

## GENERAL TERMS AND CONDITIONS OF PURCHASE of goods and/or services of Ernst & Young AG, Switzerland

### General provisions

#### 1. General/scope

- 1.1. These General Terms and Conditions of Purchase ("GTCP") govern all legal relationships relating to the provision of goods and/or services between the Supplier and/or Service Provider ("Contractual Party") and Ernst & Young AG, Basel, Switzerland ("EY") (collectively the "Parties"). They form an integral part of any and all contracts entered into with the Contractual Party and/or each purchase order ("Contract").
- 1.2. EY is a member of the global network of Ernst & Young firms ("EY Firms"); each of which is a separate legal entity.
- 1.3. The GTCP apply exclusively unless the Parties agree otherwise in writing on an individual basis. The general terms and conditions of the Contractual Party and of third parties are expressly excluded and will only form part of the agreement if EY has expressly agreed to their validity in writing. The unconditional acceptance of goods and/or services from the Contractual Party by EY does not imply the acceptance of the general terms and conditions of the Contractual Party or third parties.
- 1.4. Upon submission of an offer by the Contractual Party and/or provision of goods and/or services, these GTCP are deemed as accepted by the Contractual Party.
- 1.5. Changes or amendments to the Contract or to these GTCP must be agreed by the Parties in writing.
- 1.6. The GTCP are not applicable to loan staffing pursuant to the Swiss Federal Act on Recruitment and Loan Staffing ["Bundesgesetz über die Arbeitsvermittlung und den Personalverleih" (AVG)] dated 6 October 1989 (SR 823.11).

#### 2. Offer and purchase order

- 2.1. Any offers, samples or demonstrations shall be provided by the Contractual Party free of charge to EY.
- 2.2. The offer made by the Contractual Party shall be binding for at least 90 days after submission unless agreed otherwise by the Parties.
- 2.3. EY is not obliged to place an order with the Contractual Party before a Contract is signed. EY may informally decline an offer request, without any obligation or charge.
- 2.4. The purchase order shall not constitute a binding order until it is submitted in writing. It may also be placed via an electronic system furnished by EY (e.g. SAP, Mercury).
- 2.5. Before accepting a purchase order, the Contractual Party shall notify EY without delay of any and all obvious errors and omissions in the purchase order (and related documents).
- 2.6. The Contractual Party shall confirm EY's purchase order in writing within five working days. A Contract shall be deemed as concluded once EY has received a written acceptance from the Contractual Party accepting the order as placed or when the Contractual Party provides EY with goods and/or

services pursuant to the purchase order. A deviating acceptance of the purchase order by the contractual partner requires an express written reference. Otherwise, the agreement is not concluded.

#### 3. Delivery dates/ delivery default

- 3.1. The delivery dates for goods and/or services specified in the Contract are binding. If the agreed delivery date is not met, the Contractual Party shall be in default without further notice. In the event of default, EY is entitled to compel performance or without further notice, forego a subsequent delivery of goods or services. Statutory claims for damages shall remain unaffected in any case.
- 3.2. If the Contractual Party is in default due to its own fault, it must pay a contractual penalty of 1% per week commenced, but no more than 10% of the full price. The payment of the contractual penalty does not exempt the Contractual Party from its contractual obligations. The right to assert further claims for damages shall remain unaffected. In the case of force majeure, no contractual penalty is due.

#### 4. Intellectual property rights

- 4.1. Unless the Parties agree otherwise in advance in writing, each party shall remain the owner of all intellectual property rights and other rights attributable to the goods and/or services and the work products at the time the Contract was signed.
- 4.2. The intellectual property rights and other rights attributable to the goods and/or services created by fulfilling the Contract shall accrue to EY exclusively unless expressly agreed otherwise. The Contractual Party is obliged to assign these rights to EY and ensure that they are assigned accordingly by its employees.

#### 5. Warranty

- 5.1. The Contractual Party warrants that the goods and/or services and the work products have the guaranteed qualities, that they comply with the state-of-the-art in science and technology and that they are free from any physical or legal defects which could have a negative effect on their value or their suitability for their designated purpose.
- 5.2. The warranty period is 24 months commencing on the date of the passage of risk. This does not apply if the Contractual Party or the law stipulate longer warranty periods.
- 5.3. EY can give notice at any time of any defects identified during the warranty period. Art. 201 OR ["Schweizerisches Obligationenrecht": Swiss Code of Obligations] is explicitly excluded. A payment made by EY does not constitute approval of the goods and/or services or of the work products.
- 5.4. The Contractual Party undertakes to remedy any duly notified defects upon first request without delay and without charge for EY. The warranty period and notice period for defects recommence for the remedied or replaced part or service after the defect has been remedied in full.

- 5.5. If the Contractual Party fails to meet, or fails to meet on time or in full its warranty obligations, EY shall be entitled, at its sole discretion, to either i) demand proper rectification of the defect, ii) remedy the defect itself or through a third party at the expense of the Contractual Party, iii) demand a reduction in price, or iv) rescind from the Contract wholly or in part and return the corresponding delivered goods or services against a refund of the respective fees paid. Any further claims for damages by EY against the Contractual Party shall remain unaffected.
- 5.6. The Contractual Party warrants that the goods delivered, parts thereof and/or the services rendered, or the work products do not infringe any copyrights or other third-party rights and shall hold EY fully harmless from any claims by third parties.
- 5.7. The Contractual Party undertakes to defend EY without delay after the first written notification by EY at its own expense in its defense against all alleged or actual claims of infringement of its rights in the goods and/or services or work products by a third party and to hold EY harmless for any damages and costs arising thereof.
- 6. E-procurement procedure**
- 6.1. EY may also issue binding requests for offers and enter into binding agreements and make binding changes and/or amendments to agreements via an electronic system made available by EY (e.g., Mercury).
- 6.2. Invoices for purchase orders placed using the e-procurement procedure must include the purchase order number stated in the purchase order.
- 6.3. The e-procurement procedure supersedes any conflicting requirements set out in the Contract or in these GTC to deliver, execute, agree, amend or supplement agreements or other legal transactions (including contracts and purchase orders) in writing in order to be legally binding and valid.
- 7. Prices**
- 7.1. The prices stated in the Contract are binding. Unless otherwise agreed, the prices are fixed. Changes in prices by the Contractual Party are only valid if agreed in advance with EY in writing.
- 7.2. If the Parties agree on payment on a time-cost basis, the Contractual Party must indicate a cost cap, cost types and cost rates in its offer.
- 7.3. Unless otherwise agreed in writing, the price shall encompass all services and ancillary services provided by the Contractual Party (e.g. assembly, installation, construction, etc.) as well as all ancillary costs, expenses, out-of-pocket expenses and outlays as well as other charges and surcharges (e.g. costs for packaging, accommodation, transport, insurance, installation and customs duties, travel expenses, advance recycling charges, public levies, wage costs and additional charges, such as for overtime, child allowances and all insurance and social security charges). Travel time is not remunerated as working time.
- 7.4. Statutory VAT is not included in the prices and is disclosed separately on the invoice.
- 8. Invoicing and payment terms**
- 8.1. A separate invoice must be issued for each delivery or service, unless monthly billing has been agreed.
- 8.2. Unless otherwise agreed in writing, and subject to the fulfillment of the contractually agreed and defect-free delivery or service, the invoice shall be payable 30 days after receipt.
- 8.3. Invoices must be provided in digital form, including EY purchase order information (date and number) and the following address: Ernst & Young AG, Finance, Postfach, Maagplatz 1, 8010 Zurich and shall only be sent to the following e-mail address: [gsa.ey@ey.jobrouter.cloud](mailto:gsa.ey@ey.jobrouter.cloud). The first and last name of the person placing the order must be stated on the invoice.
- 8.4. EY shall not owe any default interest in the event of a delay in payment. Reminders shall be sent to [gsspoland.ap.ch@xe05.ey.com](mailto:gsspoland.ap.ch@xe05.ey.com) in digital form with the same information as specified in clause 8.3.
- 8.5. EY has the rights of offsetting and retention as well as the plea of non-fulfillment of the agreement to the extent permitted by law. EY is permitted to withhold due payments as long as EY has claims against the Contractual Party resulting from the provision of incomplete or inadequate services.
- 8.6. The Contractual Party only has the rights of offsetting and retention if counterclaims are undisputed or have been declared final and absolute by a court of law.
- 9. Confidentiality and data protection**
- 9.1. The Contractual Party undertakes to maintain confidentiality regarding all information, data, documents and supporting materials and tools provided by EY within the scope of the underlying contractual relationship (particularly also the terms and conditions of the purchase order) and which are neither publicly available nor generally known and to only use them for the purpose of fulfilling the Contract as agreed with EY. They may not be used either for reference or advertising purposes. The Contractual Party is permitted to refer to current business relationships with EY for advertising purposes only after obtaining EY prior approval.
- 9.2. These confidentiality obligations shall be maintained already prior to the conclusion of a Contract and shall remain in force following the fulfillment of the Contract or the termination of the contractual relationship between the Parties, irrespective of the reasons for termination and the party terminating the Contract. Statutory obligations remain reserved.
- 9.3. Following the fulfillment of the Contract or termination of the contractual relationship, the Contractual Party shall without delay and without prior request return all documents, data, information and supporting materials and tools received to EY. Furthermore, following the fulfillment of the purchase order and/or termination of the agreement, the Contractual Party shall provide EY with the original documents created for EY in connection with the execution of the agreement. The Contractual Party may not exercise a right of retention with regard to any of the documents, data or information mentioned in this paragraph.

9.4. The Parties undertake to comply with the respective applicable data protection regulations according to clause 10 where personal data is processed.

#### 10. Data Privacy

10.1. The Contractual Party is obliged to comply with the applicable data protection law, in particular the Federal Act on Data Protection (FADP). He must ensure data security by means of appropriate technical and organizational measures in accordance with Article 7 FADP.

10.2. In case of commissioned data processing (Auftragsdatenverarbeitung) by the Contractual Party, the provisions of Annex 1 "Commissioned Data Processing" in the version valid at the time of the order will apply.

10.3. EY is allowed to pass any information related to the purchase order / agreement, including personal data, to other EY companies as well as third parties acting on behalf of EY in different countries. EY may disclose this information in particular for the purpose of complying with professional, legal and regulatory requirements, to avoid conflicts of interest, for quality and risk management and accounting purposes and/or in connection with the provision of other administrative and IT support services. The locations of all EY companies can be found at [www.ey.com](http://www.ey.com). The transfer of personal data within the EY network is subject to the binding EY Binding Corporate Rules (available at [www.ey.com/bcr](http://www.ey.com/bcr)). EY requires all other third parties who process personal data on behalf of EY to comply with these rules accordingly.

#### 11. Independence

Due to statutory, professional and regulatory requirements, in particular those of the *Securities and Exchange Commission (SEC)* and the *International Ethics Standards Board for Accountants (IESBA)*, EY as an audit firm is obliged to maintain its independence. If EY at its sole discretion believes that its independence obligation prevents the Contract from being maintained, EY shall be entitled to terminate the Contract with immediate effect (and/or cancel a purchase order placed).

#### 12. Confirmation of arm's length principle

The Contractual Party warrants and represents that the agreed terms are standard market terms and correspond to those prevailing in arm's length transactions. The Contractual Party also represents that the Contract does not contain any terms that would put EY at an advantage over other comparable customers and that agreements of this type are in line with the normal business of the Contractual Party with customers such as EY.

#### 13. Supplier Code of conduct

13.1. The Supplier Code of Conduct forms an integral part of the contract between the Contracting Party and EY and describes the current valid EY Code of Conduct, as published at <https://assets.ey.com/content/dam/ey-sites/ey->

[com/en\\_gl/topics/procurement/ey-supplier-code-of-conduct-may-2018.pdf](https://assets.ey.com/en_gl/topics/procurement/ey-supplier-code-of-conduct-may-2018.pdf).

13.2. The Contractual Party confirms that it is familiar with EY's Supplier Code of Conduct and will comply with all applicable laws, regulations and standards, particularly environmental responsibility, protection of international human rights and combating bribery.

#### 14. Anti-Corruption

The Contractual Party undertakes to fully comply with all applicable anti-corruption laws and to ensure that its employees and possible subcontractors will fully comply with them as well. Furthermore, the Contractual Party undertakes to EY

- not to do, or omit to do, any act that will cause EY to be in breach of the applicable anti-corruption laws;
- to have in place, and to maintain in place throughout the term of the agreement, policies and procedures to ensure compliance with the applicable anti-corruption laws and to enforce them as appropriate. At EY's request, the Contractual Party will disclose such policies and procedures to EY;
- to make it clear to its employees and possible subcontractors, that the Contractual Party does not accept or condone the payment of bribes (including facilitations payments) on the Contractual Party's behalf, and
- to promptly report to EY any request or demand for any undue financial or other advantage of any kind received by the Contractual Party in connection with the performance of the agreement.

In case of culpably violation of the foregoing obligations by the Contractual Party, EY may terminate or withdraw from the agreements or contracts with immediate effect without prejudice to any other rights. The right to assert further damages is expressly reserved.

#### 15. Applicable law and court of competent jurisdiction

15.1. These GTCP, the Contract and all resulting non-contractual matters and obligations shall be governed by the laws of Switzerland, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods and all conflict of law provisions.

15.2. Unless otherwise contractually agreed, the exclusive place of jurisdiction is the City of Zurich, Switzerland.

#### 16. Other provisions

16.1. In the event of a conflict between these GTCP and the Contract concluded between the Parties, the provisions of the Contract shall prevail under exclusion of the application of the general terms and conditions of the Contractual Party.

16.2. Neither party to the Contract shall be held responsible for breach of the Contract caused by circumstances beyond the reasonable control of the respective party to the Contract (force majeure).

16.3. The contractual rights and obligations under the Contract may not be assigned or pledged by the Contractual Party without EY's prior written consent.

- 16.4. Should one or more provisions of these GTCP and/or the Contract concluded between the Parties prove to be or become wholly or partially invalid, null and void, or otherwise unenforceable, this shall not affect the validity of the other provisions. The Parties shall then agree on a provision that takes into account the interests of both parties. The same also applies for any gaps which may exist in the terms of these GTCP and/or the Contract.

#### **Additional provisions for the purchase of goods**

##### **17. Fulfillment/passage of risks and rewards**

- 17.1. Goods must be delivered as contractually agreed.  
17.2. The place of performance for the delivery of goods is the place of delivery specified in the Contract.  
17.3. The benefits and risks pass to EY in each case upon delivery at the place of performance.

#### **Additional provisions for the performance of services**

##### **18. Provision of services**

- 18.1. The Contractual Party undertakes to perform the Contract professionally and carefully and in compliance with the currently applicable and recognized professional rules and ethics.  
18.2. The Contractual Party shall inform EY regularly on the progress of the work and immediately report to EY in writing all circumstances that could impair performance as contractually agreed. EY has a right of control and a right to information concerning the performance of the services at all times.  
18.3. Unless expressly agreed otherwise, the Contractual Party shall perform the Contract itself and with its own personnel. The Contractual Party may not enter

into obligations which bind EY to a third party. The involvement of third parties must be agreed in advance in writing with EY.

- 18.4. The Contractual Party shall only deploy carefully selected personnel with the capabilities, experience and qualifications necessary to properly perform the Contract.  
18.5. The Contractual Party warrants that the personnel deployed to perform the Contract have the necessary permits (e.g., residence and work permits), are adequately insured, comply with any minimum pay and employment regulations and are registered with the required social insurances.  
18.6. EY may reject personnel deployed by the Contractual Party and request their replacement if they do not have the required expertise or the necessary permits or otherwise impede the proper fulfillment of the Contract.  
18.7. EY may modify the contractually stipulated services at any time. The Contractual Party may refuse a change request if implementation of such change request would constitute an unreasonable burden. If a change requires a modification of the agreement, including but not limited to the delivery dates or an increase or decrease in costs, the parties to the agreement shall resolve the issue via mutual agreement. If a mutual agreement cannot be reached, EY may terminate the agreement for cause if it would be unreasonable for EY to remain party to the agreement without the requested amendment.

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## Annex 1 - Commissioned Data Processing

- 1.1 With respect to "Personal Data" in accordance with this agreement EY appoints the Contracting Party as data processor. The Contracting Party will not assume any responsibility for determining the purposes for which and the manner in which EY Personal Data is processed. Contracting Party (and its Sub-contractors) will not process EY Personal Data for their own purposes, nor include EY Personal Data in any product or service offered by the Contracting Party to third parties.
- 1.2 The Contracting Party will:
  - 1.2.1 assist EY by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of EY's obligation to respond to requests for exercising an individual's rights in regard to the processing of its data;
  - 1.2.2 notify EY without undue delay after becoming aware of any breach of applicable law or a personal data breach (meaning a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, EY Personal Data transmitted, stored or otherwise processed) and keep EY informed of any related developments. The notification to EY will include at least 1) the nature of the breach; 2) the impacted data categories; 3) the identified and potential consequences of the breach and 4) the measures Contracting Party takes to mitigate the consequences of the breach. Contracting Party shall take any measures necessary to mitigate (potential) damage resulting from the breach. At the request of EY, Contracting Party shall provide all additional information with regard to the breach and will assist EY in notifying the breach to a supervisory authority and/or the individuals concerned;
  - 1.2.3 at the direction of EY, delete or return all EY Personal Data to EY after the end of the provision of the Services relating to processing, and delete existing copies unless applicable law requires storage of the EY Personal Data.
- 1.3 The Contracting Party will promptly inform EY if it receives:
  - 1.3.1 a request from an individual concerning any information that may be contained in EY Personal Data; or
  - 1.3.2 a complaint, communication or request relating to EY's obligations under the applicable law.
- 1.4 Upon reasonable request of EY, the contracting Party agrees to submit documentation of review, audit and/or certifying by an independent qualified third party to ascertain compliance with the warranties and undertakings in this agreement.
- 1.5 The Contracting Party will not process or permit the processing of EY Personal Data outside the European Economic Area unless in accordance with applicable data protection legislation.
- 1.6 The Contracting Party will at its own expense assist EY to comply with any obligations under applicable data protection legislation and will not perform its obligations under this agreement in such a way as to cause EY to breach any of its obligations under applicable data protection legislation.