

### General Terms and Conditions of Purchase (AEB) of Arvato Systems GmbH, An der Autobahn 200, 33333 Gütersloh, and its affiliated companies (hereinafter referred to as the contracting authorities) for the rental of transmission paths

(March 2020)

#### 1 Scope

1.1 These GPCs apply exclusively and to all contracts concluded for the rental of transmission paths. Contradictory terms and conditions of the Contractor or terms and conditions of the Contractor that deviate from the user of these terms and conditions are expressly not recognized. General terms and conditions of the Contractor shall not become part of the contract even if the Client does not expressly object to them.

1.2 These GPC shall only apply to companies within the meaning of § 14 para. 1 BGB (German Civil Code); they shall also be agreed for all future contracts with the contractor.

1.3 Inclusion of the terms and conditions of the contractor or third parties through conclusive action is excluded. In particular, the acceptance of deliveries or services as well as payment by the Customer shall not make the Contractor's terms and conditions of business the subject of this agreement.

#### 2 Object of the service

The subject of this agreement is the rental of transmission paths including the associated documentation of its course as well as the provision of other services in connection with the rental, in particular the maintenance and repair of the rental object by the contractor in accordance with the assignment.

#### 3 Principles of service provision

3.1 The Contractor shall provide the contractually owed services in accordance with the state of the art at the time of conclusion of the contract and by personnel qualified to provide the agreed services.

3.2 Contact persons of the contracting parties are exclusively the responsible contact persons named in the contract. Furthermore, the Customer shall be entitled to effectively make declarations with regard to the services to be rendered by the Contractor not only to the responsible contact person named by the Contractor but also to his representative.

3.3 The Client may demand the replacement of a person employed by the Contractor for the performance of the contract if this person has breached contractual obligations or does not possess the necessary expertise. The costs arising from the replacement shall be borne by the contractor.

3.4 The involvement of third parties as subcontractors of the contractor requires the prior consent of the client in text form.

3.5 All dates specified by the client are always binding.

#### 4 Placing of orders

4.1 Only the content of the order is decisive for the provision of services. Oral subsidiary agreements have not been made and only become effective upon confirmation by the client.

4.2 The contractor is obliged to accept the order within a period of 14 days. The period begins with receipt of the order signed in text form. An acceptance declared after the expiry of the period shall be deemed to be a new offer. This

can only become legally effective if the client does not object within 14 days.

4.3 Cost estimates, the preparation of quotations, the preparation of specifications, project planning documents, plans, drawings and models or other related elaborations or similar are only subject to a separate agreement.

#### 5 Provision of hardware

If the provision of hardware is part of the order, the following shall apply:

5.1 The hardware shall be delivered free of charge (including freight and customs duty) in customary packaging to the delivery address specified in the order. If no delivery address is specified, delivery shall be made to the registered office of the Customer.

5.2 The transfer of risk takes place when the hardware is handed over free of defects at the place of delivery.

5.3 The hardware shall be delivered on the delivery date specified in the order.

5.4 Unless otherwise expressly stipulated in the order, the service shall include, without further payment, (i) the installation and configuration of the hardware, as well as (ii) the training of the Customer's personnel to the extent required so that the Customer is able to use the hardware competently.

#### 6 Other performance obligations

6.1 SNMP access: The client is provided with SNMP read-only access to the routers commissioned by him. At least three different source IPs/subnets can be named by the customer.

6.2 Netflow data: On all routers commissioned by the client, the client can specify three IP addresses and several UDP ports to which Netflow data of all physical and virtual interfaces are sent.

6.3 Monitoring VRF: A loopback address is defined in a monitoring VRF on each MPLS router commissioned by the customer. The IP addresses assigned in the monitoring VRF are assigned from an IP address subnet provided by the customer.

6.4 Second- & Third Level: The client is granted access (by telephone and e-mail) to the contractor's second- and third-level support. Corresponding contact persons are to be made known to the Customer immediately upon request.

6.5 Portal access: All utilization, performance and analysis data from all routers and lines commissioned by the client are made available to the client by the contractor in an online web portal in real time. The persons who are given access to this portal are named exclusively by the client.

6.6 Changes: The client can demand changes to the services at any time. Configuration changes must be implemented by the contractor within 24 hours. All changes, especially configuration changes and the setup of new VRFs in the MPLS, are free of charge for the client.

6.7 Affirmative: All orders placed by the client according to section 6 must be confirmed by the contractor within two working days (Monday to Friday) at least in text form. If necessary information is missing in a new installation, this must

also be reported to the client at least in text form within this period.

## **7 Handover, Functional test and demonstration, acceptance**

7.1 Before handing over the transmission paths to the client, the contractor is obliged to first of all examine the transmission paths himself in detail and in particular to determine whether they meet the contractually required requirements, in particular whether they offer the properties specified in the order. If the cooperation of the customer is required for this, the contractor will inform the customer of this in good time.

7.2 The handover of the transmission channels is carried out by means of a handover declaration of the client at least in text form after successfully completed handover inspection, provided that no defects were found. Defects will be documented at least in text form and immediately remedied by the contractor. Afterwards a new handover inspection is carried out.

7.3 If, for reasons for which the Contractor is responsible, an extension of the acceptance test became necessary and the extension exceeds one calendar day, the Client is entitled to demand a contractual penalty of 5% of the monthly service fee agreed upon for each calendar day or part thereof.

7.4 The contractor is at liberty to prove that no damage or less damage has been incurred.

7.5 A contractual penalty paid by the contractor shall be set off against any further claims for damages.

7.6 Further claims of the client remain unaffected in any case.

## **8 Principles of personnel deployment**

8.1 The Contractor shall provide its services independently or with its own or third-party personnel (hereinafter referred to as "Personnel").

8.2 The Client is entitled to demand the replacement of the personnel employed by the Contractor, with justification, which may be provided in text form, if the Contractor has repeatedly breached contractual obligations or if there is any other important reason in the personnel employed which prevents cooperation between the Client and the Contractor.

8.3 If the Contractor uses external personnel (such as freelancers or temporary workers), the Client may also demand the replacement of the external personnel with justification, if a further deployment is not reasonable for the Client. As the main contractual obligation, the Contractor shall ensure and control on its own responsibility that any external specialists or subcontractors it employs are deployed and controlled in accordance with the statutory regulations. At the request of the Customer, the Contractor shall provide the Customer with documentation of the controls carried out and confirm the correctness of the controls in text form. Inconsistencies or missing proofs of confirmation entitle the client to immediate extraordinary termination of the contractual relationship.

8.4 The contractor must comply with the customer's request for the exchange of personnel without delay. Any additional expenses arising from personnel expansion or personnel changes shall be borne by the contractor.

8.5 In the individual contract, the contractor designates its own project manager as central contact person. This person controls the entire project work on the contractor's side. On the other hand, the client provides its own project manager as the central contact person for the entire project

management. The project manager controls the entire project work on the part of the client.

8.6 Under no circumstances will the contractor's personnel be integrated into the client's business. The contractor shall remain solely responsible for such personnel to the full extent. There shall be no division of labour between the staff of the contracting authority and the staff of the supplier. The personnel employed by the contractor shall not be included in the internal holiday planning and representation arrangements of the customer. Periods of deployment or service times are agreed exclusively with the project manager contractually appointed by the contractor. The contractor's personnel do not take part in internal meetings and events of the customer with company-specific content and events (for example, presentation round, company party). The only possible participation is in project and technical meetings which are directly connected with the concretization of the contractual service, the provision of services or the acceptance of services. The contractor as well as the personnel employed by him use his own operating resources, unless an objective reason makes the use of the customer's operating resources necessary (e.g. IT security, data protection).

8.7 No project-related coordination, instructions or comparable communication between the contractor's personnel on duty and the client's personnel takes place without the participation of the responsible named project managers. The Contractor shall involve the Client's project manager for binding information and for all questions arising from the performance of the contract. He shall provide information and make decisions or communicate them without delay. Decisions and information of other persons shall only be binding on the Contractor and his personnel if they have been made or confirmed by the Customer's project manager in text form.

8.8 In the event of any complaints about defects in the performance of the Contractor, the Contractor's project manager shall be the sole contact person for the Client's project manager. No complaints about the performance of the Contractor shall be made to the Contractor's other personnel.

8.9 The Contractor shall ensure that all personnel deployed by it has taken note of the regulations regarding confidentiality, data protection, plant security, the information sheet on the Federal Data Protection Act, the flyer for emergencies as well as the Customer's information security guidelines and complies with the regulations accordingly.

8.10 Upon request, the Contractor shall inform the Client at a reasonable distance about the status of the project and compliance with the contractual requirements and shall provide interim results. In addition, the Customer may request to inspect the relevant documents and extracts thereof.

## **9 Personnel deployment for end customers**

9.1 If the Contractor provides services to an end customer of the Client within the scope of this Agreement, the Contractor and the Client shall each remain solely responsible for their personnel. This means that neither the Customer's personnel nor the Contractor's personnel will be integrated into the operation of the end customer. Furthermore, there is also no cooperation based on the division of labour and no direct communication between the personnel of the contractor, the client and the end customer.

9.2 Every project-related coordination, instruction or comparable communication with the end customer is carried out solely by the responsible project manager of the client. This person is the exclusive contact person for the end customer as well as for the Contractor's project manager with regard to the services provided at the Client's end customer within the scope of this Agreement. In all other

respects, the above provisions of Sections 8.3 to 8.8 shall apply mutatis mutandis.

## 10 Minimum wage

10.1 The contractor is obliged to pay his employees the statutory minimum wage. At the request of the Client, the Contractor shall prove to the Client that this obligation has been fulfilled by submitting suitable documents (in particular documents in accordance with Section 17 (1) MiLoG, clearance certificate from the competent social security or holiday fund, etc.) within 14 days for the entire duration of the contract up to six months after termination of the present contractual relationship.

10.2 The Contractor shall indemnify the Client from all claims of third parties (in particular employees of the Contractor, Client's customers, Federal Employment Agency) in connection with the breach of the obligation to pay the statutory minimum wage on first demand.

10.3 The Contractor is obliged to oblige any subcontractor to pay the statutory minimum wage and release the Client from work to the same extent as the Contractor itself is obliged to do under Sections 10.1 and 10.2. If the subcontractor in turn uses subcontractors, the Contractor shall ensure that all subcontractors are also obligated accordingly.

10.4 The contractor is liable to the client for all claims of third parties arising from the breach of the obligation to pay the statutory minimum wage by subcontractors.

## 11 Compensation

11.1 All agreed prices are exclusive of the legally applicable sales tax and include all incidental expenses, in particular travel expenses, travel times, transport costs and customs duties.

11.2 In case of wrong, bad or partial deliveries, the client is entitled to refuse payment until proper fulfillment.

11.3 Subject to a deviating regulation, the remuneration shall be due for payment 30 days after receipt of a verifiable invoice, but in principle only after faultless handover of the transmission path. The invoice must contain the order number of the client and, if no lump-sum remuneration has been agreed, details of the service provision (including time, place, service provided).

11.4 In the event of payment within 14 days of receipt of the verifiable invoice, the contractor shall grant the client a discount of 3% on the invoice amount.

11.5 The Contractor is only entitled to withhold payments or services and work results or to offset them against counterclaims if the claims asserted by the Contractor from the same legal relationship have either been acknowledged by the Client at least in text form or a legally binding decision has been made in legal proceedings. The assignment of claims of the contractor against the client to third parties is excluded.

## 12 Dates, Delay

12.1 Dates stated by the contractor are always binding.

12.2 For the provision of services, the following maximum provision times are agreed upon from the time the order is placed:

Germany	8 weeks
Europe	10 weeks
North America	10 weeks
South America	12 weeks
Asia	12 weeks
Australia	12 weeks

Africa 16 weeks

12.3 At the latest after the expiry of one third of the provision period, the Contractor must inform the Client of a binding provision date without being asked.

12.4 If the binding completion date has not been communicated to the client within the agreed period, a one-off contractual penalty of 20% of the monthly service fee agreed upon will be due.

12.5 In the event of default, the client is entitled to the statutory claims. In addition, in the event of default on the part of the Contractor, the Client shall be entitled to demand a contractual penalty of 5% of the monthly service fee agreed upon per calendar day or part thereof.

12.6 If the Contractor exceeds an agreed date of readiness or completion by more than 7 calendar days, the Client shall be entitled to withdraw from the contract immediately.

12.7 The contractual penalty can be claimed until the final payment of the remuneration.

12.8 A contractual penalty paid by the contractor due to delay shall be set off against any further claim for damages.

12.9 Further claims of the client in case of delay remain unaffected.

## 13 Defects (notification of defects) / Warranty

13.1 § Section 377 of the German Commercial Code (HGB) shall apply in such a way that the customer is obliged to give notice of defects within one week of acceptance, insofar as a defect was identifiable in the course of random checks of reasonable scope. Visible transport damage shall be reported immediately, at the latest within one week. Payment of the remuneration does not constitute approval of the service.

13.2 The client is entitled to the full statutory warranty claims.

13.3 During the warranty period, the Contractor shall remedy defects without delay.

13.4 The warranty period shall begin to run again if the defect is rectified.

13.5 If the Contractor repeatedly fails to provide defective performance within a period of six months, the Client shall be entitled to terminate the contractual relationship without notice or with an expiration period, provided that the Client has threatened to terminate the contract with the Contractor in writing in the event of recurrence. In such a case, the client is in particular not obliged to grant the contractor the right to rectify the defects.

## 14 Force majeure

If the contractor is unable to provide the service on time due to force majeure (war, riots, strikes, lock-outs, fire and floods), the client may choose to withdraw from the contract instead of unilaterally extending the deadline for providing the service in accordance with the contract.

## 15 Liability

15.1 If the client demands compensation for damages instead of performance, the claim for performance shall not lapse until the contractor has paid the compensation.

15.2 In all other respects the statutory provisions shall apply.

## 16 Termination

Provided that a minimum term agreed between the parties does not contradict this, the services can be terminated by the client in whole or in part at any time with a notice period

of two months, by the contractor with a notice period of six months to the end of each month.

## **17 Confidentiality**

17.1 The Contractor undertakes to keep secret and to maintain secrecy about all information (e.g. business and trade secrets, data, technical and commercial information of any kind) which it has come to know about the Customer and the order within the scope of this contractual relationship, whether verbally, in writing, in electronic or any other form, even beyond the duration of the contractual relationship, and to maintain silence about this. The information must be stored in such a way that any misuse is excluded.

17.2 Furthermore, the Contractor guarantees that its employees, consultants and other vicarious agents who are entrusted with the execution of the contract and who receive information pursuant to 17.1 are bound in writing to secrecy.

## **18 Privacy and security**

18.1 The Contractor shall ensure that all persons entrusted with the performance of this contract observe the statutory provisions on data protection and are demonstrably obliged to maintain data secrecy in accordance with the rules on data protection.

18.2 In the case of order processing, a separate agreement shall be concluded between the contracting parties.

18.3 The client expressly does not give his consent to the use of the contact data for advertising purposes. Any disclosure, transmission or other use of the client's contact data is expressly prohibited.

18.4 The Contractor undertakes to take all necessary measures to ensure information and operational safety and quality assurance at the Client's premises during the performance of the contract. The relevant guidelines and information sheets of the Customer shall apply, which shall be made available to the Contractor at its request.

## **19 Insurance**

19.1 The Contractor undertakes to maintain a business liability insurance policy throughout the duration of the contract, the scope and amount of which is appropriate to its liability risks under this contract.

19.2 Upon request of the Customer, the Contractor shall provide evidence of the conclusion and existence of the insurance policy and the payment of the corresponding premiums.

## **20 Audit**

20.1 The Client is entitled, either himself or through an appointed third party, to carry out an audit once a year, after prior notice and during business hours, at the Contractor's premises for the purpose of checking the Contractor's compliance with the contractual obligations.

20.2 The confidentiality of the contractor's information shall be respected and appropriate security provisions shall be taken into account.

20.3 The Contractor is obliged to grant access to all systems, books, records, business processes and facilities that the Client requires in order to conduct a proper and thorough inspection. The Contractor shall provide the necessary cooperation in such an inspection.

## **21 Final provisions**

21.1 This agreement can only be transferred to third parties with the consent of the other party in text form using an electronic signature (in accordance with eIDAS requirements). On the part of the customer, third parties within the meaning of this clause are not the companies affiliated with

Bertelsmann SE & Co KGaA, Gütersloh, group companies (§§ 15 ff. AktG) and Bertelsmann SE & Co KGaA itself.

21.2 The contractor is not entitled to name the client, details of the order or the client's end customer as a reference without the client's express consent.

21.3 The contractual penalties referred to in these contractual conditions may not exceed 5% of the total contract value.

21.4 The contractor acknowledges the provisions of the Supplier Code of Conduct of Bertelsmann SE & Co KGaA and undertakes to act in accordance with them. This Code of Conduct for business partners can be found at [www.bertelsmann.de/unternehmen/grundwerte/compliance/geschaeftspartner/](http://www.bertelsmann.de/unternehmen/grundwerte/compliance/geschaeftspartner/).

21.5 Changes, additions and the cancellation of this contract require at least the text form by means of electronic signature (according to eIDAS requirements). This means that an e-mail format does not meet these requirements. The same applies to the cancellation of the written form requirement. All design rights must always be asserted with a signature variant that is at least eIDAS-compliant.

21.6 The existence of this contract is not affected by the invalidity of individual provisions or by loopholes in the regulations. An ineffective provision or a loophole shall be replaced or filled by a valid provision which corresponds as far as possible to the meaning and purpose of the omitted provision or the remaining provisions of this contract.

21.7 The law of the Federal Republic of Germany shall apply, excluding the UN Convention on Contracts for the International Sale of Goods. The place of jurisdiction for all disputes arising out of or in connection with this contract is the court which is competent for the client in terms of subject matter and location.