with the necessary documents in German for the use and handling of changes to the software.
- 11.6. The Client cannot reliably guarantee that the component concerned and materials provided by the Client, with the exception of regularly used operating materials, are not contaminated by hazardous substances within the meaning of the

Chemicals Act (Chemikaliengesetz, ChemG) or the Chemicals Prohibition Ordinance (Chemikalienverbotsverordnung, ChemVerbotsV) (e.g. asbestos, old man-made mineral fibres (old MMMF), heavy metals, mould, etc.) or that such hazardous substances (e.g. dusts) cannot develop during the processing of the component or when using materials provided that are directly or indirectly attributable to materials containing hazardous substances. In particular, the Client cannot prove this in a suitable form.

However, the Contractor may only start to provide the service if it can assess or exclude the risk to the protection of the health of its employees in accordance with the legal requirements.

The Contractor shall therefore examine the component after delivery to the maintenance depot for the presence or absence of hazardous substances.

If the Contractor determines during this appraisal that such hazardous substances are either clearly present or there are indications or empirical values of their presence, the Contractor shall in particular be entitled to

- Postpone the commencement of work or to interrupt the work. Agreed performance times shall then lose their validity.
- Demand the immediate removal of the object from its establishment or other safety measures
- To take these actions itself or to arrange for these actions to be taken at the Client's expense in the event of imminent danger.

The Contractor shall inform the Client of the result of the appraisal. The Parties shall then agree on how to proceed.

If the Contractor determines during the appraisal that such hazardous substances are clearly present, it can submit a quotation to the Client for removal of the hazardous substances, but is not obliged to do so. Removal of the substances shall be paid for separately and is not included in the aforementioned costs of the appraisal. If the Client fails to accept any quotation within 5 working days or if the Contractor refuses to remove the hazardous substances, both Parties shall be entitled to terminate this Contract for cause at any time. The Client's obligation to remove the object without delay (see above) remains unaffected.

Both Parties shall also have the right to terminate the Contract if the appraisal does not produce a clear result and the presence or absence of hazardous substances can only be determined by further analyses by a third party (e.g. laboratory) and the Parties cannot reach a corresponding agreement.

- 11.7. The Client shall ensure that components are in a functional, usable and fundamentally safe operating condition at the time of delivery, and that they only have performance-related, rather than extraordinary wear and tear. Something different may be agreed for the appraisal of a component.
- 11.8. The Client is obliged to package the components in suitable, weather-proof materials, label the components (e.g., using a plastic card and permanent marker or tin-plate sign), and provide a delivery note showing the Client's name, quantity and a description with manufacturer's number. If the Client fails to fulfil this requirement and the Contractor consequently incurs additional work to identify and properly categorise the components, the Contractor shall be entitled to bill this additional work at a flat rate of €45 per component. Any resulting delays to the agreed time of delivery and performance shall be borne by the client.
- 11.9. The Client shall give the Contractor at least seven (7) working days' advance notice in written form of any audit dates and times, including the audit plan. The Client is not entitled to carry out random, unannounced checks at the Contractor's premises.
- 11.10. The Client shall, at its own expense, instruct the Contractor's employees on particular issues relating to the maintenance and handling of the Client's component.
- 11.11. The Client is obliged, as agreed upon, to collect the component, or to accept it at the shipping address after completion.

Access to depot premises; environmental impacts

- 12.1. Prior to first visiting the Contractor's premises, one employee of the Client must be briefed on the risks and special features of railway operation in the vicinity of tracks, other equipment, and high-voltage lines, and must confirm understanding of this briefing. The trained Client employee shall then provide corresponding instruction to other employees at the Client and arrange for it to be confirmed in writing. The Client shall ensure that it deploys only persons who have received suitable instruction to a maintenance depot operated by the Contractor.
- 12.2. The authority to issue directives to employees of the Client or third parties who are present on the Contractor's premises at the request of the Client shall reside with the Client or the relevant third party. The Contractor and its employees shall, however, have a direct authority to issue directives to employees of the Client and third parties present on the Contractor's premises at the request of the Client in order to avert an imminent danger on the premises of the Contractor.
- 12.3. The Contractor authorizes the Client and third parties appointed by the Client to enter the maintenance depot and depot premises for the duration of the Individual Contract. This must not impact upon the safety or ongoing operation of railway or depot tasks.
- 12.4. The Client undertakes to comply with on-site safety regulations and directives of the Contractor. The Client may view the relevant regulations and directives in German at the maintenance depot.
- 12.5. The safety instruction shall be provided exclusively in German. If the instruction is available in written form (e.g. flyer) at a maintenance depot of the Contractor, the Contractor shall issue this to the Client as required.
- 12.6. If substances hazardous to water, flammable liquids or other polluting substances enter the ground, wastewater system or groundwater due to an action or omission on the part of the Client, or if there is a risk of fire or explosion, the Contractor must on its own authority take immediate countermeasures to avert the danger in accordance with depot-specific safety instructions and inform the competent body specified in said safety instructions.

13. Acceptance, rights in the event of defects

- 13.1. The warranty period for services performed by the Contractor is twelve (12) months after the service has been accepted. A warranty for durability, or durability guarantee, does not form part of this Contract. Acceptance shall take place at the time of handover in all cases. In any event, the services shall be deemed to have been accepted three (3) days after

handover or when the component starts to be used productively, whichever comes first. Minor defects that do not interfere with proper operation do not entitle the Client to refuse acceptance or refuse to sign an acceptance report. Any repeat inspections that are necessary through no fault of the Contractor shall be performed at the Client's expense.

- 13.2. The Client must notify the Contractor of any identifiable defects during the acceptance or handover. These must be recorded in a log. If concealed defects become apparent only after acceptance or handover, the Client must notify the Contractor of these in writing without undue delay. Section 377 of the German Commercial Code (HGB) shall apply accordingly. The notification must contain a sufficiently specific description of the defect to allow the Contractor to identify and rectify such defect. The Client shall support the Contractor to the best of its ability with the rectification of the defect.
- 13.3. Where a defect has rightly been identified, the Contractor shall, at the Contractor's option, either repair the defect or replace the item. Parties shall jointly agree on an appropriate period in which to remedy the defect as soon as the defect is notified.
- 13.4. In the event of a warranty claim, the Client shall demonstrate that it or its operator duly complies with the operational regulations, as well as operating and maintenance regulations.
- 13.5. Where the Contractor is unable to remedy defects within a reasonable period and for reasons attributable to the Contractor, the Client shall be entitled to reduce the remuneration due for such defective performance, after notifying the Contractor of such a step in writing and setting a reasonable period of time to remedy the defect.
- 13.6. Further claims in the event of defects are excluded, except where a mandatory liability exists by law. The Client may not rescind the Contract if services have already been accepted. This is without prejudice to the right to terminate the affected service or the affected Contract in whole or in part for good cause.
- 13.7. Where defects are attributable to the Contractor, said defects shall be remedied during the warranty period without reciprocal offsetting of the costs incurred.
- 13.8. Defects that are the consequence of incorrect operation, non-observance of operating and maintenance regulations, interventions by the Client, use of operating fluids and lubricants other than those prescribed in the operating materials specification and faults that have been caused by wear or by deviations from the typical operating profile of the rail vehicle taken as the basis for this Contract are excluded from the warranty.
- 13.9. The Contractor shall not be responsible for defects caused by components that have not been ordered, parts of components, of parts of the rail vehicle, or for defects that are due to work performed by third parties commissioned by the Client.
- 13.10. The Contractor shall not provide warranty against defects due to a faulty construction, or those covered by a warranty of the manufacturer of the rail vehicle or a component thereof.
- 13.11. If the Contractor is not responsible for a defect and thus no warranty case is present, the Contractor may offer to remedy the defect within the scope of its possibilities. The Contractor may then invoice the Client for the costs of the inspection and rectification of the defect according to the time spent (time and material), unless the Parties agree otherwise. The provisions of the Individual Contract shall apply, without the need for an express reference to it.
- 13.12. If, in agreement with the Client, the Contractor submits to an inspection to determine whether or not the defect exists or has been remedied, the time-bar shall be suspended until the Contractor informs the Client of the result of the inspection, declares to the Client that the defect has been remedied or refuses to continue with the remedial measures. In the event of a replacement delivery, the warranty shall not have a longer term than the remaining original warranty.

14. Default/ Liability

- 14.1. If the Contractor is in default with the performance it should provide, the Client shall be entitled, without prejudice to the claim to performance and any statutory right of termination, to demand a flat-rate compensation without providing evidence of any damage actually incurred. This shall amount to 12% for each completed week, limited to a total of 5% of the value of the part of the performance for which the Contractor is in default. No further damage caused by the default can be claimed. The above limitation shall not apply if the default is due to intent or gross negligence.
- 14.2. The Contractor shall not be in default if a delay is caused by the Client not making a necessary decision in good time, if further findings or additional services lead to a delay, if the Client does not provide the requisite materials or does not provide them in good time or in sufficient quantity, if the Contractor has to procure parts itself in accordance with the Contract, or if larger quantities or materials other than those agreed are required.
- 14.3. Further claims, such as claims for damages due to the hindrance of the Contractor in the performance of other contracts, remain unaffected.
- 14.4. If the Client is in default with a performance it owes because:
 - It has delivered the component at a later date than agreed
 - It has delivered documentation it should provide later than agreed
 - Materials it should provide are delivered late
 - It fails to communicate acceptance or rejection of a quotation for a change order in due time, or the Parties have not agreed on an extended acceptance period within the response period from the day following the expiry of the deadline; the response period shall be 5 working days if none has been agreed
 - The Client does not collect the component provided by the Contractor at the agreed time,
 - In the event of a justified rejection of the warranty, the Client fails to collect the component provided by the Contractor within a reasonable period of time, from the day after the set deadline to a maximum of seven working daysThen the Contractor shall be entitled, without prejudice to any statutory right of termination, to demand lump-sum compensation for blocking the space or reserving resources without proof of actual damage. This amounts to EUR 350.00 for each completed working day. No further damage caused by the default can be claimed. The above limitation shall not apply if the default is due to intent or gross negligence. The Client must also pay this flat rate if it delivers the component earlier than agreed.
- 14.5. The following shall also apply: the Contractor shall be liable without limitation for:
 - Losses arising from death, personal injury or damage to health

- Losses caused by intent or gross negligence on the part of the Contractor, its legal representatives or performing agents
 - Losses caused by fraudulent conduct
 - Losses for which liability can neither be excluded nor limited by law, e.g. in cases of statutory product liability.
- 14.6. In the event of simple negligence, the Contractor's liability for damage to property and economic loss shall be limited to reasonably foreseeable losses. If the losses in a case of damage exceed EUR 500,000, the previous upper limit shall not apply if and insofar as the loss is covered by an insurance policy.
- 14.7. The Contractor shall not be liable for loss of profit, lost savings, production downtimes, loss of use or disruption of operations, unless liability exists pursuant to item 14.5.
- 14.8. In the relationship between the Contractor and Client, compensation for damage to own property up to and including EUR 10,000 shall be excluded per loss event, unless liability exists pursuant to item 14.5. This shall not apply if compensation for damage to third-party property is due in addition to damage to own property.
- 14.9. The Party liable for compensation shall indemnify the other Party and its employees against claims by third parties.

15. Third-party rights/ rights of use

- 15.1. Insofar as the Client is the owner of an industrial property right and/or copyright in respect of the maintenance regulations provided to the Contractor, the Client shall grant the Contractor an irrevocable, yet non-transferable and non-sublicensable simple right of use with no restrictions as to location and content. This right of use shall be granted for the duration of this Contract without special remuneration. The Contractor is, however, permitted to transfer the maintenance regulations to any subcontractors or affiliated companies as defined by Sections 15 et seq. of the German Stock Corporation Act (AktG) that are commissioned by the Contractor to fulfil the Contract.
- 15.2. The Client gives its assurance that all maintenance regulations and documents handed over to the Contractor are free from third-party rights and indemnifies the Contractor in full against any third-party claims, especially due to any alleged infringement of industrial property rights and/or copyrights. The Client also guarantees the accuracy of the information contained in the documents.
- 15.3. Insofar as the Contractor is the owner of an industrial property right and/or copyright, it shall grant the Client at customary market terms and conditions an irrevocable, but non-transferable and non-sublicensable simple right of use with no restrictions as to location and content.
- 15.4. Should third parties bring claims against the Client due to the infringement of patents, copyrights or other rights as a result of the services of the Contractor, the Contractor shall be liable only for violations of third-party rights within the European Union and the European Economic Area. In such a case, the Contractor shall, at the Contractor's own expense, take over the judicial and extrajudicial defence against such claims if and to the extent that the Client immediately informs the Contractor about the existence of such claims in writing. The Client must provide the Contractor with all information required to mount a defence and must conduct judicial proceedings in consultation with the Contractor. The decision about an extrajudicial solution by way of settlement shall remain reserved for the Contractor. The Contractor shall indemnify and hold harmless the Client against all legally binding claims, or those that result from an extrajudicial settlement between the third party and the Contractor. In this context, the Contractor shall also reimburse the Client for all reasonable expenses incurred in the defence against such claims. If the claimant reimburses costs to the Client, the Client shall return them to the Contractor.
- 15.5. Where protected rights of third parties impede the contractually agreed usage of the service through no fault of the Contractor, the Contractor shall be entitled to refuse to provide the services affected by this and cancel the Contract. The Contractor shall immediately inform the Client of this fact. In such a case, the Client shall not be required to pay the remuneration due for the affected performance, nor shall the Contractor be required to indemnify or to compensate for damage.
- 15.6. In the case of a violation of a protected right, the Contractor can change or modify the performance concerned as the Contractor sees fit so that no rights of third parties are violated while still ensuring the requirements of the Client will be met in full, or come to an agreement with the owner of said rights and thereby obtain a privilege for further use of those rights. If the aforementioned measures cannot be undertaken by the Contractor within a reasonable time, either Party may terminate the Individual Contracts concerned on extraordinary grounds.
- 15.7. The agreed liability rules shall apply. The above constitutes the full extent of all rights and remedies of the Client, and the full extent of the Contractor's liability, in case of a violation of intellectual property rights, save in those cases where a mandatory liability of the Contractor exists by law.

16. Confidentiality

- 16.1. Subject to the exclusions defined below, each Party shall keep confidential and not disclose (without the prior written consent of the other Party) to any third party this Agreement, any further agreement based thereon, any related documents and any information and data obtained in connection therewith and any information or data relating to any design, operational, contractual, commercial or financial matter or affairs of the other Party which has come or may come to its knowledge under or in connection with this Agreement, except to the extent necessary for the proper execution of this Agreement or operation of the vehicles. Affiliated companies of the Client and the Contractor shall not be deemed to be third parties within the meaning of this paragraph. Furthermore, the Client and the Contractor shall be permitted to disclose the documents and information to their financing institutions to the extent required under the respective financing terms. In addition, information that must be communicated to third parties in order to achieve the contractual objectives is not subject to the obligation of confidentiality; in particular, information on operational matters and the obligations to be fulfilled by the operator (RU) in order to be able to carry out maintenance and repairs on the vehicle may be communicated to the operator (RU).
- 16.2. The duties of confidentiality do not apply to information:

- (a) that was already in the lawful possession of the recipient prior to its first receipt from the disclosing party (before, on or after the date of this Agreement); or
 - (b) communicated or given to the recipient after receipt from the disclosing party outside this Agreement by a third party authorised to disclose it; or
 - (c) that (through no fault of the recipient) is or becomes public knowledge; or
 - (d) that is independently acquired by the recipient.
- 16.3. All documents concerning the work carried out on the vehicle or its components received by the Client from the Contractor may be passed on to the operators (RUs) and future contractors for the locomotive in question.
- 16.4. The Parties are authorised to disclose the information and documents received to the party to whom the rights and/or obligations are transferred. Subject to statutory, contractual or professional duties of confidentiality, statutory disclosure obligations towards the authorities and disclosure to advisors and banks shall remain unaffected by the above.
- 16.5. Any marketing and publications that mention the name of the respective other party require the prior consent of the other party in text form. Simply naming the Client as a reference, stating an approximate order value and the object of performance, shall not require consent.

17. Compliance

The Contractor and the Client undertake, as part of their business relationship, to comply with all applicable laws, regulations, directives and other legal provisions, including but not limited to anti-corruption laws.

18. Sanctions lists, export control

- 18.1. Within the framework of their contractual relationship, the Contractor and the Client mutually consent to the regular review of their data in accordance with the respective current sanctions lists, including the Consolidated Financial Sanctions List of the European Union, of the United Nations Security Council, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), the Office of Financial Sanctions Implementation ("OFSI") of the United Kingdom and the Swiss State Secretariat for Economic Affairs (SECO). In respect of these checks, all applicable data protection regulations, in particular those concerning data minimisation and data security, shall be observed.
- 18.2. Both Parties declares that neither their companies, nor any natural or legal persons who hold direct or indirect majority ownership (50% and more) of the Parties or that control the Parties in any other way, de jure or de facto, alone or jointly, are named on any of the aforementioned sanction lists.
- 18.3. Both Parties undertake to ensure, by way of suitable measures, that the requirements of current sanctions, in particular the financial sanctions, embargoes and foreign trade regulations of the European Union and its Member States, of the United Nations, of the USA, of the United Kingdom and of Switzerland are implemented in the business operations of their companies.
- 18.4. Fulfilling the contractual obligations (goods and services) is subject to the resolute or suspensive condition that no requirements of the applicable sanctions prevent fulfilment.
- 18.5. The assertion of damages of any kind (in particular due to delay or non-fulfilment) and of other rights by the Client is excluded insofar as this is connected to the Contractor's compliance with applicable sanctions. This shall not apply if the Contractor is charged with deliberate intent or gross negligence.
- 18.6. In the event of a violation of the applicable sanctions by the Client or in the event that the Client or natural persons, companies or organisations that own or control the client become a sanctioned person, the Contractor has a right to terminate the individual contract concerned at any time, without notice, with immediate effect and without prior warning. This shall not affect the Contractor's right to enforce further claims. The same applies in the case of a match (list hit).
- 18.7. Delays due to checking and approval procedures relating to export control and sanction regulations may have a negative effect on delivery times and deadlines. If required approvals are not granted or if the contractual performance does not qualify for approval, either Party shall be entitled at any time to terminate the individual contract concerned without notice, with immediate effect and without prior warning. Where this is the case, assertion of claims for compensation of any kind, particularly due to delay or non-fulfilment, or of other rights, shall be precluded.
- 18.8. In the event of a transfer to third parties of the goods (products, software or technology including associated documentation) delivered, processed in fulfilment of this order or introduced to the process by the Contractor, applicable sanctions shall be observed by the Client.
- 18.9. The Client undertakes to provide any information and documentation required for the export.
- 18.10. The provisions and obligations set out in this clause shall only apply if agreement thereof or the submission or solicitation of a declaration based thereon does not result in the Client or the Contractor violating Article 5(1) of Council Regulation (EC) No 2271/96, Sec. 7 of the German Foreign Trade and Payments Ordinance (Außenwirtschaftsverordnung, AWV) or similar anti-boycott or non-discrimination regulations.