

**General Terms of Contract for Services/Work Performed by DB AG and its Associated Companies outside Standard Services/Work**  
(DB AG and its Associated Companies shall be referred to hereinafter as "Contractor" or "Lessor")

- (AVBL) - 1 February 2013

**1 Validity**

- 1.1 These General Terms of Contract of the Contractor shall have sole validity. They shall form an integral part of the contract and of any addenda. Any conflicting, supplementary or divergent terms and conditions of the Client shall become an integral part of the contract only if this is explicitly confirmed in writing by the Contractor. The foregoing shall also apply to any terms and conditions stated in any orders or other documents issued by the Client. The General Terms of Contract of the Contractor shall also apply even if the contract with the Client has been performed without reservation although the Contractor was aware of conflicting, supplementary or divergent terms and conditions of the Client.
- 1.2 The Contractor and the Principal represent and warrant to each other that they (and their respective representatives and employees) will perform the duties and obligations in connection with their business relationship in compliance with all applicable laws, rules and regulations, including, but not limited to applicable anti-corruption laws.

**2 Prices**

- 2.1 Unless other remuneration agreements have been made,
- the price of services/work by the Contractor shall be charged according to the scope of the services/work performed and according to the "Price List for Contractual Services/Work outside Standard Services/Work Performed by DB AG and its Associated Companies" valid at the time of the delivery of the service/work and, in the case of action on the part of the Contractor, according to the extent of the actual outlay and on the basis of the budgeted cost unit rate, plus surcharges for administration and sales, risk and profit.
  - a surcharge of 15% shall be charged on the stock withdrawal price (incl. indirect material costs) for material from stock and on the net price for services/work and deliveries rendered by sub-contractors and auxiliary suppliers.
- 2.2 The Client shall bear shipping expenses.
- 2.3 All prices are subject to the value added tax (VAT) in force.

**3 Performance of service/work, Delays**

- 3.1 Should it become evident after conclusion of the contract that the nature of the agreed service/work has to be altered, the Contractor shall obtain the consent of the Client before continuation of the service/work. Failing the agreement of the Client, either party shall be entitled to terminate the contract without notice or withdraw from the contract. If the contract is terminated in accordance with Sentence 2, the Contractor shall be entitled to claim appropriate remuneration from the Client for all partial services/ work already performed.
- 3.2 Should the Contractor default on the service/work incumbent upon it, the Client shall be entitled, irrespective of its right to fulfilment of contract and any legal right to terminate the contract, to claim damages to the exclusion of any further claims. The maximum amount for the aforesaid damages shall be 0.5% for each full week, but in total no more than 5% of the value of that part of the service/work which could not be used in due time or in conformity with

the contract as a consequence of the delay. The above limitation shall not apply if the default is due to intent or gross negligence.

- 3.3 The Contractor shall be entitled at its discretion to keep any removed materials without crediting them to the Client or to return them at the Client's expense.
- 3.4 The Contractor shall be entitled to commission subcontractors with performance of the service/work.

**4 Place of performance, Passing of risk**

Unless required by the nature of the service/work to be performed, the service/work shall be carried out at the Contractor's relevant place of work and shall be collected there by the Client. Passing of risk shall be governed by the legal provisions.

**5 Terms of payment, Default, Assignment of Claims, Liens, Offsetting**

- 5.1 The Contractor shall be entitled to demand interest-free advance payments, down payments, instalment payments or part payments.
- 5.2 Payments shall be due without any deduction on receipt of the invoice by the Client. Should payment not be made within twenty days after date of invoice, the Client shall be deemed to be in default. Receipt of payment shall be defined as the date on which the sum is credited to the Contractor's account.
- 5.3 The Client is not permitted to assign its claims against the Contractor to third parties. This shall not affect the provisions of Section 354a HGB [*German Commercial Code*].
- 5.4 The Client is not entitled to exercise liens based on counterclaims from other legal transactions with the Contractor.
- 5.5 The Client shall be entitled to offset only against claims which are undisputed or have been determined by final judicial decision.
- 5.6 The Contractor shall be entitled to full rights of offsetting and retention.

**6 Reservation of ownership**

The Contractor shall reserve ownership or joint ownership of the supplied object until full payment of the contract price.

**7 Liability**

- 7.1 In the event of defects, the Client shall be entitled to demand subsequent fulfilment. Should the Contractor refuse subsequent fulfilment or should the subsequent fulfilment fail, the Client shall be entitled to withdraw from the contract or demand a reduction of the remuneration payable.
- 7.2 All further claims - in particular claims for damages - shall be excluded, irrespective of their legal grounds and in particular claims owing to breach of obligations pursuant to the contractual relationship and liability in tort. This shall not apply in the case of legally compulsory liability, e.g. liability pursuant to the Product Liability Act, wilful or grossly negligent misconduct, personal injury, owing to the assumption of a guarantee for the workmanship of an object, or the infringement of fundamental contractual duties. Claims for damages owing to infringement of fundamental contractual duties caused by simple negligence shall however be

limited to the damages which are foreseeable and typical in the case of such contracts. Fundamental contractual duties are duties imposed on the Contractor pursuant to the contents of the contract in order to achieve the object of the contract, the fulfilment of which is essential for due and proper performance of the contract, and compliance with which the Client is generally entitled to assume.

- 7.3 Client's claims arising from 7.1 shall become statute-barred within one year after delivery or acceptance unless there is a purchase of consumer goods. Client's claims arising from 7.2 and 7.1 in case of the purchase of consumer goods and in case of defects in a building and related performance pursuant to Sec. 438(1) No. 2 and Sec. 643a(1) No. 2 of the German Civil Code (BGB) shall become statute-barred according to the statutory regulations.

## 8 Drawings and documents

Documents in the form of drawings, illustrations, writing or otherwise, which the Contractor submits to the Client in connection with the service/work ordered shall - even if they are not protected by copyright - be used by the Client only in connection with the service/work ordered and shall be treated as strictly confidential.

## 9 Dissolution of contract by the Contractor

The Contractor shall be entitled to withdraw from the contract or terminate the contract with immediate effect for cause subject to the following conditions:

- a) insolvency proceedings are instituted against the Client or the institution is rejected owing to insufficient assets to cover the costs of the proceedings, or if the Client discontinues payments not only on a temporary basis;
- b) the Client repeatedly or grossly violates the contractual duties incumbent upon it;
- c) the Client does not provide the agreed securities.

The Client shall not be entitled to claim damages if the Contractor dissolves the contract for the reasons set out above.

## 10 Applicable law, Legal venue, Written form

- 10.1 The contract shall be governed solely by German law, excluding the UN Convention on Contracts for the International Sale of Goods. Only the German version of the contract shall be binding.

- 10.2 The legal venue, as far as legally admissible, shall be determined solely by the domicile of the Contractor's office which enters into the contract. The Contractor shall, however, also be entitled to invoke the courts at the domicile of the Client.

- 10.3 Any amendments to the contract must be made in writing for the preservation of evidence.

## 11 Additional conditions concerning the leasing of personnel

If the Contractor leases personnel to the Client, the Client shall decide on, be in charge of and supervise their employment. The Client shall be liable for the leased personnel in the same way as for its own personnel.

## 12 Additional conditions concerning leases

- 12.1 The Lessee shall pay the rent in accordance with the lease. In the absence of a lease the obligation to pay rent shall commence on the date on which the leased object is delivered to the Lessee and shall end on the date on which it is duly returned unless the Lessee proves that the leased object was permanently or temporarily unusable for reasons for which the Lessor is responsible. In the event of default on acceptance by the Lessee, it owes the agreed rent as of the date of the agreed delivery.

- 12.2 The Lessee or the Lessor shall be entitled to demand that the parties jointly establish the functioning capacity of the leased object on delivery and return. The party that requested that the functioning capacity be established at the time of delivery shall bear the relevant costs. The costs of establishing the functioning capacity at the time of return shall be borne by the Lessee.

- 12.3 The Lessee shall be liable for loss or damage to leased objects unless it proves that the fault lay with the Lessor or its personnel. The Lessee shall not be responsible for changes or deteriorations of the leased objects caused by use in accordance with the contract.

The Lessee shall report any loss or damage to the Lessor immediately. The Lessee shall be entitled to repair the leased objects itself or have them repaired only with the prior consent of the Lessor.

- 12.4 Only properly trained personnel shall be permitted to operate and service leased vehicles, machines etc. Only fuels and other operating materials stipulated or approved by the Lessor shall be used.

- 12.5 At the request of the Lessor, the Lessee shall insure the leased objects against loss and damage, including damage by fire, at its own expense upon the understanding that any payments by the insurer be made to the Lessor. The Lessee shall furnish proof of the above insurance.

- 12.6 The Lessee shall be obliged to render compensation for all damage sustained by the Lessor and its personnel resulting from use of the leased object unless the Lessee proves that the damage was caused by negligence on the part of the Lessor or its personnel or due to an inevitable event. Under the same conditions, the Lessee shall indemnify the Lessor and its personnel from all claims which may be asserted against them in case of damage. Section 254 BGB shall apply mutatis mutandis.

The Lessor shall only be liable for damage incurred by the Lessee from the use of the leased object if the Lessee proves that the damage was caused at least by gross negligence on the part of the Lessor or its personnel.

The Lessor shall be entitled to demand that the Lessee insure the leased objects adequately against damage to property and personal injury and furnish proof thereof upon the understanding that the insurer shall have no recourse to the Lessor or its personnel.

- 12.7 If the leased objects have to be examined owing to official or internal regulations of the Lessor, the Lessor shall, if possible, provide the Lessee with equivalent objects as replacement for the leased objects for the duration of the examination. The Lessor shall bear the cost of transporting the objects to be examined and the replacement objects. If the Lessor is unable to provide the Lessee with a replacement, no remuneration shall be charged for the period in which the objects are not available to the Lessee. This does not apply if the Lessee is responsible for the reasons resulting in loss of use of the leased objects owing to the examination.

- 12.8 The Lessor shall be entitled to terminate the contract with immediate effect if it urgently requires the leased objects for its own purposes, e.g. in the event of accidents.

- 12.9 If the Lessee does not return the leased objects after termination of the lease, the Lessor shall be entitled to demand double the lease fee as compensation for the duration of retention of the leased objects. This shall not exclude the Lessor's right to assert further claims for damages.