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## General Contractual Terms and Conditions of Deutsche Bahn AG and its Affiliated Companies for Consultancy and Other Services

### 德国铁路股份有限公司及其附属公司咨询和其他服务的通用合同条款和条件

(General Contractual Terms and Conditions – Consultancy and Other Services) of May 1, 2020

(咨询和其他服务通用合同条款和条件) 2020年5月1日版

#### 1 General provisions, integrity clause

#### 1 通用规定及诚信条款

1.1 These and any supplementary contractual terms and conditions of the Client shall apply exclusively. Any contradictory, supplementary or divergent terms and conditions specified by the Contractor shall form a part of the contract only if expressly accepted in writing by the Client. This shall also apply to any terms and conditions that are specified in order confirmations or other confirmations of the Contractor. Acceptance of goods/services shall not constitute acceptance of the terms and conditions of the Contractor. The contractual terms and conditions of the Client shall also apply if the contract with the Contractor is executed without reservation, despite knowledge of contradictory terms and conditions, supplementary terms and conditions or terms and conditions that diverge from these contractual terms and conditions of the Client.

1.1 本文件所述的通用合同条款和条件以及任何补充的合同条款与条件必须排他地予以适用。承包商规定的任何与之矛盾的、补充或不同的条款和条件，只有在客户明确书面接受的情况下才构成本合同的一部分。这一原则也应适用于订单确认书或承包商的其他确认书规定的任何条款和条件。客户对货物和/或服务的验收和/或接受不应被视为对承包商条款和条件的接受。尽管客户知晓任何与之矛盾的条款和条件、补充条款和条件或其他与本文件所述的通用合同条款和条件有分歧的条款和条件，客户与承包商的合同仍应无保留地根据本文件所述的通用合同条款和条件予以履行。

1.2 The services must comply with the Client's standards and norms as agreed in the

contract. The Contractor shall notify the Client in writing immediately of any reservations it may have about executing services in the manner requested by the Client, or if the Contractor believes that it is being obstructed by a third party or by the Client from executing these services.

The Contractor shall ensure that the services meet the objective of the contract and that they are carried out with the required efficiency.

1.2 相关服务必须符合本合同中约定的客户的标准和规范要求。若承包商对按照客户要求的方式履行服务有任何保留意见，或承包商认为其因第三方或客户的阻碍无法履行服务，则应立即以书面形式通知客户。

承包商应确保其提供的服务符合本合同的目标，并以规定的效率进行。

1.3 If it is necessary to revise any of the documentation created prior to acceptance, this shall be performed by the Contractor without entitlement to separate remuneration.

1.3 如果验收前制作的任何文件有必要进行修改，则应当由承包商无偿提供。

1.4 The Contractor shall abide by the contractual remuneration agreements. Any entitlement to amended remuneration requires agreement on the amount of this remuneration prior to execution of the service, and must be in writing for evidentiary purposes.

1.4 承包商应遵守以合同形式商定的报酬协议。任何关于报酬的修正都需要在履行服务之前就该报酬的数额以书面形式达成协议，以资信守。

1.5 As a general rule, the Contractor's services must be carried out personally by the



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Contractor or by its employees. The Contractor guarantees that only reliable employees with the requisite technical and interpersonal skills will be deployed and that these employees will be committed to exercising the utmost care and attention to detail. Similarly, if the Contractor engages subContractors, they must also have suitable technical qualifications; **in addition, this requires the prior written consent of the Client, which may be refused based on any good reason, for example, if any personal data is processed, consent can be refused due to the lack of data protection measures.**

1.5 原则而言，承包商的服务必须由其自身或其雇员亲自履行。承包商保证只部署具有必要的技术和人际交往能力的可靠雇员，而且这些雇员将尽最大努力提供服务并时刻关注服务相关的细节。同样，若承包商聘用分包商，分包商也必须具备适当的技术资格；**另外，此等聘用须事先得到客户的书面同意，客户有权基于任何正当理由拒绝此等聘用，例如涉及个人数据处理，客户可以基于缺乏数据保护措施的原因拒绝给予同意。**

1.6 The Contractor shall not replace the employees it has engaged to fulfill the contract or the contractually agreed employees without objective reason. **To replace these employees, the Contractor must acquire the prior written consent of the Client.** In justified cases, the Client has the right at any time to demand the replacement of employees deployed by the Contractor, if fulfillment of the contract would otherwise be jeopardized. Before commencing work, the Contractor shall supply the Client in relation to the employees deployed to fulfill the contract with a list of all deployed persons that, according to the legal provisions, require a work permit or a permit for the

purpose of self-employment, with the assurance that the deployed persons have documentary proof of eligibility to work (e.g. residence permit with work permit or permit for the purpose of self-employment). The list of persons shall include the following information: first and last name, nationality, issuing authority and associated validity (end date) with requisite residence and work permits. The Contractor shall notify the Client without undue delay of any changes by stating the relevant information in writing. The Client has a right to check the information at any time as required. For the purposes of checking, the Contractor shall upon request of the Client submit documentary evidence without delay for identification purposes and, where necessary, any requisite residency permits with a work permit or permit for the purpose of self-employment for the affected employees. The aforementioned provisions apply equally to subContractors of the Contractor; the Contractor shall obtain contractual commitments from its subContractors accordingly.

1.6 若无客观原因，承包商不得更换其为履行本合同而聘用的员工或合同约定的员工。**承包商更换此类员工应事先取得客户的书面同意。**若合同的履行可能受到影响，在合理的情况下，则客户在任何时候均有权要求更换承包商部署的员工。在开始工作之前，承包商应向客户提供一份其为履行合同而部署的所有雇员名单，并根据法律规定，向这些雇员要求工作许可证或自雇许可证，且保证被安排的雇员具备工作资格的证明文件（例如，带有工作许可证或自雇许可证的居住证）。该雇员名单应包括以下信息：完整姓名、国籍、证件签发机构和相关的有效期（结束日期）与必要的居留和工作许可。承包商应以书面形式及时向客户说明有关



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上述信息的任何变动。客户有权在任何时候按  
要求检查这些信息。为了检查之目的，承包商  
应根据客户的要求，及时地提交书面证明以证  
明身份，并在必要时，为受到影响的雇员提交  
任何必要的带有工作许可证或自雇许可证的  
居留证。上述规定同样适用于承包商的分包商；  
承包商应从其分包商处获得相应的合同承诺。

1.7 **The Contractor and its employees shall not be deemed as part of or be integrated into the business organization of the Client. To this extent, in no case shall they be authorized by the Client in this respect.** Any

legal power to issue instructions (e.g. in accordance with procurement law, data protection law or railway law, or to comply with occupational safety and accident prevention) shall remain unaffected by this. The Contractor must ensure that it or persons appointed by it actively exercise instruction and supervision authority towards its employees.

1.7 **承包商及其雇员不应被视为客户商业组织架构的一部分，因此他们不享有客户与此相关的任何授权。任何发布指令的法定权力（例如，根据采购法、数据保护法或铁路法，或为了遵守职业安全和事故预防发布指令的法定权力）不应受此条款影响。承包商必须确保其或其任命的人员对其雇员积极行使指示和监督权。**

1.8 The Contractor may not attend to its own or external company or supplier interests where there is a relationship to the commissioned service.

1.8 若与委托服务有关系的情况下，承包商不得关注和/或顾及其自身、外部公司或供应商的利益。

1.9 Interim and final reports and presentation documents - each in copy quality - shall be provided to the Client without special

remuneration. Additionally, at the request of the Client, all reports in the form of electronic files (Word, Excel, PowerPoint, Access) are to be provided to the Client in a format specified by the Client without special remuneration. The Contractor or person appointed by it in writing shall sign the reports or other documents as author and shall include the date. At the request of the Client, the Contractor shall make its results available to the Client in the form of a presentation without any entitlement to additional remuneration.

1.9 中期和最终报告和演示文件均应以复印件的形式免费提供给客户。此外，应客户的要求，所有电子文件形式（Word、Excel、PowerPoint、Access）的报告都应以客户指定的格式免费提供给客户。承包商或其书面指定的人员应以作者身份签署报告或其他文件并注明日期。在客户的要求下，承包商应将其结果以报告陈述的形式免费向客户予以展示。

1.10 Within the framework of the contractual relationship, the contracting parties undertake to take all necessary measures to prevent corruption, other criminal offenses and other forms of gross misconduct. They undertake, in particular, to take all necessary precautionary measures to avoid gross misconduct in Germany and abroad. Irrespective of the form of participation in committing, inciting or aiding and abetting an offense, gross misconduct includes

a) serious offenses that have been committed in the course of business dealings. These include criminal offenses that involve, in particular, fraud, abuse of trust, document forgery or similar offenses,

b) offering, promising or granting undue benefits to any civil servant, public official or



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- other office holder or person specifically bound to carry out public service duties (bribery or granting an undue advantage), or members of the Management Board, managing directors or other employees of Deutsche Bahn AG or its Group companies (bribery in business conduct),
- c) offering, promising or granting undue benefits to any person engaged in a freelance capacity by Deutsche Bahn AG or its Group companies who is active in the award or execution of a contract, e.g. technical designers, consultants and project control officers,
- d) in connection with the activity of the Contractor for Deutsche Bahn AG or its Group companies, offering, promising or granting undue benefits to any other German or foreign civil servant, public official or other office holder or person specifically bound to carry out public service duties or to any employee or appointee of any other businesses in relation to the initiation, award or execution of a contract by third parties,
- e) any unauthorized procurement, securing, use or communication of commercial or business secrets for competitive purposes, for personal gain, for the benefit of a third party or with the intention of inflicting damage or loss on the business owner, or any unauthorized use or communication, for competitive purposes or for personal gain, of documents or technical instructions entrusted in the course of business dealings, and any unauthorized use or transmission, for competitive purposes or for personal gain, of documents, technical instructions or commercial information of the Client entrusted in the course of business dealings, including any such material supplied on data storage media,
- f) any infringement of provisions designed to protect unimpeded competition; in particular, violations of hardcore antitrust restrictions in accordance with Article 101 of the Treaty on the Functioning of the European Union, section 1 of the German Act Against Restraints of Competition (GWB) (price, bidding, quantity, quota, customer allocation and territorial agreements), **and/or an applicable national law and local regulations.**
- g) any infringement of economic sanctions or the circumvention of European Union sanctions, especially an infringement of European Council Regulation No. 2580/2001 or European Council Regulation No. 881/2002 and 753/2011 (anti-terror regulations) or of other applicable national, European and international embargo or trade-control regulations.
- h) other serious offenses or gross misconduct. These include criminal acts; in particular, terrorist offenses, involvement in a criminal organization, money laundering and the financing of terrorism, child labor and other forms of human trafficking or similar offenses. Gross misconduct in the aforementioned sense shall also be deemed to have been committed if persons who are associated with the employees, managing directors or Management Board members of the Deutsche Bahn Group are offered, promised or granted undue benefits and if specific planning and tendering assistance is provided in order to subvert competition.
- 1.10 在合同框架内，缔约各方承诺其应采取一切必要的措施以防止腐败、其他刑事犯罪，以及其他形式的严重不当行为。双方特别承诺其应当采取一切必要的预防措施，以避免在德国和德国国外发生严重不当行为。不论参与、煽动、协助或教唆违法违规的形式为何，严重不当行

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为包括：

- a) 在商业交易过程中犯下的严重的违法违规行  
为,包括刑事犯罪,尤其包括欺诈、违反信托、  
伪造文件或其他类似的罪行;
- b) 向公务员、公职人员、或其他有明确履行公共  
服务职责义务的任职者或人员提供、承诺或授  
予不当利益(贿赂或不正当好处)或向德国铁  
路股份有限公司或其集团公司的管理委员会  
成员、常务董事或其他雇员提供、承诺或授  
予不正当利益(商业贿赂);
- c) 向德国铁路股份有限公司或其集团公司所雇  
佣的主动参与合同判授或履行的任何从事自  
由职业的人员(如技术设计人员、顾问和项目  
控制人员)提供、承诺或给予不正当利益。
- d) 向任何与德国铁路股份有限公司或其集团公  
司承包商的活动有关的德国或外国公务员、公  
职人员、或其他有明确履行公共服务职责义务  
的任职者或人员提供、承诺或授予不正当利益,  
或向任何与第三方订立、判授或履行合同有关  
的其他企业的雇员或被任命人员提供、承诺或  
授予不正当利益;
- e) 任何出于竞争目的、为个人利益、第三方利益、  
或试图对企业所有者造成损失或损害的未经  
授权的采购、保护、使用或传播商业或业务秘  
密的行;任何出于竞争目的或为个人利益而  
未经授权使用或交换在商业交易过程中取得  
的委托文件或技术说明的行;以及任何出于  
竞争目或为个人利益未经授权使用或传播在  
商业交易过程中取得的客户文件、技术说明或  
商业信息,包括在数据存储介质上提供的任何  
此类材料;
- f) 任何违反保护自由竞争规定的行,尤其是对  
《欧洲联盟运作条约》(Treaty on the  
Functioning of the European Union)第101  
条,德国《反限制竞争法》(Das Gesetz gegen  
Wettbewerbsbeschränkungen, GWB)第1节  
的核心反垄断限制(价格、招标、数量、配额、  
客户分配和区域协定)的违反,和/或对任何适  
用的国家法律和地区法规的违反。
- g) 任何违反或规避经济制裁或欧盟制裁的行,尤其是违反欧洲理事会第2580/2001号法规或欧洲理事会第881/2002及第753/2011号法规(反恐法规)或其他任何适用的国内、欧洲和国家的禁运或贸易管制条例;以及
- h) 其他严重违法违规或严重不当行,包括犯罪行,尤其是恐怖主义罪行、参与集团犯罪、洗钱和恐怖主义融资、雇佣童工以及参与其他形式的人口贩卖或类似的违法违规行。
- 若任何与德国铁路集团的雇员、常务董事或管理委员会成员相关之人员被提供、承诺或授予不正当利益,且提供了专门的计划和投标协助以破坏竞争,则应当被视为已构成前述条款意义上的严重不当行。
- 1.11 If, at the time of awarding the contract, the Contractor or persons appointed by it or acting on its behalf are shown to have come to an agreement that represents an unlawful restriction of competition, the Contractor shall pay compensation in the amount of 15% of the net contract value, unless it is not responsible for the infringement. The right to prove and claim damages of different value shall remain unaffected. Furthermore, other contractual or legal claims of the Client shall remain unaffected.
- 1.11 若有证据表明承包商或承包商授权之人员或代表承包商行事的任何人员在授标时已明确达成协议,构成非法限制竞争,则承包商应承担合同净值的15%作为赔偿金,但承包商对该违规行为无需承担责任的情况除外。客户证明并主张因价格差异而导致损害赔偿的权利不受到影响,此外,客户的任何基于合同或法



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定之权利均不应受到任何影响。

1.12 If, in the context of awarding or providing services, an employee, a managing director or a member of the board of the Contractor, or any subContractor working under the direction of the Contractor, commits gross misconduct within the meaning of section 1.10 to the detriment of the Client, the Contractor shall pay the Client a contractual penalty, unless it is not responsible for the infringement. The penalty shall amount to

- a) 7% of the net contract value if the gross misconduct is committed by a managing director or member of the board of the Contractor, or
- b) 5% of the net contract value if the gross misconduct is committed by an agent holding full power of attorney or authorized representative, or
- c) 2% of the net contract value if the gross misconduct is committed by other employees of the Contractor or by subContractors, but the minimum contractual penalty shall amount to €5,000.

This contractual penalty shall not affect the rights of the Client to claim damages for misconduct. However, in this case, the contractual penalty shall be offset against any such claims for damages.

A contractual penalty in accordance with this provision shall be inapplicable if an act of gross misconduct within the meaning of section 1.10 is committed by a subContractor of the Contractor and the choice of this subContractor was made obligatory by the Client, and/or if the Contractor or its employees, board members or managing directors, or other third parties working under its instruction, did not participate in

committing this act of gross misconduct.

Cases of unlawful restriction of competition according to section 1.11 and concurrent acts of gross misconduct according to section 1.10 (whereby the same offender commits several separate acts of gross misconduct punishable under criminal law or whereby one and the same act of gross misconduct is an offense against several different statutory provisions) shall not be subject to the contractual penalty. Section 1.11 shall apply conclusively in this respect.

1.12 若承包商的雇员、常务董事、董事会成员或其分包商在授标或服务提供过程中实施了上述第 1.10 节所述的严重不当行为损害客户利益, 除非承包商对该违规行为无责, 则承包商应支付客户合同违约金。合同违约金金额为:

- a) 若承包商的常务董事或董事会成员实施了严重不当行为, 合同违约金为合同净值的 7%;
- b) 若承包商的授权签字人或授权代表实施了严重不当行为, 合同违约金为合同净值的 5%;
- c) 若承包商的其他雇员或分包商实施了严重不当行为, 合同违约金为合同净值的 2%;

但合同违约金最低不应少于 5,000 欧元。合同违约金不应影响客户就该等不当行为主张损害赔偿的权利。但是, 该等情况下, 相应的损害赔偿金中可以扣除合同违约金。

若承包商的分包商实施了第 1.10 节所指的严重不当行为, 但该分包商系由客户强制选定, 和/或系承包商或其雇员、董事会成员、常务董事或在其指示下工作的其他第三方, 且没有参与这种严重不当行为, 则此条款中规定的合同违约金不适用。

若第 1.11 节所述的非法限制竞争行为和第 1.10 节所述的严重不当行为同时存在(即同一行为人分别实施了数个根据刑法应受惩罚的



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严重不当行为, 或同一严重不当行为违反了数个不同的成文法规), 那么本节违约金条款不予适用, 而应最终适用第 1.11 节。

- 1.13 If an act of gross misconduct within the meaning of section 1.10 is committed by an employee, managing director or member of the board of the Contractor,
- a) the Client shall be entitled to invoke extraordinary termination of the contract without notice,
  - b) the Contractor shall be debarred from competing for orders awarded by Deutsche Bahn AG and its Group companies for a period of up to five years, unless otherwise specified by law. If the Contractor can provide evidence of appropriate and sufficient self-corrective actions, the ban may not be implemented. The severity and the circumstances of the misconduct shall be taken into account.

The extent of the ban and the readmission to the competitive tendering process are governed by the Deutsche Bahn AG guidelines on barring contractors and suppliers. These guidelines may be inspected at any time at the Client's premises.

- 1.13 若承包商的雇员、常务董事或董事会成员犯下第 1.10 节所指的严重不当行为,
- a) 客户有权要求不经事先通知立即终止合同;
  - b) 除非法律另有规定, 承包商在最长五 (5) 年时限内不得参与竞争任何德国铁路股份有限公司及其集团公司发起的招投标项目。若承包商可以提供证据证明自己采取了适当且充分的自我改正措施, 则该禁令可以不予以履行。不当行为的严重性和具体情况都应被考虑在内。

禁令的范围和重新进入竞争性投标程序的许

可由德国铁路股份有限公司关于禁止承包商和供应商的准则来规定。此等准则可以在任何时候在客户的营业场所进行查看。

- 1.14 The Contractor undertakes to actively contribute towards preventing gross misconduct within the meaning of section 1.10 and investigating suspected misconduct as well as to cooperate with the Client in this respect.

If the Contractor gains knowledge of facts that constitute a suspicion of gross misconduct within the meaning of section 1.10 and impact on the Client, the Contractor is obliged to immediately notify the Client of such in writing. Furthermore, if such gross misconduct lies within the sphere of the Contractor, the Contractor is obliged to investigate the circumstances of the case immediately. If the suspicion is confirmed, the Contractor is obliged to take appropriate specific technical, organizational and personnel measures to terminate the misconduct without delay and to prevent such misconduct in the future. The Contractor shall promptly inform the Client in writing on the progress and outcome of the investigation of the circumstances of the case and on any measures taken.

- 1.14 承包商承诺其应当为防止第 1.10 节所指的严重不当行为做出积极贡献, 调查可疑的不当行为, 并就此配合客户。

若承包商了解任何涉嫌构成第 1.10 节所述严重不当行为且影响客户的事实, 承包商有义务立即以书面形式通知客户。此外, 若该等严重不当行为在承包商管辖范围之内, 承包商有义务立即调查案件情况。若怀疑得到证实, 则承包商有义务立即采取特定技术、组织以及人员措施及时终止该不当行为并阻止该不当行为未来再次发生。承包商应将案件调查进展及结



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## General Contractual Terms and Conditions of Deutsche Bahn AG and its Affiliated Companies for Consultancy and Other Services

### 德国铁路股份有限公司及其附属公司咨询和其他服务的通用合同条款和条件

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果、案件情况及其所采取的相应措施以书面形式及时告知客户。

- 1.15 To make it possible to establish and organize legally compliant business relations, the Client and the Contractor shall each give their consent to the other party for regular mutual checks of their information against the latest versions of the sanctions lists based on European Council Regulations No. (EC) 2580/2001, (EC) 881/2002 and (EU) 753/2011 (antiterror regulations) and other applicable national, European and international embargo and trade-control regulations. When doing so, they shall observe all relevant provisions based on data protection law, especially with regard to data minimization and data security.

The Contractor declares that its company and employees are not included on any of the aforementioned sanctions lists. The Contractor undertakes to use appropriate measures to ensure that the antiterror regulations and other national, European and international embargo and trade-control regulations are implemented in its company's business operations. The Contractor also undertakes to promptly notify the Client in writing of any matches found during checks against the aforementioned sanctions lists.

The assertion of claims for damages of any type (in particular due to default or nonperformance) and the assertion of other rights by the Contractor are excluded if these are associated with compliance with applicable national, European and international embargo and trade-control regulations. This does not apply in the event that the Client is accused of intent or gross negligence. The Client is entitled to invoke extraordinary termination of the contract if any matches are found during the

aforementioned checks.

- 1.15 为了建立和组织符合法律规定的业务关系，客户及承包商在此同意对方根据欧洲理事会(EC)2580/2001号法规，(EC)881/2002号法规及(EU)753/2011号法规（反恐法规）或其他国内、欧洲和国家的禁运或贸易管制条例对其信息进行定期的双向检查。进行此类检查时，双方应当遵守基于数据保护法的所有相关规定，特别是关于数据最小化和数据安全的规定。

承包商声明其公司及其雇员均未被列入上述任何制裁清单。承包商同意采取适当的措施，以确保在其公司业务活动中能落实反恐法规以及其他国内、欧洲和国际禁运或贸易管制条例。承包商进一步同意，若在检查中发现任何符合上述制裁清单所列规定的情况，承包商应当立即书面通知客户。

承包商就遵守适用的国内、欧洲和国际禁运或贸易管制条例有关的任何类型的承包商损害赔偿主张（尤其是违约或未履行合同所引起的）以及其他权利主张都应被排除在外，除非客户存在故意或重大过失。若客户在检查中发现承包商符合任何上述制裁清单所列任何一项，客户有权立即终止合同。

## 2 Safeguarding the interests of the Client by the Contractor

### 2 承包商保障客户的利益

- 2.1 The Contractor is obliged to safeguard the rights and interests of the Client within the scope of the services to be performed by the Contractor.

- 2.1 承包商有义务在其服务范围内保障客户的权利和利益。

- 2.2 The Contractor is not permitted to represent the Client unless it receives special authorization from the Client in writing. **In no**





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case shall Contractor be, nor be deemed to be, joint venturers, partners, employees, servants or agents of Client, and Contractor shall not have any power or authority to bind or contract on behalf of Client, except as may be expressly provided in this contract.

2.2 除非得到客户的书面特别授权，承包商不可代表客户。除非本合同另有明确约定，承包商不应被认为是客户的合资公司、合伙人、雇员或代理，且无权代表客户接受任何义务或签订合同。

### 3 Execution of the service, cooperation

#### 3 服务的履行、合作

3.1 To the extent required for the purposes of executing the contract, the Contractor shall agree on the key work steps of its services with the Client's contact person before execution begins and before final provision; the Contractor's responsibility for its services shall remain unaffected. The Contractor shall provide the Client with the required information on the status of fulfillment of the contract without special remuneration and shall, upon request, grant the Client access to its premises to view the documents relating to execution of the contract. The confidentiality interests of the Contractor must be taken into account.

3.1 在履行合同所需的范围内，承包商应在开始履行和最终提供服务之前与客户的联系人商定其服务的关键工作步骤；承包商对其服务所应承担的责任不受影响。承包商应向客户免费提供有关合同履行情况的必要信息，并根据客户的要求，允许客户进入其营业场所，查看与履行合同有关的文件。承包商的保密利益也须被予以考虑。

3.2 The Contractor shall inform the Client of all details relating to contract fulfillment where

knowledge of these details is necessary for the Client.

3.2 若客户有必要了解相关细节，承包商应将合同履行有关的细节全部告知客户。

3.3 In the case of services under a contract for services, the responsibility for the work results lies solely with the Contractor. This shall also apply if the contracting parties form a project team. If the contracting parties form a project team for services under a contract for services, all meetings undertaken by the project team must be documented. The Contractor is responsible for such documentation; it shall promptly make the minutes of each meeting available to the Client. If there is no objection to the content of the minutes of a meeting within a period of two weeks, the content shall be deemed to be correct.

3.3 就服务合同项下的服务而言，工作成果的责任仅且完全在于承包商。即使合同双方组成一个项目团队，这一原则也应予以适用。若合同双方在服务合同下为服务组成了一个项目团队，项目团队进行的所有会议都必须记录在案。承包商负责此类记录，并应及时将每次会议的记录提供给客户。若客户在两（2）周内没有就会议记录内容提出任何异议，则该会议记录的内容应被视为正确。

3.4 The contact person nominated by the Client for execution of the contract is authorized exclusively for technical cooperation with the Contractor. The contact person is not authorized to issue contract-forming statements (e.g. amendments or supplements to the contract or suspension or termination of the contract).

3.4 客户指定的履行合同的联系人仅被授权与承包商进行技术合作。该联系人无权发出任何合



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同形式的声明（例如：对合同的修改或补充、合同的中止或终止）。

3.5 The Contractor shall ensure that all materials used that fall under the EU chemicals regulation REACH are registered and allowed in accordance with this regulation and having taken into consideration the use of the materials by the Client according to the subject of the contract. This shall also apply to contractors outside of the European Union. Upon request by the Client, the Contractor shall provide suitable proof of fulfillment of this obligation.

3.5 承包商应保证其使用的所有材料均已根据欧盟化学品法规 REACH 予以注册并符合该法规相关规定，并且承包商应考虑到客户根据本合同之目的对该等材料的使用。本条亦适用于欧盟以外的承包商。若客户要求，承包商应当提供适当的证据以证明其符合上述要求。

#### 4 Entering railway installations

#### 4 进入铁路设施

If the Contractor needs to perform services where entry to the railroad operation danger zone within railway installations cannot be avoided, it must inform the Client in good time so that the Client can ensure its safety. The Client shall inform the Contractor of the dangers within the railroad operation danger zone and the necessary safety precautions; the Contractor is responsible for providing the relevant safety instructions to its employees. The Contractor must confirm receipt of the relevant safety instructions and documentation.

若承包商无可避免地需要进入铁路设施内的铁路作业危险区进行服务，则承包商必须及时通知客户，以便客户确保其安全。客户应将铁路作业危险区内的危险和必要的安全防范措施

施告知承包商；承包商负责向其雇员提供相关的安全指导。承包商必须确认收到相关的安全指示和文件。

#### 5 Acceptance

#### 5 验收

5.1 If the Contractor has performed acceptance-ready services in accordance with the contract, it shall offer these to the Client and send a written request to have these services accepted. Unless otherwise agreed in the contract, the Client will declare acceptance or justifiably refuse it within 14 calendar days. If the Client neither confirms nor refuses acceptance within the aforementioned period, the service shall be deemed to have been accepted. The service shall also be deemed to have been accepted if it is used productively by the Client.

5.1 若承包商按照合同规定提供了待验收的服务，则其应向客户提供这些服务，并发出书面的验收请求。除非合同中另有约定，客户将在 14 个日历日内宣布确认验收或合理地拒绝验收。若客户在上述期限内既不确认也不拒绝验收，则应视为其已验收该服务。若服务被客户有效地使用，则也应被视为已被验收的服务。

5.2 If agreed partial services are accepted, acceptance shall be restricted to the relevant partial service. Upon acceptance of the final partial service, the overall service shall be accepted by testing the ability of all partial services to interact with one another.

5.2 若客户对商定的部分服务通过验收，则该验收仅限于相关的部分服务。在验收最后的部分服务时，则应通过测试所有部分服务之间的互动性来验收整体服务。

#### 6 Assignment of claims, set-off

#### 6 债权的转让、抵销



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- 6.1 The Contractor shall not be permitted to assign its claims against the Client to a third party. Section 354a of the German Commercial Code (HGB) shall remain unaffected **if applicable.**
- 6.1 承包商不得将其对客户的债权转让给任何第三方。**若适用**，《德国商法典》(Handelsgesetzbuch, HGB)第354a节项下的权利不应受到任何影响。
- 6.2 The Contractor shall not be entitled to exercise any lien or other right of retention if this is based on counterclaims from other legal transactions with the Client.
- 6.2 若承包商就其与客户任何其他合法交易提出反诉，承包商无权行使任何留置权或其他保留之权利。
- 6.3 The Contractor shall be entitled to offset its claims only against claims (including claims arising from other legal relationships) that are undisputed or that have been established as final and absolute by a court of law.
- 6.3 承包商仅有权将无争议的或由法院最终判定的(包括由于其他法律关系引起的)的索赔进行抵销。
- 6.4 The Client shall be entitled to full rights of lien and set-off.
- 6.4 客户应享有充分的留置权和抵销权。
- 7 Transfer of documents, usage rights, industrial property rights, publications**
- 7 文件、使用权、工业产权、出版物的转让**
- 7.1 The Contractor shall deliver to the Client and transfer title of documents to be provided in fulfillment of the contract; the right of lien of the Contractor is excluded.
- 7.1 承包商应向客户交付并转让为履行合同而提供的文件的所有权；承包商享有留置权的除外。
- 7.2 The Client shall, at the time of their creation, acquire, without special remuneration, and for all proprietary work results of the Contractor that have resulted from execution of the contract, the permanent, irrevocable, exclusive, unrestricted with regard to place, and transferable right in rem to use the work results in all - including hitherto unknown - possible ways; in particular, to copy them, to make them accessible on the internet, to develop them further or to amend them. If the work results of the Contractor contain the work results of third parties, the Contractor shall ensure that the Client is permitted to use these work results as described above. The Contractor shall grant the Client non-exclusive usage rights to preexisting materials, techniques, work methods and expertise in accordance with the aforementioned provision, if these are required for use of the work results or if these belong to the agreed scope of services.
- 7.2 对于承包商在履行本合同的过程中创造的所有专有工作成果，客户均应免费地获取这些工作成果永久的、不可撤销的、排他的、不受地点限制的、可转让的、并可以所有可能的方式(包括迄今未知的方式)使用这些工作成果的权利；特别是，复制它们，使它们在互联网上可以被访问，进一步开发或修改它们的权利。如果承包商的工作成果包含第三方的工作成果，承包商应确保客户被允许按上述方式使用此等工作成果。若相关权利系使用工作成果所必须或属于约定的服务范围内，承包商应根据上述规定授予客户对已有材料、技术、工作方法和专业知识的非排他性使用权。
- 7.3 If, within the framework of the contract, the Contractor achieves results whose content can be protected or registered (patented), the Contractor



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- shall inform the Client of this immediately,
- shall make unrestricted use of the inventions in accordance with the ArbEG (German Law on Employees' Inventions) **and/or any applicable laws and regulations** upon request and following consultation with the Client, and
- shall transfer the invention(s) to the Client against reimbursement of the employee inventor compensation (section 9 German Law on Employees' Inventions **and/or any applicable laws and regulations**) and, apart from that, gratis for use by Deutsche Bahn AG and its affiliated companies.

**法规**)后, 将该发明转让给客户, 此外, 还应将该发明免费提供给德国铁路股份有限公司及其关联公司使用。

客户有义务在转让时支付补偿。根据第 7.2 节第 1 款的规定, 所有可以被保护或注册的工作成果的使用权都属于客户。

产权申请的起草工作应由客户的专利部门承担。

承包商应从其分包商处获得相应的合同承诺。

7.4 The Client has the right to publish the documents. The Client must only specify the name of the author if this is customary in the sector. For publication, the Contractor requires the prior consent of the Client.

The Client is obliged to make the reimbursement from the time of transfer. All usage rights to work results that can be protected or registered belong to the Client within the meaning of section 7.2, clause 1.

7.4 客户有权发布文件。客户仅需出于行业习惯做法注明作者。若需出版, 则承包商需要得到客户的事先同意。

Drafting of the property rights application shall be undertaken by the patent department of the Client.

7.5 The above provisions shall apply even in the event of early termination of the contractual relationship.

7.5 本合同关系提前终止也不应影响上述规定的效力。

The Contractor shall obtain contractual commitments from its subContractors accordingly.

**8 Material defect claims for services under a contract for services**

7.3 若承包商在本合同框架内取得的工作成果可以被保护或注册(专利), 则其

**8 服务合同项下服务的重大缺陷索赔**

- 应立即通知客户;
- 在与客户协商后, 应根据《德国雇员发明法》(Gesetz über Arbeitnehmererfindungen, ArbEG) **和/或任何适用法律法规**的规定, 应客户要求给予其不受限制地使用该发明, 并且

8.1 The Contractor is responsible for the faultless provision of services and work results and for their suitability for the contractually agreed purpose.

8.1 承包商对准确无误地提供服务和工作成果以及对其符合合同约定目的适用性负责。

- 应在支付补偿雇员发明人的报酬(《德国雇员发明法》第 9 节 **和/或任何适用法律**

8.2 The limitation period in which rights and claims arising from defects may be asserted shall be 24 months unless the **applicable** law specifies a longer period. This period begins



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on acceptance. In the case of partial services, the limitation period begins with the acceptance of the respective partial service. If a partial service has already been used by the Client, however, the limitation period for this partial service begins on the first calendar day of use.

Unless otherwise agreed, the limitation period for the interaction of all partial services (overall service) begins with acceptance of the final partial service.

8.2 除非**适用的**法律规定更长期限，由缺陷引起的权利和索赔的时效期限为 24 个月。此等时效期限自通过验收开始起算。在提供了服务的情况下，该等时效期限自相应部分服务通过验收时起算。但若客户已经使用了部分服务，则该部分服务的该等时效期限自开始使用的第一个日历日起算。

除非另有约定，对所有部分服务之间的交互性（整体服务）的时效期限自从验收最后部分的服务起算。

8.3 In the case of defects, the Client is entitled to all statutory claims and rights. The Client is entitled to any rights resulting from an agreed guarantee, which may not reduce the statutory claims of the Client.

8.3 若存在缺陷，客户有权主张一切法定索赔和权利。客户有权享有根据约定的保证而产生的任何权利，且这些权利不应削弱或减少客户的法定索赔权利。

8.4 The Client shall notify the Contractor, within an appropriate time period, of any defects ascertained.

8.4 客户应在合理的时间内将发现的缺陷通知承包商。

8.5 Due to the legal liability, the Contractor is obliged to rectify any reported defects

immediately. If the Contractor falls behind with rectification of the defects, section 15.2 applies accordingly.

8.5 根据法定责任，承包商有义务立即纠正任何报告的缺陷。若承包商没有及时纠正此等缺陷，则第 15.2 节应当适用。

8.6 Rectification of the defects also includes correction of the documentation if this is affected by the breach of duty or subsequent performance.

8.6 若任何文件被承包商违反义务的行为或后续履行所影响，则承包商对缺陷的纠正也应包括对此等文件的纠正。

8.7 If the notification of defects is justified, the limitation period in accordance with section 8.2 is extended by the period during which the work results cannot be used for their intended purpose due to the defect; this applies to the work result as a whole. Statutory regulations concerning the suspension of the period of limitation shall remain unaffected.

8.7 若缺陷通知是正当的，则根据第 8.2 节规定的时效期限将予以延长，延长的时间为工作成果因缺陷而不能用于其预期目的的时间；且延长的时效期限应适用于整体工作成果。有关中止时效期限的法定规定不受影响。

8.8 Where the notification of defects is justified, the costs of tracking the defects shall be borne by the Contractor. If, following consultation, the Client supports the Contractor in tracking the defects that have justifiably been reported, the Contractor shall reimburse the Client for all verified expenses that the Client has incurred in connection with tracking the defects.

8.8 若缺陷通知是正当的，则追踪缺陷的费用应由



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## General Contractual Terms and Conditions of Deutsche Bahn AG and its Affiliated Companies for Consultancy and Other Services

### 德国铁路股份有限公司及其附属公司咨询和其他服务的通用合同条款和条件

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承包商承担。如果经过协商，客户支持承包商追踪正当报告的缺陷，则承包商应向客户补偿客户为追踪缺陷所产生的全部经核实的费用。

8.9 The Contractor shall reimburse the Client for all verified necessary expenses that the Client has incurred in connection with subsequent performance.

8.9 承包商应向客户补偿客户在后续履约过程中发生的所有经核实的必要费用。

## 9 Property right infringements

### 9 侵犯产权的行为

9.1 The service performed by the Contractor must be free of third-party rights - in particular, of copyrights and industrial property rights. If use in accordance with the contract is restricted or forbidden due to the infringement of third-party property rights, the Contractor is obliged, at its own choice, to either change the service or replace it so that the property right infringement is eliminated but still complies with the contractual terms and conditions, or to obtain the right of use so that the service can be used by the Client in accordance with the contract and without restriction or additional costs.

9.1 承包商提供的服务必须不受第三方权利所约束，特别是版权和工业产权的约束。若根据合同规定的使用因侵犯第三方权利而受到限制或禁止，承包商有义务自行选择改变服务或更换服务，以便消除其对权利和/或产权的侵犯，但应保证改变或更换后的服务仍符合本合同的条款和条件，或承包商也可获得相应的使用权，以便客户按照合同规定使用服务时不受限制也不增加额外费用。

9.2 At the first request, the Contractor shall release the Client from the claims that a third party asserts against the Client due to an

infringement of property rights and, from the time of the first request, the Contractor shall handle the dispute with the third party, unless the Contractor is not responsible for the infringement of property rights. The Client shall support the Contractor here to the extent necessary. Any associated necessary and verified expenses shall be reimbursed. The Client is obliged to immediately notify the Contractor in writing if claims are asserted against the Client due to the infringement of property rights. **The right of indemnity shall be limited to a period as stipulated under applicable law and regulations.**

9.2 自客户首次提出要求，承包商就应免除客户因侵犯产权而受到第三方索赔所导致的任何损失或损害，且自客户首次提出要求起，除非承包商对侵权行为没有责任，承包商应着手处理其与第三方的争议，客户在必要的条件下为承包商提供支持，且因此产生的任何相关的必要的经核实的费用都应自承包商处得到补偿。若因侵犯产权遭到索赔，客户有义务立即书面通知承包商。**客户要求补偿的时效期限和起算时间应当符合适用的法律法规。**

9.3 If the Contractor fails to comply immediately with its obligations in accordance with section 9.1, section 15.2 shall apply accordingly.

9.3 若承包商未能立即履行第 9.1 节规定的义务，第 15.2 节应当予以适用。

9.4 Furthermore, the statutory regulations regarding the liability for defects shall apply.

9.4 此外，关于缺陷责任的法律规定也应予以适用。

## 10 Liability for damages

### 10 损害赔偿责任

10.1 The contracting parties shall be mutually liable for damages



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- in case of intent or gross negligence, in the full amount, irrespective of the type of damage,
- in case of infringement of duties essential to the contract, in the full amount,
- in case of minor negligence, as long as no material contractual duties are breached, to the amount of the typical foreseeable damage; this does not apply, however, to personal injuries and injuries to third parties for which liability is the full amount.

#### 10.1 缔约各方应各自承担损害赔偿责任

- 在故意或重大过失的情况下，无论损害赔偿的类型，都应全额赔偿；
- 若违反了合同的基本义务，都应全额赔偿；
- 在轻微过失的情况下，只要没有违反实质性的合同义务，就以典型的可预见的损失为限；但是，这一原则不适用于人身伤害和对第三方的伤害的情况，此类情况仍应全额赔偿。

10.2 Contractor shall indemnify defend and hold Client harmless from and against any loss, damage, claim, liability, penalty, any and all cost or expense (including lawyer fee and other legal expenses), caused by the acts of, or breach of services quality stated in the contract by Contractor, or its employee, affiliated companies and/or agents.

10.2 因承包商、其雇员、关联公司或/和其代理人的行为、服务质量违反本合同而令客户遭受任何索赔、损失、追索、损害、责任、支出、罚金等任何成本和费用（包括律师费和其他法律费用），承包商应予以赔偿，并承担全部的法律责任。

**10.3 Contractor shall be fully responsibilities to individual injury to any third party, property**

**damage or environmental pollution (including but not limited to soil, air or water) caused by faults of Contractor, or its employee, affiliated companies and/or agents, or its provision of services under contract. Contractor shall compensate Client and any third party for any loss, damage, claim, liability, penalty, any and all cost or expense (including lawyer fee and other legal expenses) caused herein and make best endeavor to indemnify, defend and hold Client harmless from such loss and claims.**

**10.3 因承包商、其雇员、关联公司或/和其代理人原因，或因提供服务而给客户或任何第三人造成人身伤害、财产损失或造成环境污染（包括但不限于土壤、空气、水体）等损失，承包商应承担全部的法律责任，客户不承担任何责任。承包商应承担及赔偿由此给客户或第三方造成的任何损失、追索、损害、责任、成本和费用（包括律师费和其他法律费用）。承包商应尽其最大努力协助客户针对上述索赔进行抗辩并承担所有后果。**

**10.4 Unless there is any mandatory stipulation in the applicable law and regulations, Contractor's liability to Client for compensation and/or indemnification shall not less than all loss incurred to Client, including but not limited to full replacement costs of the goods and property, and Client's payment to its customer or any third party (or any claims against Client from its customer or any third party) in relation to additional freight, penalty, fines, liquidated damages, financial loss and/or any indirect or consequential loss, and such liability shall in no case be limited.**

**10.4 除非适用的法律法规有任何相反的强制性规定，承包商对其在本协议项下应对客户承担的任何赔偿和/或补偿责任都不得低于客户因此**

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所受的全部损失，包括但不限于货物和财产的全部重置成本价以及客户因此而向其客户或其他第三方支付（或客户因此而被或可能被其客户或其他第三方追讨的）额外运费开支、罚款、罚金、合同违约金、财务损失和/或任何间接或后续损失，且该等责任不应有任何限额。

#### 11 Protection of secrets, confidentiality, data protection, return of documents

##### 11 秘密保护、机密性、数据保护、文件归还

11.1 The contracting parties shall ensure that any persons they entrust with processing, fulfilling or handling the contract comply with statutory data protection regulations and the German Federal Trade Secrets Act (GeschGehG) **and/or any applicable national law and local regulations.**

Additionally, the contracting parties shall keep confidential any information, documents or items concerning personal data, business secrets or trade secrets obtained from the other contracting party's sphere, as well as any information that is labeled as confidential or is to be assessed as confidential for any other reason, regardless of whether the information has been communicated verbally, in writing or in any other way, such as digitally.

This obligation applies regardless of whether the information that is to be assessed as confidential has been labeled accordingly or is subject to technical or organizational protective measures. If the information to be exchanged does not meet the criteria of a trade secret according to the GeschGehG **and/or any applicable national law and local regulations** in individual cases, it shall still be subject to the confidentiality agreement in line with the intentions of the contracting

parties, provided that it, recognizably for the other contracting party, constitutes confidential information.

11.1 合同双方应确保其委托处理、履行或管理合同的任何人员遵守法定的数据保护法规和《德国联邦商业秘密法》(Gesetz zum Schutz von Geschäftsgeheimnissen, GeschGehG) **和/或及适用的国家法律和地方法规。**

此外，缔约各方都应对对方提供的任何关于个人数据和商业秘密的信息、文件或物品，以及标明为机密的任何信息或因任何其他原因被评估为机密的任何信息进行保密，无论该等信息以口头、书面或任何其他方式，如数字方式传达。

无论任何信息是否被评估为机密信息、是否已被相应地标明机密，或是否受到技术或组织保护措施的保护，这一义务都适用。若交换的信息在个别情况下不符合《德国联邦商业秘密法》**和/或适用的国家法律和地方法规**规定的商业秘密的标准，但只要其被另一方识别且构成机密信息，则此等信息仍应受到与缔约各方的意图一致的保密协议的保护。

11.2 The contracting parties shall keep the confidential information secret, take appropriate measures to protect against unauthorized access, and refrain from passing information on to third parties without authorization, or using it for purposes other than those contractually agreed. Appropriate measures for ensuring confidentiality include using technical security measures that are in line with the state of the art (Article 32 General Data Protection regulation (DSGVO)) **and/or any applicable national law and local regulations** and obligating employees to maintain confidentiality and observe data protection measures in accordance with the DSGVO





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**and/or any applicable national law and local regulations.**

If the contracting party transferring the information has specified requirements for maintaining the confidentiality of particularly sensitive information based on different confidentiality levels, the other contracting party must maintain the information in line with these specifications. Each contracting party may request that the other contracting party provide information about or evidence of the nature and scope of its security measures. The obligation to maintain confidentiality does not apply to information or items that the receiving contracting party is able to prove (1) was/were generally known or readily available without infringements, either wholly or in the format and combination provided, to persons who normally handle such information; (2) is/are becoming publicly accessible at a later point without any breaches of the obligation to maintain confidentiality; or (3) was/were verifiably obtained by the receiving contracting party itself without use of or reference to the confidential information of the other contracting party; or (4) was/were made known to the receiving contracting party from an authorized third party in a legal manner, without any infringements of this confidentiality agreement.

If a contracting party is obliged to disclose some or all confidential information due to applicable legislation, court orders or official orders, the contracting party shall notify the owner of the confidential information of this immediately in writing and make all reasonable efforts to reduce the extent to which the information is disclosed to a minimum and, where necessary, provide the owner of the confidential information with any reasonable support required to obtain a

protection order against the disclosure of all confidential information or parts thereof.

11.2 缔约各方应对机密信息进行保密，采取适当措施防止未经授权的访问，并避免未经授权将此类信息传递给第三方或将其用于合同约定以外的目的。确保机密性的适当措施包括使用符合最新技术水平和技术安全措施（《通用数据保护条例》（DatenschutzGrundverordnung, DSGVO）第 32 条）**和/或及适用的国家法律和地方法规**，并要求雇员根据《通用数据保护条例》**和/或及适用的国家法律和地方法规**的规定保密并履行数据保护措施。若披露信息的一方需根据不同的保密级别对机密信息（尤其是特别敏感的信息）的保密性有明确的要求，另一方必须按照此类要求来维护此类信息的机密性。各方均可要求对方提供有关其安全措施的性质和范围的信息或证据。保密义务不适用于接收方能够证明的具有以下信息或项目：(1) 对于通常处理这类信息的人员而言此类信息的全部或以一定的组合或形式提供的信息系众所周知或非经侵权而取得的信息；(2) 在不违反保密义务的情况下，之后可以公开取得的信息；(3) 经核实接收方未使用或参考另一方的机密信息而自己取得的信息；或(4) 接收方由授权第三方经合法途径披露且不存在任何违反本保密协议而得知的信息。若任一方因适用的法律、法院命令或官方命令而不得不披露部分或全部机密信息，则该方应立即以书面形式通知机密信息的所有者，并尽一切合理的努力将信息的披露程度降至最低，且在必要时应向机密信息的所有者提供所需的任何合理支持，以取得防止披露全部或部分机密信息的保护令。

11.3 The contracting parties shall impose the same obligations on all persons - whether they are employees or third parties - that are entrusted, because of or in connection, with



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the cooperation in contract initiation and with processing, fulfilling or handling the contract and shall also provide evidence of this obligation to the other contracting party on request. Additionally, the contracting parties shall only disclose confidential information to those persons who necessarily need to know the information for the contractually agreed purpose.

11.3 双方应要求所有人员，不论其是雇员或第三方，因或与合同签订、处理、履行、管理相关而被委托的人员，承担同样的保密义务，且应另一方要求，向其提供履行保密义务的证据。此外，双方应仅向为合同约定的目的而必须了解相关机密信息的人披露机密信息。

11.4 Transferring the information does not transfer any rights or licenses to the other contracting party, unless otherwise expressly specified in other contractual provisions. The Contractor shall in no way commercially use or imitate (particularly by means of reverse engineering) the confidential information for purposes outside of this agreement, nor shall it have the confidential information used or imitated by third parties for purposes outside of this agreement nor shall it register any industrial property rights in relation to the confidential information - particularly brands, designs, patents or utility models - where using the confidential information in this way does not conform to the purpose of the contract.

11.4 除非合同条款另有明确约定，披露此类信息并不意味着将任何权利转让或许可授予给另一方。承包商不得非为本合同目的以任何方式在商业上使用或模仿（特别是通过逆向工程的方式）机密信息，也不得非为本合同目的允许第三方使用或模仿机密信息或注册与机密信息有关的任何工业产权，特别是品牌、设计、产

品专利或实用新型专利，因前述目的对机密信息的使用均不得认为符合本合同之目的。

11.5 Each contracting party may terminate the contract without notice if the other contracting party is in breach of its aforementioned obligations. Claims for damage compensation and any other claims or rights (according to the GeschGehG, for example) shall remain unaffected. The obligations to maintain confidentiality shall remain in place for a further 5 (five) years after the contract has come to an end or has been terminated.

11.5 若任何一方违反了其上述义务，另一方有权不经通知而终止合同，且不应影响其对损害赔偿的要求和任何其他的要求或权利（例如，《德国联邦商业秘密法》下的权利）。保密义务在合同结束或终止后的五（5）年内仍然具有约束力。

11.6 The Contractor undertakes to immediately return all documents handed over to it by the Client after completion of the contract or securely delete or destroy them if requested. The Contractor is not entitled to the right of retention in respect of these documents.

11.6 承包商承诺在合同履行完毕后应立即归还客户交付的所有文件，或按客户要求安全地删除或销毁这些文件。承包商无权保留这些文件。

11.7 If execution of a service by the Contractor is associated with activities for which, in the opinion of the Client, the conclusion of an order data processing contract within the meaning of Article 28 of the General Data Protection Regulation (GDPR) or any other privacy agreement is required, the Contractor is obliged to promptly negotiate and conclude such a contract or agreement based on the standard sample contract of the Client or one of its affiliated companies, with



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the required specific amendments in each case. In the case of services with a foreign element, the Contractor is obliged, at the request of the Client, to conclude an order data processing contract or any other privacy agreement based on a sample contract specified by the Client.

11.7 若客户认为承包商履行的服务与《通用数据保护条例》(General Data Protection Regulation, GDPR)第28条所指的订单数据处理合同或任何其他隐私协议的活动有关,则承包商有义务根据客户或其关联公司的标准合同样本,迅速谈判并签订此类合同或协议,并根据具体情况进行必要的修订。对于存在外国因素的服务,根据客户的要求,承包商有义务在客户指定的合同样本的基础上签订一份订单数据处理合同或任何其他隐私协议。

11.8 Without prejudice to the provisions above, the Contractor may provide information about (partial) order values or (partial) prices to external parties only in cases that are strictly prescribed by law. Press releases and other publications on orders that have been issued are only permitted in consultation with the Client. The same applies to any communication of rounded or approximate values, and to figures comparing percentages with previous orders.

11.8 在不影响上述规定的前提下,承包商仅在法律严格规定的情况下才可以向第三方提供有关(部分)订单价值或(部分)价格信息。承包商仅在与客户协商一致后才可以就客户已发出订单**发布**相关的新闻稿和其他出版物。前述规定同样适用于与以往订单的进行比较的四舍五入值、近似值以及百分比数值。

## 12 Security of the information systems of the Client

### 12 客户信息系统安全

12.1 Direct or covert access to the information systems (operational systems, networks, programs, datasets) of the Client and its affiliated companies is only permitted to the Contractor upon conclusion of a supplementary contract within the meaning of section 11.5 if it has received express access authorization in writing from the Client; such access authorization is restricted to the expressly approved and deployed employees of the Contractor or its subContractors. Transfer of access authorizations to third parties is forbidden. Any access authorization granted may only be used in the context of the contractually assumed services.

12.1 仅在得到客户的书面明确访问权限且签订第11.5节所指的补充合同之后,承包商才可被允许直接或秘密访问客户及其关联公司的信息系统(操作系统、网络、程序、数据集);此等访问权限仅**授予**承包商或其分包商的明确批准和部署的雇员。禁止将此等访问权限转让给第三方。任何被授权的访问权限只能在合同约定的服务范围内使用。

12.2 If conditions of use exist for the connection of devices to data networks of Deutsche Bahn (hereinafter "conditions of use"), the Contractor shall comply with these when using the information systems of the Client and its affiliated companies. The Contractor shall not establish a connection to the data network unless these regulations are complied with. Upon written request, the Client shall make the conditions of use available to the Contractor.

12.2 若存在将设备连接到德国铁路公司数据网络的使用条件(以下简称“使用条件”),承包商在使用客户及其关联公司的信息系统时应遵守这些使用条件。除非遵守这些使用条件,否



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则承包商不得建立此等连接。经书面要求，客户应将使用条件提供给承包商。

12.3 The Contractor undertakes to make proper use of its deployed IT/OT systems (e.g. notebooks, etc.) in the data networks of the Client and its affiliated companies. The Contractor may only use IT/OT systems that conform to the current state of the art at the time of use and shall use effective protective measures to prevent the penetration of viruses or other damaging code. These protective measures include a state-of-the-art virus scanner and current security patches, updates and service packs.

12.3 承商人承诺正确使用客户及其关联公司的数据网络中部署的 IT/OT 系统(如笔记本等)。使用时承包商只能使用符合当前技术水平的 IT/OT 系统，并应采取有效的保护措施来防止病毒或其他破坏性代码的渗透和/或破坏。此类保护措施包括当前最先进的病毒扫描程序和最新的安全补丁、更新和服务包。

12.4 The use of hacking tools, sniffer software, etc. is forbidden unless this has been expressly approved. The Contractor is responsible for ensuring that the data networks of the Client and its affiliated companies are not coupled with other data networks.

12.4 除非取得明确批准，禁止使用黑客工具、嗅探软件等。承包商有责任确保客户及其附属公司的数据网络不与其他数据网络耦合。

12.5 After termination of the contractual relationship, the Contractor undertakes immediately, at all the Contractor's and its subContractors' primary and secondary locations, to securely and sustainably delete, destroy or return to the Client all data connected to the contractual relationship, unless it is legally obliged to retain the data.

Upon request, the Contractor shall provide evidence of this to the Client.

12.5 除非承包商在法律上有义务保留数据，合同关系终止后，承包商应立即在承包商及其分包商的所有主要和次要地点，以安全和可持续的方式删除、销毁或归还客户与合同关系有关的全部数据。根据要求，承包商应向客户提供相关证据。

12.6 The Client reserves the right to carry out blocks or monitoring as a result of government agency orders or in line with the conditions of use. Also, interruption of network access shall be possible at any time if the devices of the Contractor, which are connected to the network, in any way affect the operating security or the operating behavior of the network or of other devices or software connected to the network.

12.6 客户保留根据政府机构命令或根据使用条件进行封锁或监控的权利。此外，若承包商连接到上述网络的设备以任何方式影响到了上述网络的运行安全、运行方式或与其他设备和软件连接，则该连接访问可随时被中断。

12.7 The aforementioned applies subject to differing regulations concerning the handling of personal data in the contractual relationship in accordance with section 11.5.

12.7 上述规定受第 11.5 节关于合同关系框架下个人数据处理的不同规定的制约。

## 13 Termination

### 13 终止

13.1 The Client is entitled to terminate work contracts in accordance with section 648 of the German Civil Code (BGB) **if applicable and this contract** at any time without observing a period of notice.



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## General Contractual Terms and Conditions of Deutsche Bahn AG and its Affiliated Companies for Consultancy and Other Services

### 德国铁路股份有限公司及其附属公司咨询和其他服务的通用合同条款和条件

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- 13.1 根据《德国民法典》(Bürgerliches Gesetzbuch, BGB) 第 648 节 (如适用) 以及本合同之明确约定, 客户有权在任何时候终止工作合同, 而无任何通知期限要求。
- 13.2 If, in the case of service contracts, no specified scope of services (e.g. the number of days worked or the term of the contract) has been agreed, the contracting parties are entitled to terminate the contract subject to a period of notice of 14 calendar days before the end of the month.
- 13.2 对于服务合同而言, 若没有约定具体的服务范围 (如工作天数或合同期限), 缔约各方均有权在当月底提前 14 个日历日通知对方后终止合同。
- 13.3 The right to termination without notice for cause remains unaffected. In particular, cause exists in cases where a contracting party violates the contract so severely that the other contracting party is unable to reasonably engage in any further cooperation. This may involve, for instance, a significant infringement of the principles and requirements set out in the agreed code of conduct for business partners, or multiple individual contractual violations that exceed the limits of what is considered reasonable. Termination without notice requires a previous unsuccessful written warning.
- 13.3 不经通知因故终止合同的权利不受影响。尤其是因一方严重违反合同且导致另一方无法继续合作的原因而终止合同。此类情况包括严重违反双方约定的《商业伙伴行为准则》中所述的原则和要求, 或多次且超出合理范围地违反合同约定。不经通知的因故终止合同要求先行就违约方的违约事项发出书面警告。
- 13.4 The Client is also entitled to terminate the contract without notice and without any further preconditions if the ability to fulfill the contract correctly is put at risk due to the Contractor's financial situation significantly worsening. This applies in particular if (i) the Contractor repeatedly fails to pay its subContractors on time, or (ii) no contractually agreed suretyships have been issued, or (iii) insolvency proceedings have been rejected due to a lack of assets.
- 13.4 若承包商的财务状况显著恶化, 并使其面临失去准确履行合同的能力的风险, 客户也有权不经通知而终止合同, 且不附加任何前提条件。本条适用且尤其适用于以下情况: (i) 承包商多次未能按时向其分包商付支付款项; (ii) 承包商未能提供合同约定的担保, 或 (iii) 因承包商缺乏资产而导致破产程序被驳回。
- 13.5 Termination must be in writing or by fax.
- 13.5 终止必须以书面形式或传真方式进行。
- 14 Amendment in service, additional service**
- 14 服务变更, 额外服务**
- 14.1 The Client is entitled to demand from the Contractor details of any amendments or additions that result from specifying the order, and this does not change the terms and conditions of the contract subject to section 14.2, sentence 3.
- 14.1 客户有权要求承包商提供因指定订单而产生的任何变更或补充的细节, 但受限于第 14.2 节第 3 句之约定, 本合同的条款和条件维持不变。
- 14.2 The Client is entitled to request from the Contractor, in writing, details of any amendments in service or any additional services; in the case of work, this applies until acceptance; in the case of services, this applies until termination of the contract. The Contractor is obliged to execute the



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- amendment in service or any additionally assigned services as long as it does not deem them to be unacceptable. The effects on contract deadlines and on remuneration shall be agreed in writing in the form of a supplement to the contract. Unless amendments to the remuneration or deadlines are agreed in the supplement to the contract, the amended or additional service is to be carried out in the framework of the existing remuneration agreement or deadline agreement.
- 14.2 客户有权以书面形式要求承包商提供服务的任何变更或额外服务的细节；就工作而言，这一原则适用于验收之前；就服务而言，这一原则适用于本合同终止之前；如果服务变更或额外服务并非不可接受，承包商有义务履行服务中的任何合理的服务变更或额外服务。对合同期限和报酬的影响应由双方以合同补充文件的形式书面商定。除非双方对在本合同补充文件中对报酬或期限的变更达成一致，否则服务变更或额外服务应在现有的报酬协议或期限协议的框架内予以提供。
- 14.3 If, during the execution of amendments or additional services, it emerges that the requirement for amendments or the requirement for additional services is due to an error on the part of the Contractor when executing the contract, the agreements on any changes to remuneration or deadlines shall become void.
- 14.3 若在履行服务变更或额外服务的过程中发现服务变更或附加服务的要求系因承包商在履行合同的错误所引起，则所有关于报酬或期限的变更协议都将无效。
- 15 Delivery/performance time, penalty for delay**
- 15 交付/履约时间，延误罚金**
- 15.1 The delivery/performance dates and deadlines specified for the Contractor in the contract are binding.
- 15.1 本合同为承包商指定的交货/履约日期和期限具有约束力。
- 15.2 In the event of a delay by the Contractor with regard to a goods or service obligation, or if the service cannot be accepted on time due to defects, the Client shall be entitled to claim a contractual penalty amounting to 0.3% of the contract value of the delayed service for each calendar day, but not exceeding a total of 10%. A paid contractual penalty shall be offset against damage claims for a delay. The Client reserves the right to claim the contractual penalty until final payment. These provisions also apply if the on-time work is not accepted due to defects.
- 15.2 如果承包商延迟履行货物或服务义务，或服务缺陷导致无法通过客户验收，客户有权就延迟履行的服务要求承包商承担合同违约金，每一延误日历日需支付等于合同价值的 0.3% 的合同违约金，但总额不超过合同总价值的 10%。已支付的合同违约金可以抵销延误损害赔偿金。客户在最终付款前均保留对合同违约金提出索赔的权利。这些规定同样适用承包商准时交付但因缺陷未通过验收的工作。
- 15.3 The Contractor is obliged to immediately notify the Client via fax or in writing if circumstances that could lead to noncompliance with the agreed dates and deadlines arise or become apparent. Furthermore, the Contractor is obliged to inform the Client of any obstruction to execution of the contract due to the failure of the Client to execute services or to execute them in conformity with the contract.
- 15.3 若承包商发现或明显预见到其可能无法遵守



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约定的日期和期限，承包商有义务立即通过传真或书面形式通知客户。此外，若因客户未能履行服务或未能按照合同约定履行服务，承包商有义务告知客户合同履行受阻的情况。

are not included in the invoice and this results in a delay in processing the invoice at the Client's end, the Client shall not be responsible for the delay.

#### 16 Remuneration, invoice, payment

#### 16 报酬、发票、付款

16.1 Unless otherwise agreed, the remuneration defined in the contract is a fixed price and includes packaging and delivery. This remuneration covers all services to be performed by the Contractor in accordance with the contract - including usage rights, ancillary services, travel expenses, other expenses, costs for transport and insurance, etc.

16.1 除非另有约定，本合同中规定的报酬是固定价格，包括包装和交货的费用。该报酬包含承包商根据本合同应提供的所有服务，包括使用权、辅助服务、旅行费用、其他费用、运输和保险费用等。

16.2 The price does not include the Contractor's statutory value added tax (VAT). A VAT refund presupposes that the Contractor is entitled and obliged, pursuant to the relevant legal regulations, to charge the tax separately and that the tax is indicated separately in the invoice.

16.2 上述价格不包括承包商法定增值税 (VAT)。增值税退税的前提是，根据相关法律规定，承包人有权利和义务单独收取税款，并且在发票上单独注明税款。

16.3 Subject to value added tax (VAT) regulations, the invoice must specify the ordering party, the receiving location, the number and date of the contract, and the Contractor's tax number assigned by the tax office or its VAT identity number. If any of the agreed details

16.3 根据增值税 (VAT) 相关条例，发票必须注明订购方、收货地点、合同编号和日期，以及由税务局分配的承包商的税号或其增值税识别号。如果发票中未包含任何约定的细节导致客户延迟处理发票，客户不承担延迟导致的任何责任。

16.4 The remuneration due is to be paid within 21 calendar days subject to a 3% discount or 30 days net after receipt of a verifiable invoice by the Client's invoice receipt office. Payment shall generally be made by bank transfer. Compliance with the payment period by the Client shall be determined by the date of receipt of the transfer order by the Client's bank. If advance payments or installment payments have been agreed, the payment period shall begin on the agreed payment date if the invoice has been received on time by the contractually determined invoice recipient and the agreed collateral has been provided.

16.4 报酬应在客户发票收据处收到经核实的发票后 30 个日历日内进行支付，或在客户发票收据处收到经核实的发票后 21 个日历日内进行支付，但客户应享有 3% 的现金折扣。付款一般应通过银行转账进行。客户付款期限履行因客户的银行收到转账指令的日期为准。若双方约定预付款或分期付款，合同约定的发票接收方按时收到发票且已提供的担保，则付款期限应从确定的付款日期起算。

#### 17 Written form, severability clause, applicable law, place of jurisdiction, language

17 书面形式、可分割性条款、适用法律、管辖地、



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#### 语言

17.1 There are no additional agreements to the contract unless the individual contract makes explicit reference to additional agreements. In order to preserve evidence, changes or additions to this contract - including this clause - must be agreed in the form of the contract of which these General Contractual Terms and Conditions are an integral part.

17.1 除非个别合同明确提到附加协议，本合同没有附加协议。本合同的变更或补充，包括本条款，必须以合同的形式商定，且本《通用合同条款和条件》作为商定合同的组成部分，以资信守。

17.2 Should any individual provisions of this contract be or become void, the remainder of the contract shall remain unaffected. The void provision shall be replaced by the relevant statutory regulation.

17.2 如果本合同的任何个别条款无效或变得无效，合同的其余部分应不受影响。无效的条款应被相关成文法规定所取代。

17.3 The contract and any claims resulting from it shall be subject to **the law of People's Republic of China.**

17.3 本合同及其产生的任何索赔应仅受**中华人民共和国**法律约束。

17.4 The place of jurisdiction shall be the location of the Client's registered office. In the case of framework contracts, this jurisdiction shall also apply to disputes relating to individual orders, regardless of the seat of the ordering party. However, the Client is also entitled to invoke the courts at the place where the Contractor has its registered office.

17.4 管辖地应是客户的注册登记的所在地。就框架协议而言，上述管辖约定也应适用于单个订单相关的任何纠纷，与订购方的注册所在地无关。

但是，客户有权在承包商注册登记地的法院提起诉讼。

**17.5 The English and Chinese version of this contract is valid and legally enforceable. Unless otherwise expressly agreed in the contract, all documents shall be created in the English or Chinese language and all statements shall be issued in the English or Chinese language. In case of any conflict between the English and Chinese version, the Chinese version shall prevail.**

17.5 本合同的中文和英文本均为有效并具有法律效力的版本。除非合同中另有明确约定，所有文件都应以中文和英文制作，所有声明都应以中文和英文发布。若中英文版本存在任何冲突或不同，应当以中文版本为准。

#### 18 Transfer clause

#### 18 转让条款

The Client is entitled to transfer its rights and obligations from the contract to its affiliated Group companies without requiring the consent of the Contractor. The regulations concerning the transferability of usage rights, the legal provisions for the transfer of claims and the obligation in accordance with section 11.5 of this contract shall remain unaffected.

客户有权将其在合同中的权利和义务转让给与其关联的集团公司，而无需征得承包商的同意。有关使用权转让的规定、债权转让和义务的法律规定以及本合同第 11.5 节规定不受此条影响。

#### 19 Overall limit of contractual penalty

#### 19 合同违约金的总限额

Unless otherwise agreed, the total of all contractual penalties claimed from an individual contract may not exceed 10% of





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the agreed remuneration. The assertion of a contractual penalty in accordance with sections 1.11 and 1.12 (integrity clause) and of claims for damages, independent of the legal basis, shall remain unaffected.

除非另有约定，单个合同下的合同违约金的总额不得超过约定报酬的 10%。根据第 1.11 和 1.12 节（诚信条款）主张的合同违约金以及给予法律规定的损害赔偿均应不受影响。

□