



## Annex for the purchase of software

In addition to the General Terms and Conditions of Purchase of A1 Telekom Austria AG (GTC), the following provisions shall apply to the purchasing of software:

### 1. General

(1) When software is delivered, the Contractor guarantees that it does not contain any copy protection devices, date, program blocks or similar restrictions on use and that it is free of third-party rights.

(2) The Contractor guarantees that the software is free of viruses, Trojans, malicious programs, etc., which damage or deactivate the Customer's systems, enable data theft or data modification and/or allow access to or use of the Customer's systems or otherwise impair or disrupt the normal operation of the systems.

(3) The Contractor warrants that the software components will be delivered in the most current version or in the version that is generally available on the market.

The Contractor shall further warrant that no current date value causes disruptions or incorrect results and that all date-oriented functionalities provide consistent and logical results (regardless of the date form) and that every leap year is recognized.

In addition, the Contractor warrants that the software has been created in a continuous and consistent manner.

(4) The Contractor shall indemnify and hold the Customer harmless from and against all disputes arising in connection with the contractual use of the software under patent, trademark, design, semiconductor and/or copyright law and shall guarantee the intended use of the object of performance without restriction.

### 1.1 Testing / PoC

The client is entitled to demand free test runs without obligation. In this case, the Contractor shall provide systems and equipment that correspond to those offered.

### 1.2 Installation requirements

The Contractor shall finally notify the Customer in writing of the installation requirements to be created by the Customer as well as other obligations to cooperate before the order is placed. The Contractor shall be liable for the correctness and completeness.

### 1.3 Documentation

(1) Also owed is the delivery of the documentation necessary or appropriate for the use of the object of performance. The Contractor is obliged to update this documentation for the duration of the entire project or during the term of a corresponding maintenance obligation. Unless otherwise agreed, the documentation is to be made available as PDF.

(2) For software components, the documentation shall consist of user documentation, a brief description and technical documentation. In particular, it shall also be stated what effects the software offered has on the storage capacity and performance of the system. If software is to be newly developed by the Contractor within the scope of its order, the documentation shall be prepared in accordance with the development of the object of performance and handed over to the Customer in accordance with each individual progress of work.

(3) Unless otherwise agreed, the user documentation for installation and administration, as well as the short description, shall be delivered in English and local language and shall describe all necessary procedures in such a way that they are understandable for trained persons. In addition, the documentation must also describe typical and foreseeable error situations and describe how to eliminate them.

(4) The technical documentation shall comply with the standards customary at the time of installation of the object of performance.



(5) The client is entitled to copy and use the handed over documentation for the contractual use and for training purposes at will.

## 2. Training

If applicable, the Contractor shall instruct the Customer's personnel without additional costs regarding the application-specific functions of the object of performance. In particular, the Contractor shall ensure the best possible independent commissioning, use and possible maintenance by the Customer and its employees.

## 3. Rights of Use

### a. *Standardsoftware*

1) If the contractor is not also the licensor of the software, the contractor must ensure that corresponding rights of use for the client are agreed separately with the licensor. For clarification, it is stated that any EULAs or references to hyperlinks to be accepted during installation are not legally binding, but rights of use must be agreed exclusively between the parties (licensor/contractor and client).

2) Unless otherwise agreed,

a) The Contractor grants the Client the non-exclusive, irrevocable, temporally and locally unlimited, transferable right to full use of the software, which is settled with the agreed remuneration. This unrestricted right of use shall in no case be unilaterally modified by the Contractor to the detriment of the Customer through updates, upgrades or maintenance agreements.

b) the client is entitled to use the software on all present and future systems for its business purposes, limited to the number of licenses provided, and in particular to move it to another location, sell it, rent it, adapt it with configuration tools, copy it for backup and archiving purposes or connect it to system components of other manufacturers. In all cases of transfer, the customer shall be bound by all obligations arising from the license. For clarification, it is stated that the customer is entitled to use the software regardless of the term and/or termination of the contract and that this use is not linked to other obligations (e.g.

conclusion/maintenance of a maintenance contract). In addition, the software can also be used on an alternative system ("Hot Standby").

3) The foregoing shall also apply, if applicable, with respect to the transfer of the Software for the purpose of remarketing or for the use of the Software within the scope of Application Service Providing or outsourcing transactions of the Customer.

4) If the contractor also made open source software (hereinafter referred to as "OSS") available to the customer within the framework of the performance of services, the contractor shall notify the customer in writing of the respectively applicable licence provisions as soon as possible, at the latest, however, upon performance of services or delivery of the OSS components.

5) In all cases, the right of use shall include the operation of the software on the customer's systems, any total or partial legal successors of the customer, as well as on systems of those companies which are directly or indirectly controlled by the customer or which directly or indirectly control the customer and all companies controlled by the latter.

6) The contractor shall ensure that the definition of the licence metrics is consistent and transparent. Possible ambiguities and / or contradictions may not be interpreted to the detriment of the client.

## 4. Product Roadmap / Product Lifecycle

(1) The Contractor guarantees that the offered product (software and/or maintenance) will be available in an unrestricted manner (e.g. Main Stream Support) for at least 5 years from the time the services are provided in accordance with the contract.

(2) In the event that the offered product is discontinued within the 5 years (End of Life), the Contractor shall demonstrably inform the Customer of this at least 6 months in advance and the Contractor undertakes to

supply a replacement of an equivalent product free of charge.

## 5. Information requirements

(1) If the Contractor becomes aware of circumstances which could call into question the provision of services in accordance with the contract, it must inform the Client of this in writing without delay.

(2) In addition, the Contractor shall inform the Customer for a period of at least 5 years from the date of performance of the services in conformity with the contract, but in the case of continuing obligations at least during the entire term of the contract, about available new versions of the object of performance, report any errors known to the Contractor without being requested to do so and allow the Customer the opportunity to inspect information databases accessible to customers. The Contractor shall inform the Customer immediately of any change in the compatibility of the object of performance in the event of a change in the market standard.

(3) If the Contractor does not comply with its reporting obligations in this respect although this information is known to it, or at least to insiders in general, it shall be liable for all damages arising therefrom.

## 6. Security Patches / Security Updates

(1) The Contractor shall provide security patches/security updates for the product during the entire life cycle period of at least 5 years without additional costs.

## 7. Product maintenance / Upgrades

(1) Any maintenance services that are used in addition to those listed in point 6. shall be performed as a separate main service against separate invoicing of maintenance fees and may be invoiced quarterly, at the end of the quarter concerned.

(2) Unless otherwise agreed (e.g. EULA, SLA),

a) the maintenance of software includes not only the correction of errors but also the adaptation to the specific hardware and

software requirements of the customer. In detail, this maintenance includes in any case

- preventive maintenance,
- the provision of all updates, upgrades, modifications, releases and versions
- the provision of error corrections (e.g. patches) in the programs and program parts
- the provision of programme enhancements,
- the provision of adaptations of the object of maintenance to other standard/successor products (e.g. operating system versions, databases), the use of which the Customer has announced in writing, as well as to individual software developed by the Contractor especially for the Customer
- Adaptation of the maintenance object to new hardware and software possibilities (e.g. new computer systems including operating systems).

b) the Contractor must provide the Customer with on-call support, which is based on the respective maintenance readiness times.

(3) The Contractor must ensure that subsequent releases in the course of updating the product must contain at least the same functionalities, features and programming interfaces (API).

## 8. Troubleshooting

(1) Unless otherwise agreed (e.g. EULA, SLA),

a) the reaction time (from fault message) shall be a maximum of 2 hours for remote maintenance and a maximum of 4 hours for on-site troubleshooting. The Contractor shall ensure round-the-clock availability for maintenance.

b) the total downtime of the software until final rectification shall not exceed 24 hours, in all other cases 30 hours - in each case starting from the fault report. The calculation of the interruption time begins with the fault report and ends with the handover of the operational system to the Customer.

c) If the above-mentioned times are not adhered to, the Contractor shall pay a penalty in accordance with the following provisions, while preserving all other rights of the Customer. The Contractor may only accept fault reports from qualified personnel of the Customer (trained operators).

indispensable for the performance of the contract.

d) The amount of the penalty for exceeding the response time shall be 5%, for exceeding the agreed maximum downtime 15%, but not more than a total of 15% of the monthly maintenance fee for the maintenance items affected by the malfunction for each 24 hours commenced, calculated from the time the deadline is exceeded. This penalty does not exclude the assertion of a further claim for damages.

## **9. Remuneration**

(1) The remuneration (monthly or one-off) is the fee for the granting of the rights of use and for maintenance, unless a separate remuneration has been agreed for this. The remuneration is to be broken down into the individual items (licence, maintenance, etc.) in the service description or in the offer.

(2) The agreed remuneration shall apply for the duration of the contract. As long as an upright maintenance relationship exists, but at least for the duration of 5 years, the Contractor shall submit offers for any license purchases at the maximum initial price (or more favourable).

(3) Unless otherwise agreed in writing in the relevant order, the agreed remuneration shall cover all expenses in connection with the performance of the service, in particular

- services provided by any subcontractors,
- all ancillary costs, travel expenses, travel and waiting times,
- any installation, integration and transfer costs.

Instructions for operation, handling, use and service or other documents in local language. If they are not available in the language customary in the country, they shall be supplied in English.

(4) Supplements of smaller scope, clarifications or participation in meetings regarding the subject of an order shall be provided within the scope of the agreed remuneration.

(5) Any additional cost-relevant services and expenses that become necessary during the term of the contract must be agreed in writing between the contracting parties before they are provided, even if they are