

## General Terms of Purchase of TRATON and MAN for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

### Contents

1	Definitions .....	2
2	Applicability of these IT Purchase Terms and other Terms and Conditions .....	3
3	Tenders, Contract Formation .....	3
4	Execution of Contractual Performance .....	4
5	Change to Performance .....	5
6	Interruption of Contract Performance.....	5
7	Settlement in the event of Termination as a result of Contractual Breach .....	6
8	Cooperation Services on the part of TRATON/MAN .....	6
9	Performance Deadlines, Consequences of Default.....	6
10	Circumstances Interfering With Contractual Performance.....	6
11	Open-Source Software .....	6
12	Rights of Use and Exploitation .....	7
13	Ownership .....	7
14	Place of Performance, Transfer of Risk .....	7
15	Copyright-Related Rights .....	7
16	Acceptance.....	7
17	Handover.....	8
18	Duty to Inspect, Notification of Defects .....	8
19	Remuneration .....	8
20	Travel and Accommodation Expenses .....	8
21	Invoices .....	8
22	Terms of Payment, Taxes .....	8
23	Default in Payment .....	8
24	Claims for Defects, Warranty.....	8
25	Infringement of Intellectual Property Rights .....	9
26	Other Copyright Holder Involvement .....	9
27	Rights to Information, Presentation, Inspection.....	9
28	Liability .....	10
29	Limitation of Claims.....	10
30	Data Protection .....	10
31	Nondisclosure.....	10
32	Subcontractors .....	10
33	Reference, Advertising.....	10
34	Business Liability Insurance .....	10
35	Right to Audit the Contractor .....	10
36	Changes in Ownership.....	11
37	Prohibition on Assignment.....	11
38	Divergent agreements .....	11
39	Continued Validity in the event of Partial Invalidity .....	11
40	Escalation procedures .....	11
41	Place of jurisdiction.....	11
42	Choice of law.....	11
43	Binding Version .....	11

### Appendix Invoicing



## General Terms of Purchase of TRATON and MAN for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

- 1 Definitions**  
The following expressions used in these IT Terms of Purchase have the meanings listed below:
- 1.1 Contractor** refers to the supplier / contractor.
- 1.2 Order Placement** refers to a purchase order made by TRATON/MAN, a blanket purchase order, or an order being called off as a result of a blanket purchase order, or to an (individual or separate) contract that TRATON/MAN has entered into with the Contractor.
- 1.3 Operating Performance** refers to the operation of hardware and / or software (systems), the hosting and management of data and / or of the datacenter headquarters.
- 1.4 Copyleft License** is a licensing and usage stipulation for open-source software that may cause software components that are integrated into or joined with the respective open-source software to be subject to the same terms and conditions of licensing and usage as those applied to the open-source software in question.
- 1.5 Services** refers to information and communications services, as well as telecommunications and telecommunications-supported services.
- 1.6 Own Use** refers to the use of results by the Group companies and the order-specific use by service providers who operate on behalf of TRATON/MAN or on behalf of Group companies.
- 1.7 Work Products** refers to all work results that constitute the subject matter or the result of Contractual Performance, including know-how, hardware, and software supplied, and all content, access numbers, domains, subdomains, telephone numbers, and other identification numbers and symbols that the Contractor establishes or registers for TRATON/MAN or uses or provides to TRATON/MAN for use in the course of its Contractual Performance.
- 1.8 Hardware Services** refers to the delivery / licensing of hardware (systems) and the adjustment / adaptation of hardware (systems).
- 1.9 Infrastructure Services** refers to the entire portfolio of equipment, system software, and network components which are necessary for the integrated provision and operation of the TRATON/MAN IT systems and applications. Infrastructure includes all preparatory services that are necessary for the provision of Contractual Performance, such as planning, constructing, setting up, or installing systems, e.g. the building services required in each case (power supply, air conditioning, etc.).
- 1.10 IT Purchase Terms or Terms of Purchase** refers to these "General Terms of Purchase of TRATON/MAN for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts".
- 1.11 Deliverables** refers to any object to be delivered to TRATON/MAN by the Contractor pursuant to the Order Placement (hardware, data carriers, documents, documentation, concepts, etc.).
- 1.12 Monitoring Services** refers to the recording of performance and other data relating to systems and / or services, as well as the creation of reports and their transfer to TRATON/MAN in the context of operating the systems and / or in the context of the services.
- 1.13 Blanket Purchase Orders** describe Contractual Performance (where appropriate based on our request for proposal (RFP)), stipulate the remuneration and other terms of supply as appropriate, and may contain a forecast regarding the volume of Contractual Performance TRATON/MAN will require. Even where they include a forecast, Blanket Purchase Orders do not give rise to any obligation on the part of TRATON/MAN to issue call-off orders for Contractual Performance unless otherwise expressly agreed in writing. A Blanket Purchase Order places the Contractor under the obligation to render Contractual Performance as specified in the Blanket Purchase Order upon receipt of our call-off order(s). No contractual obligation – in particular, no obligation to accept and / or pay for Contractual Performance – will arise on the part of TRATON/MAN until it issues a call-off order. The "MAN General Terms of Purchase, Procurement Department, General Framework for Blanket Purchase Orders" apply and are available for the Contractor to view, save, and print at [www.vwgroupsupply.com](http://www.vwgroupsupply.com) (unless they are attached to the invitation to tender, or enclosed during the tender phase or when concluding the contract).
- 1.14 Software Services** refers to the creation and editing of software and software systems, the expansion and amendment of software (systems), the adjustment and adaptation of software (system), and the licensing of standard software.
- 1.15 Support Services** refers to all accompanying services that are necessary in the context of the Hardware and Software Services and / or Infrastructure Services, such as training, advice, optimization, and maintenance / care.
- 1.16 Systems** encompasses IT systems, IT networks, and IT equipment and / or data and telecommunications systems, equipment, networks, lines, and communication paths, including hardware and software.
- 1.17 Processing** refers to any and all operations or series of operations, whether accomplished with or without the aid of automated processes, that are performed in connection with personal data, including collecting, recording, organizing, ordering, storing, adapting or modifying, reading, accessing, using, disclosing by transmitting, distributing or making otherwise available, comparing, linking, restricting or filtering, deleting, or destroying such data.
- 1.18 Contractual Performance** refers to all services to be provided by the Contractor and agreed under the terms of the Order Placement.
- 1.19 TRATON or we** refers to all companies forming a group with TRATON SE. **MAN or we** refers to MAN Truck & Bus SE, MAN Energy Solutions SE, MAN Energy Solutions USA Inc. and to the companies affiliated with these three companies pursuant to sections 15ff. of the Aktiengesetz (AktG — German Stock Corporation Act), either directly or indirectly.  
**Group companies or Volkswagen Group** refers to Volkswagen AG as well as all companies affiliated with

## General Terms of Purchase of TRATON and MAN for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

Volkswagen AG within the meaning of sections of the 15ff. AktG, in particular all companies forming a group with Volkswagen AG, including companies (if any) holding a majority ownership interest in Volkswagen AG (parent companies), as well as companies in which such parent companies hold majority ownership interests (sister companies). This applies even if such companies have their registered office outside of Germany. Any company that ceases to be part of the Volkswagen Group shall, as regards the rights arising from the Order Placement, be deemed to remain a Volkswagen Group company for a six-month (6) transition period.

### 2 Applicability of these IT Purchase Terms and other Terms and Conditions

2.1 Unless otherwise agreed in a specific case, all of our Order Placements are formed subject exclusively to these IT Purchase Terms in the version applicable at the time of concluding the contract. Should the Contractor have conflicting or differing terms and conditions, these will only be binding for TRATON/MAN if TRATON/MAN has expressly acknowledged them in writing. The IT Purchase Terms apply even where TRATON/MAN accepts deliveries without objection or reservation despite being aware of the Contractor's conflicting or differing terms and conditions to which TRATON/MAN has not explicitly agreed in writing. Conflicting business terms and conditions shall not affect the contract's realization provided that the Parties have reached agreement on all significant issues. In such cases, the concordant provisions of both sets of business terms and conditions and the relevant statutory provisions shall apply as regards the contract's interpretation.

2.2 Unless otherwise expressly agreed in writing, the most current versions of the contractual conditions for the respective Order Placement which are valid at the time of contract conclusion, including the Service Product Specifications and the TRATON/MAN Code of Conduct for Suppliers and Business Partners, shall form part of the contract. If these have not been attached to the invitation to tender, or enclosed during the tender phase or when concluding the contract, they can be obtained via:

Contractual conditions: [www.vwgroupsupply.com](http://www.vwgroupsupply.com) or [http://www.vwgroupsupply.com/one-kbp-pub/en/kbp\\_public/information/procurement\\_conditions\\_new/man\\_truck\\_bus\\_ag\\_1/man\\_truck\\_bus\\_ag.html](http://www.vwgroupsupply.com/one-kbp-pub/en/kbp_public/information/procurement_conditions_new/man_truck_bus_ag_1/man_truck_bus_ag.html)  
Our equipment regulations (*Betriebsmittelvorschriften*) can be obtained on request from the responsible authorized purchaser. Code of Conduct: TRATON: [https://www.traton.com/de/unternehmen/compliance\\_risk.html](https://www.traton.com/de/unternehmen/compliance_risk.html) MAN: <https://www.corporate.man.eu/de/risk-und-compliance/publikationen/Publikationen.html>

2.3 If the Contractor renders Contractual Performance in or on our premises or grounds, the applicable house rules and accident prevention and safety regulations will form an integral part of the terms of the Order Placement in question. The Contractor may view, save, and print these rules and regulations at [www.vwgroupsupply.com](http://www.vwgroupsupply.com) (unless they have already been attached to the invitation to tender, or enclosed during the tender phase or when concluding the contract); alternatively, TRATON/MAN shall provide these to the Contractor on request; see also section 4.12 below.

2.4 Where Contractual Performance is intended for use in mass production (production material), the provisions in

section 12 of the Terms of Purchase for Production Material and Spare Parts for Commercial Vehicles (*Einkaufsbedingungen für Produktionsmaterial und Ersatzteile für Nutzfahrzeuge*) also apply to patents. The Contractor may view, save, and print these Terms at [www.vwgroupsupply.com](http://www.vwgroupsupply.com), unless these have already been attached to the invitation to tender, or enclosed during the tender phase or when concluding the contract.

2.5 The "MAN General Terms of Purchase, Procurement Department, General Framework for Blanket Purchase Orders" also apply to Blanket Purchase Orders and are available for the Contractor to view, save, and print at [www.vwgroupsupply.com](http://www.vwgroupsupply.com) (unless they have already been attached to the invitation to tender, or enclosed during the tender phase or when concluding the contract).

2.6 Unless otherwise expressly agreed in writing, the confidentiality declaration concluded pursuant to section 31 below is an integral part of the terms of the respective Order Placement.

2.7 Should TRATON/MAN, in a specific and justified case, agree to the applicability of the Contractor's or any third party's terms and conditions of licensing and use, which must be explicitly stated in writing in order to be valid, **only** the provisions that define **the nature and scope of the rights of use and exploitation** shall apply. Provisions dealing with all other matters, including, in particular, rights arising from product defects, liability for damages, applicable law, and / or place of jurisdiction, shall **not** apply.

2.8 Click Wrap / Shrink Wrap licensing conditions do not apply to TRATON/MAN under any circumstances.

2.9 With respect to enterprises and legal persons under public law, the IT Purchase Terms shall also apply to all future Order Placements for IT and / or telecommunications contracts. Furthermore, these shall apply to contracts and legal relationships with an entrepreneur in which TRATON/MAN acts on behalf of a third party by proxy.

### 3 Tenders, Contract Formation

3.1 Tenders to TRATON/MAN must be effected in writing in accordance with sections 126 and 126a of the German Civil Code (*Bürgerliches Gesetzbuch – BGB*) and must be free of charge. These tenders must always be prepared in German. However, a data exchange procedure which deviates from the above may be specified in the invitation to tender.

3.2 Unless otherwise agreed, the pre-printed forms sent by TRATON/MAN should be used for the submission of tenders, and these should contain all the information required by TRATON/MAN.

3.3 In the event that the tender is submitted on the basis of an inquiry or request for proposal from TRATON/MAN, the tendering party shall be obliged to comply with the guidelines issued by TRATON/MAN. If there are deviations nonetheless, they must be expressly pointed out in the tender in writing. The tendering party shall be free to submit alternative tenders and specific proposals.

3.4 Only complete tenders encompassing all the requested services should be submitted.

## General Terms of Purchase of TRATON and MAN for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

- 3.5 All prices should be stated in the tendering party's national currency (if this is not euros, they should also be stated in euros, and, if applicable, include currency hedging shown separately). Unless otherwise agreed, all prices shall be fixed prices. In the event that the prices quoted do not specify whether the prices include VAT, these should be interpreted as gross prices.
- 3.6 Tenders should generally be addressed to the purchasing office specified in the documentation relating to inquiries/ requests for proposal.
- 3.7 In the case of an inquiry or request for proposal by TRATON/MAN, the tendering party shall be bound by its tender for the duration of the period named therein, or else for the duration specified by the tendering party. In the event that neither party expressly states a validity period, this shall be deemed to be 12 weeks from the time TRATON/MAN receives the tender.
- 3.8 In the event that the tendering party fails to comply with the aforementioned regulations, TRATON/MAN reserves the right to disregard the tender in question.
- 3.9 An Order Placement only becomes effective when issued in writing and on the basis of these terms and conditions. The Order Placement and, where applicable, our documents relating to the request for proposal, and, where applicable, our request to submit a tender and / or our specifications shall be the determining factor for the content and scope of Contractual Performance, unless otherwise expressly agreed in writing. If, by way of exception, a contract is entered into verbally, it must be confirmed in writing by both Parties without delay.
- 4 Execution of Contractual Performance**
- 4.1 The Contractor shall render Contractual Performance in its entirety in a due and proper manner in accordance with the latest technological standards, including current programming standards, and shall produce the Work Product agreed in the Order Placement. In so doing, the Contractor shall comply with our currently applicable (quality) standards and working practices as brought to its attention.
- 4.2 Achievement of the agreed, or standard and generally accepted, quality standards shall be verified and documented by the Contractor using code scanning tools. Detailed code scanning documentation (scan findings reports agreed with TRATON/MAN) shall be delivered with the respective Contractual Performance.
- 4.3 Unless these have already been attached to the invitation to tender, or enclosed during the tender phase or when concluding the contract, the Contractor shall, prior to commencing its Contractual Performance, complete, accept, and return the documents and questionnaires made available to it by TRATON/MAN at [www.vwgroupsupply.com](http://www.vwgroupsupply.com) that concern information security, IT security, and data protection. These documents then become an integral part of the respective Order Placement. TRATON/MAN shall update these requirements regularly; the Contractor is required to obtain information about these updates and to implement the amended requirements. The Contractor furthermore agrees that it shall, upon request, furnish proof of its fulfilment of the aforementioned requirements. Furthermore, the Contractor is obliged to inform TRATON/MAN of any non-compliance with or violation of the requirements referred to herein without delay and to immediately implement effective countermeasures without, however, limiting the rendering of Contractual Performance.
- 4.4 In carrying out its Contractual Performance, the Contractor shall adhere to current information security standards, implement and comply with the requirements and measures contained in the documents referred to, especially in section 4.3, and, in particular, safeguard our systems in accordance with the latest technological standards against unauthorized third-party access (such as hacker attacks) and against undesired data transmission (such as spam). In particular, the Contractor must immediately notify TRATON/MAN in electronic form (e-mail) if it becomes aware of any circumstances posing threats or risks to data, information, and / or system security and, in the event of such circumstances, promptly implement effective countermeasures without, however, limiting the rendering of Contractual Performances, in close cooperation with TRATON/MAN and at its own expense.
- 4.5 Should the Contractor need access to our systems in order to render its Contractual Performance, this will only be possible using our technologies and requires our express prior written consent. Any costs incurred as a result of this use shall be borne by the Contractor. In doing so, the Contractor is required to obtain information about the security guidelines and concepts applicable in this context; the Contractor may view, save, and print these at [www.vwgroupsupply.com](http://www.vwgroupsupply.com) (unless they have already been attached to the invitation to tender, or enclosed during the tender phase or when concluding the contract); alternatively, TRATON/MAN shall make these available to the Contractor on request.
- 4.6 Before providing software and / or data carriers to TRATON/MAN, the Contractor shall scan these using a state-of-the-art virus detection software and ensure that such software and / or data carriers contain neither malware (software programmed to do damage) nor any computer viruses, worms, Trojan horses (Trojans), or similar. Before providing software to TRATON/MAN, the Contractor shall run state-of-the-art software security tests and ensure that the software contains no critical vulnerabilities that could compromise the integrity and confidentiality of our systems and data or the systems and data of third parties linked to our systems. The Contractor shall furnish TRATON/MAN with proof of its compliance with the foregoing before providing software to TRATON/MAN.
- 4.7 The Contractor shall carefully select the employees on whom it relies to perform the contract (both initially and / or where employees are replaced or require training) to ensure that they possess the necessary personal aptitude and technical knowledge to render Contractual Performance to the agreed level of quality.
- 4.8 Both Parties shall name a point of contact for all information to be shared. Discussions to coordinate the content and performance of the contract, as well as for sharing all information required for the performance of the contract, shall take place at regular intervals.
- 4.9 The Contractor agrees that one of its principal contractual obligations shall be to maintain clear technical documentation on Contractual Performance rendered

## General Terms of Purchase of TRATON and MAN for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

- that is easy to understand and, upon request, to inform TRATON/MAN of the status of Contractual Performance with a reasonable degree of detail. TRATON/MAN may require the delivery of Work Products in their draft or interim state at any time; the exercise of this right shall in no way release the Contractor from its obligations under this section.
- 4.10 Software shall in all cases be delivered to TRATON/MAN together with user documentation and, except for standard software, with the source code and programming documentation.
- 4.11 Contractual Performance effected by the Contractor in or on our premises or grounds shall be carried out by the Contractor independently and on its own responsibility, in compliance with our technical and organizational specifications, and under the supervision and exclusive direction of the responsible personnel appointed by the Contractor.
- 4.12 The Contractor shall obtain information about the house rules and accident prevention and safety regulations applicable in each case at the respective place of performance (in particular, in or on our premises or grounds); the Contractor may view, save, and print these rules and regulations at [www.vwgroupsupply.com](http://www.vwgroupsupply.com) (unless they have already been attached to the invitation to tender, or enclosed during the tender phase or when concluding the contract); alternatively, TRATON/MAN shall make these available to the Contractor on request. The Contractor shall comply with such rules and regulations.
- 4.13 TRATON/MAN is only obligated to provide resources (hardware, software, office space, etc.) where this has been expressly agreed in writing. Any use, in particular for system operation purposes, of our premises, office space, or other facilities by the Contractor requires a separate written contract to be concluded with TRATON/MAN regulating such use, in particular specifying the duration thereof and the consideration to be paid by the Contractor therefor. An obligation on the part of TRATON/MAN to provide resources does not result merely from the fact that Contractual Performance is effected in or on our premises or grounds. Any resources that TRATON/MAN provides may be used by the Contractor, its employees, and / or its subcontractors solely to render Contractual Performance. Passwords may not be stored or provided to other persons and must be changed at least every 90 days.
- 4.14 TRATON/MAN reserves all rights to technical requirement profiles, illustrations, drawings, calculations, samples, models, and other documents that TRATON/MAN makes available to the Contractor, especially ownership rights and copyrights. Third parties may be given access to such materials only with our express prior written consent. Such materials and information shall be used solely to effect Contractual Performance and must be automatically returned to TRATON/MAN upon contract completion, without any request to do so.
- 4.15 Unless there is express written agreement to the contrary, the Contractor shall render all necessary Infrastructure Services without additional costs to TRATON/MAN.
- 4.16 On request, the Contractor may offer Support Services subject to conditions that are standard for the market.
- 4.17 The Contractor shall notify TRATON/MAN immediately in writing if it believes the information that has been provided by TRATON/MAN and that it requires in order to perform the contract to be incomplete or incorrect.
- 4.18 The Contractor undertakes to give TRATON/MAN precautionary warnings of any risks, and to protect against disruptive influences, including those of third-party origin.
- 4.19 Every delivery shall be accompanied by a delivery note containing our order data (in particular, the number and date of the Purchase Order, cost center).
- 4.20 Before permitting its personnel and any subcontractors used to commence work, the Contractor shall brief them in writing on the requirements of this section 4 and place them under the obligation to comply with same.
- 5 Change to Performance**
- 5.1 If, after the contract has been concluded, TRATON/MAN requests a change to the agreed Performance, the Contractor is required to take into account the requested change in the provision of its Performance, unless this is not reasonable with respect to its operational capacity and it immediately informs TRATON/MAN of this in writing, at the latest within 5 working days of receipt of the change request.
- 5.2 Within 5 working days of receipt of the change request, the Contractor must communicate in writing whether the change requested by TRATON/MAN affects the agreed remuneration and performance deadline; if there is an impact, justification must be provided.
- 5.3 If an extensive review is necessary in order to determine whether a requested change or its impact is feasible, particularly with respect to the agreed remuneration and performance deadline, the Contractor must communicate this in writing by the deadline set in section 5.2, stating the reasons and the expected duration of the review. The performance of a review of this type requires a separate agreement.
- 5.4 Until an agreement is in place regarding the performance of review pursuant to section 5.3, or regarding the change requested by TRATON/MAN, Performance must be rendered in accordance with the contractual agreements that applied before the change request, unless TRATON/MAN has requested interruption pursuant to section 6.
- 6 Interruption of Contract Performance**
- 6.1 In the event of communication from the Contractor pursuant to section 4.17 or a change request from TRATON/MAN pursuant to section 5.1, TRATON/MAN may request interruption of the performance of all or individual services at any time. If TRATON/MAN does not request interruption, and if the Contractor recognizes that continuing the work on the basis of the existing specifications would result in unusable results, it must inform TRATON/MAN of this immediately in writing.
- 6.2 An appropriate agreement must be made between the Parties regarding the impact of the interruption. The agreed performance deadlines change in accordance with the scope of the part of Performance that is delayed by the interruption, at the most by the number of working days not used for contract performance as a result of the interruption.

## General Terms of Purchase of TRATON and MAN for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

### 7 Settlement in the event of Termination as a result of Contractual Breach

7.1 In the event of extraordinary termination by TRATON/MAN, the Contractor shall only be entitled to invoice for the services it has verifiably provided up to the day of the termination, based on the proportion of the completed part to the overall value of the respective individual order, insofar as TRATON/MAN has a use for it. In addition, TRATON/MAN may also request partially completed services in return for the reimbursement of the verifiably incurred costs; however, no more than an amount that corresponds to the value of the partially completed services in proportion to the overall value of the respective individual order.

7.2 If the Contractor ceases payments or if insolvency proceedings regarding its assets or extrajudicial settlement proceedings are initiated, TRATON/MAN shall be entitled to terminate the contract with immediate effect. In this case, section 7.1 above applies accordingly.

### 8 Cooperation Services on the part of TRATON/MAN

The cooperation services required must be coordinated and agreed between the Contractor and TRATON/MAN at the start of the contract (hereinafter referred to as "Cooperation Services on the part of TRATON/MAN"). The Contractor shall inform TRATON/MAN, in writing and promptly, about any necessary rendering of "Cooperation Services on the part of TRATON/MAN". If TRATON/MAN has not, or has not promptly, rendered one of the "Cooperation Services on the part of TRATON/MAN", despite prior written information by the Contractor, the Contractor shall

- i) request in writing that TRATON/MAN provide fulfilment, setting a reasonable deadline (at least one week), quoting the "Cooperation Services on the part of TRATON/MAN", and
- ii) undertake all reasonable efforts to provide the service, even without the (prompt) provision of the "Cooperation Services on the part of TRATON/MAN".

Only after two requests pursuant to section (i) above have been made to no avail can the Contractor demand any applicable additional costs that may have been incurred for the time after the second request was made to TRATON/MAN to no avail; these additional costs must be individually verified.

### 9 Performance Deadlines, Consequences of Default

9.1 Agreed deadlines for delivering goods and performing work and services are binding. Should circumstances change in a way that means said deadlines cannot be met, the Contractor is obliged to notify TRATON/MAN of this immediately in writing. Postponing a deadline for delivering goods or performing work or services shall not be effective unless agreed with TRATON/MAN in writing.

9.2 In every instance in which the Contractor fails to meet a deadline for delivering goods or performing work or services for reasons for which it is responsible, it shall pay a contractual penalty in the amount of 0.3% of the agreed net remuneration per workday after the deadline was missed, but not more than 5% of the agreed net remuneration overall; where interim deadlines are exceeded, these percentages shall apply only to the net remuneration attributable to Contractual Performance to be rendered by the interim deadline in question. Unless time-barred, the contractual penalty may be claimed by TRATON/MAN at any time up to and including the due

date of the final payment under the Order Placement in question.

9.3 In the event that the Contractor's delay constitutes default, TRATON/MAN will be entitled to assert all statutory rights and claims in addition to the contractual penalty provided for in section 9.2. Contractual penalties paid will be offset against claims for damages resulting from delay constituting default.

### 10 Circumstances Interfering With Contractual Performance

Should the Contractor believe that circumstances have arisen that may interfere with its ability to render Contractual Performance, irrespective of the reason, or have reason to suppose that such circumstances may arise, the Contractor shall immediately notify TRATON/MAN thereof in writing and agree on appropriate countermeasures with TRATON/MAN.

### 11 Open-Source Software

11.1 The use of Open-Source Software that is subject to a Copyleft License is prohibited in connection with Contractual Performance; the use of other Open-Source Software requires the prior written consent of TRATON/MAN. Should the Contractor intend to use Open-Source Software in connection with Contractual Performance, the Contractor agrees that the following shall be incumbent upon it as cardinal contractual obligations:

- i) notifying TRATON/MAN which Open-Source Software components it proposes to use,
- ii) notifying TRATON/MAN of the license terms and conditions applicable thereto and providing TRATON/MAN with a copy thereof; and
- iii) confirming that no "copyleft effect" will be triggered that would cause the software performance as a whole to be considered Open-Source Software.

To the extent that the use of Open-Source Software is permissible under this section, the Contractor is obliged to ensure that the use of Open-Source Software does not restrict or limit the contractual or intended use of Contractual Performance by the Contractor or by Volkswagen Group Companies.

11.2 In the event that the Contractor uses Open-Source Software in connection with Contractual Performance without our prior consent or with consent that was based on information within the meaning of the preceding paragraph that was culpably incomplete or inaccurate, TRATON/MAN may, at its discretion, withdraw from the contract or require that the Contractor replace the Open-Source Software with equivalent proprietary software; section 25.1, sentences 3 and 4 shall apply accordingly.

11.3 During the limitation period for legal defects provided for under section 29.1, the Contractor shall indemnify TRATON/MAN against any and all third-party claims and associated costs, regardless of the amount, arising as a result of the use of Open-Source Software. Section 25.1 shall apply accordingly.

11.4 If required under the respective terms and conditions of licensing and use, the Contractor shall deliver the source code of the Open-Source Software to TRATON/MAN on the agreed date of delivery at the latest.

**General Terms of Purchase of TRATON and MAN for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts**

**12 Rights of Use and Exploitation**

- 12.1 Where standard software (software developed for the needs of the majority of customers on the market and not developed specifically for our needs by the Contractor) is provided to TRATON/MAN by the Contractor by any means, including download, the Contractor shall grant TRATON/MAN non-exclusive, irrevocable, and sub-licensable rights of use and exploitation with respect thereto, without restrictions as to their geographic, temporal, or material scope; such rights are moreover transferable to Volkswagen Group Companies and other companies deemed as equivalent thereof by the Parties' mutual agreement. Where the Contractor grants TRATON/MAN rights of use and exploitation of software by a specified number of users, the software / systems may be used simultaneously by this number of users unless otherwise clearly specified (concurrent user license). Within the meaning of this section, the term "user" refers to employees of Volkswagen Group Companies or to third parties that have a business relationship with Volkswagen Group Companies or have been commissioned by such companies.
- 12.2 With respect to all other Work Products and Deliverables (e.g. custom-made software, customized software, documentation, source code, concepts, etc.), TRATON/MAN acquires exclusive, irrevocable, transferable, and sub-licensable rights of use and exploitation, without limitation as to their geographic, temporal, or material scope, that comprise any known type of use, including the right to adaptation, duplication, amendment, and expansion.
- 12.3 The Contractor shall ensure that all employee inventions arising in the course of Contractual Performance are transferred to TRATON/MAN free of charge.
- 12.4 All rights referred to in this section may be exercised by TRATON/MAN or by third parties commissioned by the latter, provided any third parties commissioned by TRATON/MAN exercise these solely for our business purposes (Volkswagen Group).

**13 Ownership**

- 13.1 The Contractor shall grant the title to all (physical) Deliverables to be permanently provided to TRATON/MAN to same, effective when these are created and in their respective evolving state(s) of development.
- 13.2 The title to Deliverables which the Contractor grants to TRATON/MAN shall be free from all third-party rights.

**14 Place of Performance, Transfer of Risk**

- 14.1 The place of performance for all supplies of goods, work, and services shall be, of our various places of business, the one for which Contractual Performance is intended. Where the Contractor makes software available to TRATON/MAN to download, its performance obligation will not be discharged until the software has been successfully downloaded.
- 14.2 The risk of accidental destruction or accidental deterioration of Work Products or Deliverables is not transferred until handover to TRATON/MAN or, where applicable, acceptance by TRATON/MAN, at the destination TRATON/MAN has designated in each particular case. Risk regarding goods partially delivered and work or services partially performed shall not be transferred until performance is completed.

**15 Copyright-Related Rights**

To the extent that the contract requires the Contractor to deliver or make available content/information that it owns or is required to provide (content providing), the Contractor shall acquire, from the holders of the respective rights / copyrights or from the collection associations that administer such rights, all rights of use and exploitation, copyrights, and related rights necessary to effect Contractual Performance at its own expense. The Contractor shall indemnify TRATON/MAN against any and all third-party claims asserted as a result of the Contractor's failure to comply with the foregoing obligation or failure to do so to a sufficient extent, unless such failure is without fault on the Contractor's part.

**16 Acceptance**

Where Contractual Performance involves the production of a work (see sections 631 ff. BGB) and / or the Parties have agreed that Contractual Performance shall be subject to acceptance, the following shall apply:

- 16.1 Complete fulfilment of the requirements set forth in section 4 and, in particular, submission of the documentation required by section 4.2, is required before notice may be given under section 16.2 that Contractual Performance is ready for acceptance.
- 16.2 The Contractor shall give written notice that Contractual Performance is ready for acceptance. The Parties shall then agree a time and a place for our receipt of Contractual Performance. Unless waived by TRATON/MAN in writing in a specific instance, acceptance testing shall be carried out on at least fifteen (15) consecutive working days under simulated and / or real operating conditions. The precise details and, in particular, the time period for this acceptance testing shall be specified by TRATON/MAN in consultation with the Contractor. TRATON/MAN may also carry out the acceptance testing itself or require the Contractor to carry out the acceptance testing in our presence. In relation to these matters, TRATON/MAN is entitled to verify the fulfilment of all requirements, in particular those described in sections 4 and 11 above, using code scanning tools, or to have the Contractor perform such verification. TRATON/MAN shall make a written record of any defects identified during the acceptance testing.
- 16.3 If no defects are noted or if the noted defects are immaterial, TRATON/MAN shall declare acceptance in writing, within fifteen (15) working days of our receipt of Contractual Performance where acceptance is to take place without acceptance testing, and within fifteen (15) working days of the conclusion of acceptance testing where acceptance is to be preceded by such testing, unless a longer period has been mutually agreed. Any acceptance by TRATON/MAN requires an explicit, written declaration of acceptance from TRATON/MAN; tacit or implied acceptance is ruled out, as is deemed acceptance. TRATON/MAN is not obliged to partial acceptance. During overall acceptance, the acceptance of partial Performance does not restrict TRATON/MAN from asserting claims based on shortcomings in already accepted partial Performance, insofar as these only become apparent through the interaction of system parts.
- 16.4 The Contractor shall correct defects that preclude acceptance and resubmit its performance for acceptance without delay. The provisions of sections 16.1 to 16.3 above apply accordingly with regard to such

## General Terms of Purchase of TRATON and MAN for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

- resubmission.
- TRATON/MAN or completely handed over to TRATON/MAN.
- 17 Handover**  
To the extent that Contractual Performance involves the sale of goods under a purchase contract (see sections 433 ff. BGB) and/or the Parties have agreed on handover to TRATON/MAN, the Contractor shall give written notice that Contractual Performance is ready for handover at least ten (10) working days prior to the intended handover date and agree with TRATON/MAN on the place and exact time of the handover.
- 18 Duty to Inspect, Notification of Defects**  
Insofar as TRATON/MAN has a legal obligation to inspect for and notify of defects, such notice is deemed timely if given within two (2) weeks of delivery / handover in the case of obvious defects and within two (2) weeks of discovery in the case of other defects.
- 19 Remuneration**  
19.1 The remuneration provided for in the Order Placement is binding. Unless otherwise expressly agreed in writing, the prices for free delivery to the delivery address include packaging and insurance. There is no obligation to return the packaging unless specifically agreed otherwise. However, the Contractor shall, at our request and at its own expense, take the packaging back to the place of performance specified in section 14.1 of these IT Purchase Terms. The remuneration specified in the Order Placement constitutes payment in full for Contractual Performance in its entirety.
- 19.2 Where the Order Placement provides for remuneration based on hours worked, the Contractor shall document its work in time records that have been countersigned by TRATON/MAN; a **sample time record sheet** containing the required information may be downloaded from [www.vwgroupsupply.com](http://www.vwgroupsupply.com); alternatively, TRATON/MAN shall make it available to the Contractor on request. The Contractor must submit its time records to TRATON/MAN on a weekly basis to be countersigned.
- 20 Travel and Accommodation Expenses**  
Expenses for travel and accommodation will be reimbursed only to the extent that this is expressly provided for in the respective Order Placement, and where TRATON/MAN has approved in advance, in writing, both the specific business travel and the costs incurred.
- 21 Invoices**  
21.1 Invoices must be sent in accordance with the terms specified in the Appendix entitled Invoicing.
- 21.2 Invoices shall comply with the requirements of the German VAT Act (*Umsatzsteuergesetz – UstG*).
- 21.3 If a bonus has been agreed, the note “fee reduction agreed in advance” must be included on every invoice.
- 22 Terms of Payment, Taxes**  
22.1 Unless otherwise individually agreed in writing in a specific instance, the agreed remuneration shall be payable within thirty (30) days of the responsible office as stated in section 21 receiving an invoice from the Contractor that shows any applicable value added tax separately. However, the invoice is due and payable only if the Contractor has rendered its Contractual Performance in full and the latter has been accepted by
- 22.2 The stipulated remuneration is exclusive of value added tax which, if applicable, shall be added thereto at the appropriate statutory rate.
- 22.3 Due to fully automated processing, TRATON/MAN pays its invoices only on the 5th, 15th, and 25th of each month. Should these days fall on a Saturday, Sunday, or a public holiday, the payment is made on the next working day. The dispatch date of the payment funds is deemed to be the date of payment. The payment is subject to invoice auditing. In the event of acceptance of early deliveries, the due date shall depend on the agreed delivery date.
- 22.4 Payments shall be made exclusively by credit transfer.
- 22.5 In the event of an incorrect delivery, TRATON/MAN shall be entitled to retain payment on a pro rata basis until proper fulfilment.
- 22.6 The Contractor shall be responsible for all direct taxes (e.g. withholding tax) imposed or deducted in Germany as a result of the remuneration paid to the Contractor. To the extent that TRATON/MAN is required by law to deduct tax (such as withholding tax) from any portion of the remuneration, only the balance remaining will be disbursed. Any applicable withholding tax will be paid on a quarterly basis to the tax authorities responsible for TRATON/MAN. Where contractual payments are exempt from withholding tax or subject to a reduced rate of withholding tax under the terms of a double taxation treaty applicable to the remuneration, the resulting increased payment will only be disbursed if a valid certificate entitling TRATON/MAN to reduce the withholding amount has been provided to TRATON/MAN no later than the time of payment in all cases in which the applicable law requires such a certificate. TRATON/MAN will provide the Contractor with the original of an appropriate tax certificate showing any tax withheld. Any tax amounts withheld shall not constitute default in payment as set out under section 23 of these IT Purchase Terms.
- 23 Default in Payment**  
23.1 No payment on the part of TRATON/MAN becomes delayed until it has fallen due and the Contractor has delivered a written demand for payment of the overdue amount to TRATON/MAN.
- 23.2 The Contractor is entitled to suspend Contractual Performance due to our default in payment only where the default amount is not insubstantial and TRATON/MAN has failed to make payment despite receipt of a written demand for payment, the assertion of the right of retention, and the setting of a reasonable specified new deadline of no less than four (4) weeks.
- 24 Claims for Defects, Warranty**  
24.1 Where Contractual Performance is defective, TRATON/MAN may, except where an ongoing service (*Dienstleistung*) is being provided, set a reasonable deadline for substitute performance by the Contractor, within which it shall, at our option, either remedy the defects in the Contractual Performance as rendered, or render new Contractual Performance. The Contractor shall bear all costs arising in connection with the substitute performance. If the Contractor fails to provide substitute performance as requested or fail to do so within



## General Terms of Purchase of TRATON and MAN for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

the deadline set, or if two substitute performance attempts are unsuccessful, TRATON/MAN is entitled:

- i) to remedy the defect itself or have a third party do so, and to require the Contractor to bear the costs necessary for this purpose, or
- ii) to reduce the agreed remuneration by an appropriate amount, or
- iii) to withdraw from the contract, either in part or in full, and require reimbursement of any remuneration already paid and
- iv) claim compensation for the damage TRATON/MAN suffers as a result of the defect and reimbursement of the expenses TRATON/MAN incurred in reliance on receipt of defect-free Contractual Performance.

In the event of termination or partial withdrawal from the contract, the Contractor shall receive remuneration only for Contractual Performance that has been accepted as free of defects, that is not covered by the partial withdrawal, or that was rendered after termination and is of significant economic utility to TRATON/MAN. The foregoing is without prejudice to our right to claim damages and reimbursement of expenses. TRATON/MAN furthermore remains entitled to its statutory claims for defects in full.

24.2 Where the Contractor provides software components to TRATON/MAN as part of software maintenance, defects therein and defects arising from the interaction of the software (components) with the software being maintained shall be remedied in accordance with the terms of the maintenance contract. With respect to such defects TRATON/MAN shall, however, be entitled to all rights described in section 24.1 in full in the event that the maintenance contract ends before expiration of the limitation period for warranty claims.

24.3 To the extent that Contractual Performance is intended for use in mass production (production material), however, any related claims for material defects become time-barred, by way of derogation from the preceding provision, within two (2) years of the acceptance of the Contractual Performance in question, with the compensation for the vehicle when used in trucks, with the FAT when used in marine engines, and upon acceptance or from installation of a replacement part when used in power plant engines and other types of machinery delivery, however no later than three (3) years after delivery to TRATON/MAN.

### 25 Infringement of Intellectual Property Rights

25.1 In the event that Contractual Performance infringes third-party rights (including industrial property rights and copyrights), the Contractor shall make every reasonable effort to remedy these defects by acquiring the necessary rights. If the Contractor is unable to obtain such rights, the Contractor shall provide TRATON/MAN with substitute Contractual Performance and Deliverables (especially documentation) that are of equal value to TRATON/MAN but do not infringe third-party rights (circumvention solution). The circumvention solution is only deemed of equal value if it does not limit our agreed use of the Contractual Performance and Deliverables, or does so only to an insignificant extent. The Contractor shall bear the cost of the circumvention solution and of any necessary adjustment to the environment of the Contractual Performance unless it is not responsible for the infringement of the third-party rights.

25.2 The Contractor shall indemnify TRATON/MAN against any and all third-party claims and the costs associated with the infringement of third-party rights, regardless of the amount, unless it is not responsible for the infringement of third-party rights, for instance because the infringement results solely from TRATON/MAN using the Contractual Performance in a manner that is not permissible under the Contractor's terms and conditions of use (e.g. connecting software to third-party software without being permitted to do so).

25.3 In the event that claims alleging the infringement of third-party rights as a result of Contractual Performance are asserted against TRATON/MAN, the Contractor is required to independently conduct the legal defense for TRATON/MAN, at its own expense. Where necessary and at the Contractor's expense, TRATON/MAN will assist the Contractor to a reasonable extent in its defense against third-party claims. TRATON/MAN is entitled to take control of the defense itself, but shall, if that is the case, coordinate its actions with the Contractor. In this case, the Contractor is still required to bear all necessary costs.

25.4 Claims on behalf of TRATON/MAN pursuant to this section 25 become time-barred within two years, starting from the point in time at which the third party asserts the claim in question against TRATON/MAN for the first time.

### 26 Other Copyright Holder Involvement

During the limitation period for legal defects under section 29.1, the Contractor shall indemnify TRATON/MAN against any claims that are raised against TRATON/MAN by copyright holders who are involved in creating the contractual Work Product.

### 27 Rights to Information, Presentation, Inspection

The Contractor shall be entitled to rights to information, presentation, and inspection solely as provided for in sections 101 to 101b of the German Copyright Act (*Urhebergesetz – UrhG*) and only after making an advance payment in the amount of our anticipated reasonable internal and external costs and after providing collateral in a reasonable amount to cover the risk and to cover the damage TRATON/MAN may suffer as a result of the measure, such collateral may take the form of money placed in escrow or delivery of an unconditional bank guarantee. Within the meaning of this section 27, the term "costs" includes, in particular, expenses to verify whether the requested measure is legal, expenses for planning and structuring the requested measure so that it is proportionate and, in particular, consistent with data protection and confidentiality considerations, and expenses for carrying out the requested measure including detriment resulting from limitations on and / or loss of functionality due to the requested measure; such costs may be reimbursed in accordance with section 101a (5) UrhG. The amount of the advance cost payment, the amount of collateral, and the place at which the information, presentation, or inspection will be carried out shall all be fixed by TRATON/MAN as it reasonably sees fit; section 315 BGB applies accordingly.

## General Terms of Purchase of TRATON and MAN for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

### 28 Liability

TRATON/MAN may require compensation from the Contractor for all damage (including defects in and consequential damage to the goods, economic damage, economic consequential damage, and expenditure in vain) caused by the Contractor and / or its governing bodies, employees and other personnel, representatives, vicarious agents, or other third parties acting at its request, provided the damage is due to the Contractor's breach of warranty, guarantee, or duty. The Contractor shall, however, not be liable for breaches of duties to the extent that it is able to furnish proof that the breach was not due to fault on its part. Furthermore, TRATON/MAN remains entitled to all statutory claims for damages.

### 29 Limitation of Claims

29.1 Warranty claims for defects become time-barred after two (2) years in the case of material defects and, in the absence of any provisions to the contrary, after three (3) years in the case of legal defects; should the applicable statute of limitations for such claims be longer, it shall apply instead. The limitation period begins upon our acceptance of Contractual Performance that is subject to acceptance, upon our confirmation of handover of Contractual Performance that is subject to handover, and as provided by law in all other cases. The foregoing also applies to software components provided to TRATON/MAN as part of software maintenance.

29.2 The statutory limitation periods apply to liability claims and other claims.

### 30 Data Protection

Where the Contractor is given access to personal data in the course of rendering Contractual Performance, it shall ensure compliance with applicable data protection provisions, in particular by processing personal data solely for the purposes of rendering Contractual Performance (use solely for intended purpose), by ensuring that its employees only gain access to data if absolutely necessary, and by obtaining binding written declarations from its employees to respect data confidentiality, and by instructing these persons as to the provisions of data protection law they must observe; the Contractor shall furnish proof of its compliance with the foregoing to TRATON/MAN on request. The Contractor warrants that it shall protect personal data in accordance with the latest technological standards. Where the Contractor is to process personal data on our behalf, it must, before receiving access to our personal data, first enter into the data protection agreements necessary in each case, which TRATON/MAN shall provide. The Contractor warrants that the processing of personal data that is attributable to TRATON/MAN or our customers shall take place only within the territory of the Federal Republic of Germany, or that of a member state of the European Union, or that of a signatory of the Agreement on the European Economic Area. Any derogation from the foregoing shall require an express written agreement between TRATON/MAN and the Contractor and shall be contingent on the conclusion of all necessary contracts.

### 31 Nondisclosure

31.1 The Contractor agrees to maintain strict secrecy regarding both the existence of the business relationship with TRATON/MAN and all information exchanged in the context of this business relationship.

31.2 The obligation to maintain secrecy remains in force for a

period of nine (9) years after the end or complete performance of the respective Order Placement.

31.3 This obligation to secrecy shall also apply, irrespective of the formation of a contract, to all knowledge and expertise obtained during the tender phase.

31.4 In all other respects, the terms of the separate confidentiality declaration apply, which TRATON/MAN shall make available to the Contractor either at [www.vwgroupsupply.com](http://www.vwgroupsupply.com) or (unless these have already been attached to the invitation to tender, or enclosed during the tender phase or when concluding the contract) on the latter's request. The Contractor shall sign this document and return it to TRATON/MAN if it has not done so already.

31.5 Should a nondisclosure agreement for these services be concluded in advance during the tender phase, said agreement will also apply to this contract and replace the provisions set out under sections 31.1, 31.3, and 31.4 during its term.

### 32 Subcontractors

Any delegation of Contractual Performance to third parties by the Contractor requires our express prior written consent; such consent shall not be unreasonably withheld. All obligations to which the Contractor is bound hereunder must also be imposed by the Contractor in writing on any third party on which it relies; the Contractor shall furnish proof of its compliance herewith to TRATON/MAN on request. The Contractor is not permitted to delegate Contractual Performance to independently employed (freelance) individuals (natural persons). The Contractor shall indemnify TRATON/MAN against all third-party claims asserted as a result of the Contractor's failure to respect this prohibition, unless such failure is without fault on the Contractor's part. Within the meaning of this section 32, the terms "third party" and "third parties" also include companies affiliated with the Contractor within the meaning of sub-sections 15 ff. AktG (or any similar statutory provisions).

### 33 Reference, Advertising

The Contractor shall make no reference to the business relationship with TRATON/MAN in advertising or otherwise without our prior written consent. The same applies to the use of our trademarks, trade names, and other insignia.

### 34 Business Liability Insurance

The Contractor is required to take out and maintain business liability insurance with a limit of indemnity that is appropriate for the level of risk associated with the respective Order Placement and to immediately verify this to TRATON/MAN on request.

### 35 Right to Audit the Contractor

The Contractor shall grant TRATON/MAN the right, exercisable at any time following prior notice, to enter the Contractor's premises to inspect and audit all data pertaining to business transactions between TRATON/MAN and the Contractor, and to audit its IT and data security measures; TRATON/MAN or third parties commissioned by TRATON/MAN may enter the Contractor's premises during normal business hours for this purpose. If these audits result in the discovery of violations of the provisions of the respective Order Placement and / or of these IT Purchase Terms, the cost

## General Terms of Purchase of TRATON and MAN for Information Technology (IT) Contracts and / or Electronic Information and Communications (TK) Contracts

of such audits shall be borne by the Contractor unless the violation involves no fault on the Contractor's part.

### 36 Changes in Ownership

The Contractor is required to notify TRATON/MAN in writing, without delay and without prior request on our part, of any change in the composition of its shareholders or other owners that takes place during the term of an Order Placement by TRATON/MAN and which the Contractor is obliged to disclose to the public (such as by entry in the commercial register). TRATON/MAN is entitled to terminate the contractual relationship without the need to observe a notice period if any such change results in a change in control with respect to the Contractor (for instance, because a majority stake in its shares has been sold or third parties have acquired a controlling influence) and this change in control is potentially detrimental to our interests.

### 37 Prohibition on Assignment

The assignment of contractual rights or delegation of contractual obligations by the Contractor is ineffective without our prior written consent. The Contractor is not entitled to assign its receivables from TRATON/MAN or have them collected by third parties without our prior written consent, which shall not be unreasonably withheld. The assignment of a receivable from TRATON/MAN without our consent is nonetheless effective; TRATON/MAN may, however, at its option, discharge our liability by making payment to either the Contractor or the third party.

### 38 Divergent agreements

Any amendments to the contract shall only be valid if they have been agreed in writing. This also applies to the requirement of the written form itself.

### 39 Continued Validity in the event of Partial Invalidity

39.1 In the event that one or more of the provisions in or referenced by the present contractual provisions is or becomes null and void, this shall not affect the validity of the remaining clauses and the validity of the contract itself.

39.2 In the event that contractual gaps become apparent during the realization of the present contract, these must be remedied with replacement provisions that approximate the economic purpose of the contract as closely as possible.

### 40 Escalation procedures

40.1 If disputes arise based on this contract, the Parties shall endeavor to resolve these amicably by agreement and in accordance with the escalation procedure described below.

40.2 If there is a dispute between the Parties, each Party is entitled to initiate the escalation procedure by sending a notice to the other Party's project manager or the specified point of contact. This notice must be issued in writing and must contain sufficient information to give the other Party a complete picture of the subject of the dispute.

40.3 If the project managers or named points of contact are not in a position to resolve the dispute within a period of fourteen (14) days after the initiation of the escalation procedure, or if one of the Parties is of the view that the dispute cannot be resolved in this way, it may submit a

corresponding written notification to the other Party stating that the dispute will be passed on to the steering committee or to the next higher level of hierarchy so that a solution may be found by mutual agreement.

40.4 The deadlines for the escalation of a dispute specified in section 40.22 do not apply if one Party informs the other that a solution to the dispute is urgently required. In this case, escalation may take place immediately.

40.5 If the Parties resolve a dispute in the course of the escalation procedure, they shall set out in writing the agreement reached and attach the written agreement to this contract as an appendix.

40.6 Only once escalation has been taken to the final stage pursuant to this section to no avail can recourse be made to courts. In derogation of the above, recourse to courts may be made

- i) insofar as the Parties fail to reach an agreement within 45 days (incl. escalation period pursuant to section 40.3) following an enforcement letter and after an appropriate period of 10 working days has been set, or
- ii) by either Party immediately if claims are in danger of becoming time-barred.

### 41 Place of jurisdiction

41.1 Provided the Contractor has its registered office in the Federal Republic of Germany, the following place of jurisdiction applies:

The place of jurisdiction shall be Munich, Germany, as far as this is permissible. In addition, TRATON/MAN is entitled to appeal to any other competent court.

41.2 If the Contractor has its registered office outside of the Federal Republic of Germany, the following agreement to arbitrate applies:

A final decision on any disputes that arise in connection with this contract or its validity shall be made in accordance with the Rules of Arbitration of the German Institute for Arbitration (the *Deutsche Institution für Schiedsgerichtsbarkeit e.V.*, DIS) without recourse to legal action."

- i) The arbitration proceedings shall take place in Munich.
- ii) There shall be three arbitrators
- iii) Arbitration proceedings shall take place in German if this contract has been concluded in German and in English if this contract has been concluded in English.

### 42 Choice of law

The contracts entered into and the realization, validity, interpretation and implementation of such contracts, as well as all additional legal relationships existing between the Parties in accordance with the contractual conditions, shall be governed by the laws of the Federal Republic of Germany, as far as no other agreements have been made in individual cases. The terms of the U.N. Law on the Sale of Goods (United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980) shall not apply.

### 43 Binding Version

The English version of these IT Purchase Terms is a non-binding translation of the original German version, which is the sole authentic and binding document.

## Appendix – Invoicing

### Invoicing MAN Energy Solutions SE - Germany

1) Invoices are to be sent in electronic form as follows:

- In PDF format
- One invoice per PDF file
- No more than one invoice per PDF file
- No attachments, such as timesheets, invoice accompanying documents etc., in separate files.
- One e-mail may contain any number of invoices in separate PDF files, as long as the following criteria are met:
  - Overall size maximum 50 MB
  - No single file bigger than 10 MB
  - File name must not use characters that are incompatible with MS Windows
  - No nested e-mails containing attachments
  - No password protected PDF files
  - No digitally signed e-mails
- The PDF file should ideally meet the ZUGFeRD standard  
Further information can also be found at: [www.ferd-net.de](http://www.ferd-net.de)

For invoices to MAN Energy Solutions - Augsburg, Hamburg (Rossweg/Baumwall), or Rostock, please use the following e-mail address:

[incoming-invoice-aug@man-es.com](mailto:incoming-invoice-aug@man-es.com)

For invoices to MAN Energy Solutions - Oberhausen, Berlin, Ravensburg, and Hamburg (Hermann-Blohm-Straße), please use the following e-mail address:

[incoming-invoice-obh@man-es.com](mailto:incoming-invoice-obh@man-es.com)

2) In justified exceptional cases, please send a hard copy of the invoice to the address you are already familiar with:

**MAN Energy Solutions SE**

Department FGADB  
86224 Augsburg

or

**MAN Energy Solutions SE**

c/o MAN Energy Solutions Oberhausen / Berlin / Hamburg / Ravensburg  
P.O. Box 10 21 33  
86011 Augsburg