

### 1. Subject matter of agreement

- 1.1 These Terms and Conditions of Contract supplement the corresponding order (together the "Contract") for the provision of IT services (the "Services") by the Contractor to the Customer.
- 1.2 If the Contractor confirms an order in a manner which deviates from the Customer's contractual terms, then only the Terms and Conditions of the Customer shall nevertheless apply even if the Customer does not object to the deviating or conflicting terms and conditions. Deviations from or additions to Customer's Terms and Conditions shall only apply to the extent the Customer has expressly acknowledged them in writing.
- 1.3 If this English version conflicts with the German version, the German version shall be exclusively binding.

### 2. Type and scope of Services

- 2.1 The Contractor shall perform the Services pursuant to the state of the art current at the time the Contract is concluded and using personnel who are qualified to perform the Services.
- 2.2 The Contractor shall inform the Customer of relevant changes in the state of the art where these impact the manner in which the Services are performed.

### 3. Orders and confirmation

- 3.1 Orders shall only be deemed valid where they are placed in writing. Oral ancillary agreements to orders shall only be deemed binding when they are confirmed in writing. The foregoing shall also apply to any subsequent amendments and additions.
- 3.2 [Digital copies of orders and other contractual documents stored on unchangeable data storage media have the same evidentiary value as the respective original documents.
- 3.3 The Contractor shall notify the Customer without undue delay and in writing in respect of changes to and/or extensions of the scope of the Services which prove necessary in the course of execution of the Services. They shall require Customer's prior written consent.

### 4. Cooperation of the parties

- 4.1 The Contractor shall designate a competent contact person who is able to provide the necessary information and make decisions on behalf of the Contractor. Instructions of the Customer concerning the Services being performed shall be communicated exclusively by that contact person.
- 4.2 All persons (including subcontractors commissioned by the Contractor and their employees) the Contractor deploys in the performance of the Services to the Customer (the "Personnel") shall, in organisational terms, remain the employees of the Contractor or its

subcontractors, irrespective of whether they are deployed at the Customer for an extended period of time. The Contractor has the sole authority to instruct its Personnel and shall manage its Personnel independently. The Personnel do not enter into an employment relationship with the Customer, nor even where they perform the Services at its premises. In circumstances where the Services are being performed within Germany, the Contractor is obligated to produce a permit for the supply of temporary workers before the Services are commissioned without demand by the Customer.

- 4.3 Where Personnel are deployed who are not nationals of an EU Member State, the Contractor must submit corresponding appropriate residence or work permits to the Customer prior to their commencement of work.

### 5. Service delivery periods

- 5.1 The Contractor shall inform the Customer without undue delay and in writing where circumstances arise or it becomes aware of any circumstances from which it appears that agreed deadlines cannot be met.
- 5.2 The Contractor may only rely on a failure to receive necessary documents to be supplied by the Customer where it has not received such documents within a reasonable period despite their written request.
- 5.3 The public holidays relevant in the performance of the Services are the respective national statutory/bank holidays where these are being performed or, in circumstances where performance occurs within Germany, the statutory holidays of North Rhine-Westphalia (*Land Nordrhein-Westfalen*).

### 6. Replacement of Personnel

- 6.1 Personnel may only be replaced following Customer's prior written consent. If the replacement Personnel require training, then this shall be at the expense of the Contractor.
- 6.2 The Customer may demand the replacement Personnel if they have repeatedly breached contractual obligations.
- 6.3 The costs arising as a result of the replacement of Personnel shall be at the expense of the Contractor.
- 6.4 The reassignment of any deployed Personnel to a higher qualification level is not permitted during the term of this Contract.

### 7. Rights to the work product of the Services

The Contractor grants the Customer the exclusive, transferable and sublicensable right, unlimited in geographical scope and time, to use the work product produced in the performance of the Services and in particular to use the agreed interim work product, training documentation and work aids. The foregoing also includes the right of the Customer to pass on the

work product to third parties by way of transfer, which may be gratuitous or for consideration and for a limited or unlimited period of time.

### 8. Services contributed by the Customer

- 8.1 Any services being contributed by the Customer must be agreed expressly and in writing.
- 8.2 Where the Contractor requires access to Customer software or hardware in order to perform the agreed Services, it may only do so following prior written agreement in accordance with the terms and conditions of the Customer.
- 8.3 In this respect, lead times must be taken into account.

### 9. Performance recording and consideration

- 9.1 Unless otherwise agreed, the consideration applicable for the Services is that which is required for their performance on a time and materials basis. Unless otherwise agreed, timekeeping and invoicing must be recorded on a quarter-hourly basis. Costs of materials will not be reimbursed separately.
- 9.2 The Contractor's Services shall be invoiced from the 1<sup>st</sup> of the previous month to the last day of the calendar month (the "Service Period").
- 9.3 Invoicing shall be based on performance records which, unless otherwise specified in the order, shall be prepared each month on the basis of Customer's CAT performance recording system. For this purpose, Personnel shall record the hours worked for the Customer up to the last day of the calendar month. The recording of hours worked must be entered on at least a weekly basis. Upon commencing work, the Personnel will receive the relevant accounting rules from Customer's project manager (the "Project Manager").
- 9.4 The hours recorded and released are subject to the Project Manager's approval at the end of the Service Period.
- 9.5 On the basis of the approved times, the Contractor shall issue an invoice for the relevant Service Period within a four-week period, unless it is agreed that the Contractor will participate in the Customer's credit note procedure. Invoicing should be itemised and broken down by project and shall quote the PSP project numbers or CS order numbers which may be obtained from the Project Manager. The approved performance records should be attached to the invoice.  
  
No other type of performance records will be accepted by the Customer.
- 9.6 Every invoice must separately itemize the legally prescribed amount of VAT. Originals of invoices must be sent by preference either 1) by e-mail to [invoice-ger@uniper.energy](mailto:invoice-ger@uniper.energy) or 2) by post in hard copy to the invoice address *Uniper SE, PO Box 7500, 12678 Berlin*

(the Customer or any other Uniper company specified in the order must be indicated as recipient of the Services). In addition, order numbers and the respective order item must be specified and invoicing documentation must be attached.

- 9.7 Incidental costs (net of deductible input tax) can only be reimbursed if this has been expressly agreed in the order and upon submission of the original receipts.
- 9.8 If recorded and released times are not approved by the Project Manager in accordance with section 9.4, the Contractor must raise any objections without undue delay.
- 9.9 To the extent that the Contractor does not meet the deadline for recording the times served in the CAT system or another performance recording system as specified in section 9.3, the remuneration for the times recorded late shall not be due for payment.

### 10. Infringement of IP rights

The Contractor warrants that no intellectual property or copyright of third parties will be infringed by the contractual Services. The Contractor shall indemnify and hold the Customer (including the companies affiliated with Uniper SE within the meaning of §§ 15 AktG (German Stock Corporation Act) harmless against any possible third party claims for infringement of such rights.

### 11. Liability

The Contractor shall bear liability pursuant to the statutory requirements for intent and negligence [*Vorsatz und Fahrlässigkeit*]. It may not invoke § 831(1) second sentence of the German Civil Code [*Bürgerliches Gesetzbuch - BGB*].

### 12. Subcontractors

- 12.1 The Contractor may not assign its obligations under the Contract, whether in whole or in part, to subcontractors without the Customer's prior written consent, nor subcontract the Services assigned to it. If the Customer consents to the use of subcontractors, the Contractor must impose all of the obligations on the subcontractors which the Contractor itself has assumed *vis-à-vis* to the Customer, and ensure that they comply therewith.
- 12.2 The Contractor may not prevent its subcontractors from concluding agreements with the Customer for other services.
- 12.3 If the Contractor deploys subcontractors without Customer's consent, the Customer shall have the right to withdraw from the Contract and to demand damages in lieu of performance.

### 13. Performance of Services, work safety

- 13.1 In addition to the Customer's corporate rules and policies, the Contractor must, in particular, also observe the generally recognised rules on health and safety and occupational health.
- 13.2 The Customer keeps records of occupational accidents and accidents on the way to and from work of its own employees and third party Personnel working for it. This record keeping is intended to improve occupational safety. If Personnel deployed by the Contractor or one of its subcontractors suffers an accident on the way to or from the place of performance of the Services (accident on the way to or from work) or at the place the Services are performed (industrial accident), the Contractor shall inform the Customer in writing and provide further details thereof to the local health and safety officer of the Customer. The aforementioned accident report to the Customer shall not relieve the Contractor of its existing statutory notification obligations, such as, in particular if the Services are being performed within Germany, the obligation to notify the relevant employers liability insurance association [*Berufsgenossenschaft*].
- 13.3 The Customer attaches overarching importance to social responsibility in connection with its commercial activities and for this reason participates in the "United Nations Global Compact" initiative. This initiative is based on ten fundamental principles intended to render the globalization process more socially and economically compatible and to prevent corruption. These principles are included in the document supplier code of conduct and it may be downloaded from the Internet at <https://www.uniper.energy/de/unternehmen/einkauf/allgemeine-einkaufsbedingungen>. The Contractor undertakes to comply with these principles.

#### **14. Insurance**

The Contractor must maintain liability insurance cover upon terms and conditions customary in the sector (minimum cover of EURO 1.5 million per event of loss) for the duration of the Contract. The Contractor must provide evidence to the Customer of its compliance with its obligation upon the Customer's demand; any lower amounts of cover must be agreed individually with the Customer.

#### **15. Assignment; right of retention**

- 15.1 The Customer is entitled to transfer the contractual rights and obligations in whole or in part.
- 15.2 Assignments as well as any other transfers of the rights and duties of the Contractor are prohibited except where covered by the scope of § 354a of the German Commercial Code [*Handelsgesetzbuch - HGB*]; any exceptions to the foregoing shall require the Customer's written consent.

- 15.3 The Contractor may not assert a right of retention or lien under this contractual relationship if such rights are based on other contractual relationships with the Customer.

#### **16. Confidentiality**

- 16.1 The Contractor shall handle all information provided to it by the Customer in connection with the order as confidential without limitation and use this exclusively for the performance of the Contract. Confidential information within the meaning of this provision shall include documents, specifications, data as well as other information which is either designated as such or is to be regarded as confidential by its nature.
- 16.2 To the extent that Personal Data is included in confidential information, its use shall be governed by the provisions in section 17. In the event of a conflict between the provisions in this section 16 and the provisions in section 17, the provisions in section 17 shall take precedence in respect of Personal Data.
- 16.3 The Contractor shall afford access to the Customer's confidential information only to Personnel, subcontractors and suppliers engaged in providing Services under this Contract which are under equivalent confidentiality obligations. Upon the Customer's demand, the Contractor shall provide evidence that such back-to-back obligations are in place accordingly.
- 16.4 All information provided by the Customer shall remain the property of the Customer. The same shall also apply to any copies of such information even where they are produced by the Contractor. The Contractor shall have no right of retention or lien regarding the information, copies or data carriers.
- 16.5 The information provided by the Customer must be returned to the Customer completely and without demand after performance of the Services upon Customer's demand, but in any event no later than such time as the Contract has been completely performed and the limitation period for the claims related to the breach of contractual duties has expired, except where statutory duties of document retention otherwise require.
- 16.6 The Contractor shall inform the Customer without undue delay in the event of any indications that any of the terms of this section have been breached.
- 16.7 The obligations under this section shall survive the termination of the Contract.

#### **17. Data Protection, Data Security, Commissioned Data Processing**

- 17.1 The Contractor is obligated to comply with statutory provisions on data protection (e.g. the EU General Data Protection Regulation, German Federal Data Protection

Act, German Telecommunications Act) and to guarantee and monitor compliance with these provisions subject to the following provisions of this section 17.

- 17.2 Should Personal Data be processed by the Contractor on behalf of the Customer in accordance with instructions, the Parties shall conclude a separate agreement on commissioned processing pursuant to Art. 28 GDPR ("*Commissioned Data Processing*").
- 17.3 The provisions on commissioned processing shall also apply if access to or inspection of personal data cannot be excluded in the context of the provision of services (e.g. remote maintenance of applications).
- 17.4 Personal data of the Customer may only be processed under the conditions of the commissioned processing agreement concluded between the Parties. The Contractor shall not be permitted to use the data in any other way. In particular, the Contractor may not make any copies or duplicates of the data without the knowledge and approval of the Customer.
- 17.5 The Commissioned Data Processing must take place exclusively in the territory of the Federal Republic of Germany, in a Member State of the European Union or in another state within the European Economic Area. Any relocation to a third country requires the prior written consent of the Customer.
- 17.6 The Contractor guarantees an adequate level of data protection to ensure the confidentiality, availability, resilience and accuracy of Personal Data and monitors compliance with the technical and organizational safety measures specified in the order in accordance with Art. 32 GDPR. The Contractor shall ensure, by putting in place appropriate safeguards, that access to Personal Data is strictly limited to those employees who mandatory need access in the context of the purpose and tasks for which they are provided.
- 17.7 The Contractor shall appoint a data protection officer in accordance with applicable law or, if the appointment of a data protection officer is not required under applicable law, another representative officially responsible for the data protection aspects of the processing of Personal Data and shall promptly notify the Customer of his current contact details. The data protection officer shall have the necessary expertise and reliability and shall work towards compliance with the provisions on data protection. The Contractor shall inform the data protection officer about the Commissioned Data Processing.
- 17.8 The Contractor shall ensure that the employees who are entrusted with the processing of personal data of the Customer within the scope of the order are bound to data secrecy.
- 17.9 The Customer is entitled to have a safety inspection conducted on the Contractor's Personnel in accordance with § 12b of the Atomic Energy Act [*Atomgesetz*] if such Personnel perform services that are connected with the handling or transport of radioactive materials or with the construction and operation of facilities within the meaning of §§ 7, 11 (1) no. 2 or § 9a (3) of

the Atomic Energy Act. The Contractor agrees to provide the Personnel with data that is required for these purposes.

- 17.10 The Contractor shall inform the Customer without undue delay in writing in the event of any indication of an infringement of data protection provisions or this section 17. Should the security and confidentiality of the Contractor's personal data be endangered by seizure or confiscation, by insolvency or composition proceedings or by other events or measures of third parties, the Contractor shall inform the Customer immediately in writing.
- 17.11 Upon completion of the processing in accordance with the Services, the Contractor shall, at the option of the Customer, either delete or return all Personal Data, unless an obligation to store Personal Data exists under European Union law or the law of its Member States. Should the security and confidentiality of the Contractor's personal data be endangered by seizure or confiscation, by insolvency or composition proceedings or by other events or measures of third parties, the Contractor shall inform the Client immediately in writing.
- 17.12 The Customer reserves the right to disclose any Contractor data, which was furnished in connection with the order, to companies affiliated with UNIPER SE within the meaning of § 15 et seq. of the German Stock Corporation Act [*Aktiengesetz*] for group-wide procurement purposes and the right to save such information even after the Contract ends, provided it is done in accordance with the applicable retention rules or for possible other orders.

**18. Insurance of non-discriminatory use of information**

- 18.1 The Contractor hereby undertakes not to pass on information coming to it from the sphere of the Customer's influence which is economically sensitive and economically advantageous, as to which it acquires knowledge in the course of its performance of its assignments and which may be of commercial interest to energy distribution, trader, producer or generator organizations/companies.
- 18.2 In particular, the addresses and direct debit details of connection customers, the names of retail suppliers, information regarding the willingness of connection customers to change providers, information on the interest of potential new customers to obtain connection, information on network expansion and development projects, information on non-active residential connections as well as information on cost-benefit criteria for assessing connections and network expansions shall be treated in confidence.
- 18.3 The Contractor hereby undertakes to alert its employees expressly to these obligations and to impose analogous obligations on them. The Contractor additionally

undertakes hereby to impose the aforesaid obligations on any subcontractors deployed by it in connection with its assignment.

18.4 The provisions of the sections 16 and 17 above remain unaffected.]

**19. Requirement of writing**

Unless expressly agreed otherwise herein, the contract and its amendments, as well as all contract-related declarations, notification and documentation obligations must be made in writing. Written form is also fulfilled if a qualified electronic signature within the meaning of section 126a para 1 of the German Civil Code (BGB) or at least an advanced electronic signature within the meaning of Article 26 of the European eIDAS Regulation (2014/910/EU) is used.

**20. Publications, advertising**

Any disclosure of the business relationship with the Customer shall require the Customer's prior written consent. The foregoing also applies to the publication of data related to this contractual relationship with the Customer.

**21. Jurisdiction**

Jurisdiction lies with the courts of Düsseldorf.

**22. Miscellaneous**

22.1 The prevailing language of the Contract is German.

22.2 German law applies to the exclusion of the UN Convention on Contracts for the International Sale of Goods dated April 11<sup>th</sup> 1980. Customary commercial clauses shall be interpreted in accordance with the ICC Incoterms in effect from time to time.

22.3. If individual provisions of the Contract should be or become invalid or impracticable, the remaining provisions as well as the Contract as a whole shall nevertheless remain in effect. The parties shall replace the invalid/unenforceable provision with a provision that is as commercially equivalent as possible from the time that the invalidity/unenforceability arises, taking their mutual interests in account. The foregoing shall also apply in the case of any contractual gaps.