

General Conditions of Purchase for IT Part C – Hardware Maintenance (Version 03/21)

1. Subject matter of the contract/scope of services

1.1 General

These special provisions of the AEB-IT (Part C) as of the time of contract conclusion for the maintenance of hardware shall always apply together with the general provisions of the AEB-IT (Part A) as a uniform part of the contract.

1.2 Hardware

The contractor shall provide maintenance for hardware, including the associated operating system, as well as operating and system software (collectively the “System”) and documentation. The system to be serviced is described in the order.

If the contractor takes over the maintenance for a client’s system already in place, it shall record any defects in an equipment takeover report. The contractor shall remedy defects as part of the maintenance services, unless this stretches significantly beyond the usual scope of maintenance and the contractor has pointed this out in the equipment takeover report.

1.3 Hardware maintenance

During the term of the contract, the contractor shall maintain the system in a condition suitable for use in accordance with the contract and shall provide any maintenance and repair services required for this purpose.

1.3.1 Preventive measures (maintenance)

Maintenance involving maintaining the system’s functionality, and includes the replacement of defective wear parts and system components that no longer correspond to current and recognized state-of-the-art technological standards, or no longer function reliably. New wear parts and system components become the property of the client upon delivery. Replaced wear parts and system components shall become the property of the contractor. The contractor shall perform any integration, configuration or installation work.

The contractor shall dispose of replaced wear parts and system components so that any data of the client on them is irretrievably destroyed or deleted. The complete deletion and/or destruction of the data shall be confirmed to the client in writing upon request.

The contractor shall perform regular system inspections in accordance with the respective system documentation or current manufacturer information. Faults in the system detected by the contractor or notified by the manufacturer shall be rectified by the contractor. The contractor shall inform the client if the disruption may have had an impact on the client’s work results or processes.

If the subject of maintenance also concerns an operating system, operating and system software, the contractor shall also provide the client with corrections, patches, updates, upgrades, new versions or the like, as well as the respective updated documentation (collectively “Updates”) and install these in consultation with the client. Upon delivery of the updates, the contractor shall grant the client the rights of use to the updates in accordance with the contract on which the transfer of the system is based.

Updates shall be delivered by sending or handing over the machine-readable code on a commercially available data carrier or by sending it by remote data transmission. The client receives the corresponding updated documentation in printed or printable form.

After the release of updates, maintenance services will continue for old versions of the system and operating software.

1.3.2 Repair

The client shall report to the contractor any malfunctions, system-related or system-side component failures and other problems (in short: “Disruptions”). The contractor shall locate, analyze and rectify the fault. Upon receipt of a malfunction report, the contractor shall inform the client by when the reported malfunction will be remedied.

Malfunctions based on the system’s information security vulnerabilities and operating software shall be remedied by the contractor without undue delay.

If the elimination of a malfunction after its analysis turns out to require extensive work, the contractor shall, in coordination with the client, provide at least a temporary substitute or workaround solution so that significant impairments to the client’s business operations are avoided; agreed service levels shall be observed. The obligation to ultimately eliminate the disruption within a reasonable period of time remains unaffected.

1.3.3 Replacement of obsolete hardware

In consultation with the client, the contractor shall replace parts of the system and components that no longer correspond to the current and recognized state-of-the-art technological standards, with new ones. The respective assessment can be presented by the client on the basis of market development. In case of any doubt, the normal useful life according to the depreciation table at the beginning of the contract applies.

1.4 Maintenance fee

Services according to section 1.3 are included in the maintenance fee.

1.5 Additional services

At the client's request, the contractor shall deliver, install, integrate and configure additional system components or subsystems in accordance with a separate order. The provisions on the purchase of hardware (AEB-IT Part B) shall apply. In all other respects, these provisions for hardware maintenance (AEB-IT Part C) shall also apply to these additional system components or subsystems from the time they are taken over.

The elimination of malfunctions due to the effects of force or improper handling (non-functional use) is not owed by the contractor within the scope of maintenance. The contractor shall also remedy such disruptions, unless the performance of the service is unreasonable for him. The contractor may invoice such services separately, provided that an order has been placed for them by the client.

2. Maintenance window/job scheduling

The contractor shall plan and coordinate maintenance work with the client in such a way that the client's use of the system is not impaired. If maintenance work is unavoidable during regular operating hours of the system, he shall notify the client of the underlying reason and cause thereof, and agree on a maintenance window with the client no later than two weeks before it is to be carried out.

3. Data privacy/data security/information security

The contractor shall observe the principles of proper data processing (GoDV) when providing the service. This includes, for example, protection against malware (e.g. Trojans, viruses, spyware, etc.), information security and data backup measures, compliance with

Data protection regulations, as well as all precautions and measures in accordance with the currently recognized state of information and communication technology.

If the scope of services also includes data backup by the contractor, the contractor shall implement suitable measures for data backup and recovery. The data must be backed up at regular intervals in such a way that it is possible to restore the data stock on the system without any problems. The contractor shall provide for appropriate measures to restore the system in the event of a system failure.

For data protection and information security, the Annex "Agreement governing commissioned processing" shall additionally apply. Therein, the required information is to be filled in by the contractor and the client. If no personal data is processed by the contractor in the course of the provision of services, the inclusion of this Annex is not required. The client shall document this.

4. Place of performance/change of place of installation

The place of performance for the system's hardware maintenance shall be the client's place of business specified in the order; otherwise, the client's place of business. If necessary, the contractor may carry out the maintenance work in one of its workshops; in this case, the contractor shall provide the client with replacements during the maintenance work without separate charge.

The contractor shall be notified of the relocation of the system to a place of performance other than that specified in the purchase order. The contractor shall continue the maintenance unless this is unreasonable for the contractor. If the implementation does not significantly affect the amount of effort in connection with the performance of the service, the contractor may demand an appropriate adjustment of the remuneration. Insofar as the hardware maintenance becomes unreasonable for the contractor due to the implementation effort, the contractor may terminate the corresponding contract with effect from the date of implementation. The same shall apply to the client if the contractor objects to an implementation, and this would lead to a significant disadvantage for the client.

5. Hardware and maintenance expulsion

Insofar as the purchase of hardware is also agreed, remuneration for the purchase of said hardware and for the maintenance of the hardware shall be shown separately.

6. Acceptance of maintenance services

The client shall confirm the contractor's performance by signing off on work records submitted by the contractor. The services performed are then immediately tested by the client and acceptance is declared if there are no significant defects. The client shall immediately give notice of any defects found. A reservation of defects in the acceptance declaration is not required. The contractor shall remedy defects by subsequent performance within the agreed times; otherwise, within a reasonable period of time.

7. Deficiencies and performance failures

Defective performance shall also be deemed to exist if faults are not remedied, are not remedied to the required extent or are not remedied within the allotted time; otherwise, within a reasonable time. The contractor may remedy insignificant defects within the scope of a future provision of services.

A defect shall also be deemed to exist if a reasonable user with the knowledge normally expected for the application of the system cannot either understand the operation of individual functions with the aid of the documentation with a reasonable amount of effort, or cannot solve any problems that arise.

Insofar as the contractor provides a workaround for malfunctions, this shall not be deemed to be a defective maintenance service. For this purpose, the contractor may, in coordination with the client, make temporary changes to the system's configuration if (and to the extent that) the system's proper functioning is thereby restored within the service levels. However, a malfunction shall not be deemed to have been remedied until the workaround is replaced by a full malfunction remedy within a reasonable period of time.

The client hereby assigns to the contractor any warranty claims to which it is entitled from the contractual relationships with equipment manufacturers and suppliers on which the system is based, and the contractor hereby accepts said assignment. The underlying contracts shall be disclosed to the contractor to the extent required. The contractor shall take these third-party supply

contracts into account in its performance of services. Irrespective of this, the client shall remain entitled to assert the assigned claims.

In the event of malfunctions not caused by the system or not caused solely by the system, the costs incurred for troubleshooting, analysis and repair shall be divided or reimbursed appropriately according to the respective causation contributions. The agreed rates for services rendered on a time and material basis shall apply.

7.1 Compensation reduction

If the contractor does not rectify a reported fault within the agreed rectification time (otherwise, within a reasonable time), and if the suitability of the system or parts of it is reduced as a result, the client shall only pay a reasonably reduced maintenance fee for this period. If the use of the system or individual parts is not possible to a reasonable extent due to the malfunction, the client shall be exempt from payment of a maintenance fee to this extent for this period. This shall apply accordingly in each case if the system's contractual use is impaired in whole or in part by the rights of third parties.

7.2 Subsequent performance/substitute performance/reimbursement of expenses/termination

In the event of defective performance, the contractor shall be obliged to provide subsequent performance.

If this fails, the client may remedy the defect itself or have it remedied by a third party and demand reimbursement of the necessary expenses (substitute performance) if the defective performance or the unsuccessful remedy of a defect significantly restricts the system's use despite a reasonable grace period.

7.3 Delay

If the contractor does not perform within the agreed period of time or, in the absence of an agreement, within a reasonable period of time in response to a fault report from the client, the contractor shall be deemed to be in default.

7.4 Withholding and offsetting of services

Insofar as the contractor fails to fulfill its obligations, the client may withhold payment for the contractual services until the contractor has fulfilled its obligations in full. The client may deduct

its claims against the contractor for breach of duty from the contractor's remuneration.

The assertion of further claims by the client remains unaffected.

8. Contract term and termination

8.1 Term

Hardware maintenance begins on the date agreed in the contract. If the system's takeover takes place later, it starts with the takeover. The contract shall end automatically at the end of the contractually agreed fixed term.

8.2 Termination

Either party may terminate the contract without notice for good cause. Important reasons shall include, in particular, serious violations of the provisions of this contract or other obligations. In the event of withdrawal from the hardware purchase contract for the system, the hardware maintenance shall also automatically end (objection enforcement). After the warranty for the system has expired, the only option is to cancel the hardware maintenance. This applies accordingly to independent parts of the system.

Termination must be in writing in order to be effective.

The client's rights of use for system and operating software shall remain unaffected by a termination of the hardware maintenance.

8.3 Termination of contract

The contractor shall hand over to the client the system, as well as secured data files of the client in full, insofar as these are in its possession, as well as all documents and documentation required for the installation, further operation and use of the system. Any copies of the documentation and other documents of the client remaining with the contractor in any form whatsoever shall be returned to the client, and copies thereof shall be deleted or destroyed. There shall be no rights of retention or rights to refuse performance for the system, data or other objects to be surrendered.

If it is not possible for the client to transfer the maintenance services to a third party or to incorporate them into its own business operations without impairment at the time of termination of the contract, the client may require the contractor to continue the contract beyond the termination date, in order to maintain the business operations

of the affected business area. This shall apply until full continuation is ensured either in the business operations of the client or by a third party, but no longer than 6 months after the termination date. The parties shall mutually endeavor to find a solution that ensures an appropriate transition. The above provisions shall also apply in the event of extraordinary termination.