



## GENERAL CONDITIONS OF PURCHASE AND PAYMENT

### ARTICLE 1 – PURPOSE AND SCOPE OF APPLICATION

1.1 The purpose of these General Conditions of Purchase is to set general liabilities for any purchase made by Business France to suppliers of goods, services or works (hereinafter referred to as "the Provided service" or "the Provided services"). Business France is a Public Institution of industrial and commercial nature governed by decree No. 2004-1571 of December 22<sup>nd</sup> 2004, located at 77 Blvd Saint-Jacques, 75014 Paris France, and registered with the RCS of Paris under No. 451 930 051. Business France is subject to public tenders rules specified in the Order n°2015-899 of July 23, 2015 and the Decree n°2016-360 of March 25, 2016.

These General Conditions of Purchase apply to any Order for goods and services, whether this Order arises from a consulting (call for tenders or other procedure) or a simple Order.

1.2 These General Conditions of Purchase may be supplemented and/or modified by additional special conditions.

1.3 The Supplier (herein after referred to as "the Contracting Party") shall draw up its good and/or services proposal with respect to these general conditions. Its proposal shall respect Business France specifications document. The proposal shall be drawn up with total acknowledgement of the administrative and technical requirements for completing the Order, and, if necessary, total acknowledgement of the place of location of the goods. Its proposal shall list all the supply, services and work required for the perfect completion of the Order and make sure the goods sold work properly and/or the services are of good quality.

Any proposal not accepted by Business France shall not give rise to payment or compensation of any kind.

In principle, once the Contracting Party proposal is accepted, Business France shall produce an Order.

The Order lists all the documents mentioned in the so-called "Business France Order", with respect to the imposed listed order such as indicated in the special conditions document. Should this list be absent, the order of priority shall be as follows:

- Special Conditions document;
- General Conditions of Purchase document (as here described);
- Any other document mentioned in the Special Conditions document including the Specifications Document for Consultation Procedures (in the case of Calls for tenders or otherwise);
- Special Conditions document (quality assurance, security, etc.);
- the contracting party business proposal.

1.4 The Order is said to be accepted on the date of the acknowledgement of receipt of the latter. The launching of the provided service execution shall be effective once the Order acknowledgement of receipt has been signed. The launching the provided service execution by the Contracting party entails unconditional acceptance of the General Conditions of Purchase by the latter.

1.5 Once accepted by the Contracting party, the Order means firm and definitive commitment to the latter and implies that it:

- agrees on these General Conditions as well as the Special Conditions, except in the case the latter are being subject to written officially accepted reservations by Business France;
- accepts to suspend its corporate Supply or Sales General Conditions.

1.6 In case of Provided service modification:

- i. Unless otherwise stipulated, these General Conditions shall apply to any provided service modification, whatever;
- ii. No Order modification shall be imposed to Business France without specifically written approval by the latter.

### ARTICLE 2 – CAPABILITY OF THE CONTRACTING PARTY

2.1 The Contracting Party states that it is in possession of:

- i. adequate technical competencies and means - as well as utmost professionalism - to ensure that the quality of the Provided service will comply with the Order,
- ii. the necessary financial capabilities and human resources that will let it comply with the service without any risk of postponement,
- iii. the authorisations, rights and certifications required to provide the service.

2.2 The Contracting Party states that it:

- i. complies with the mandatory social and fiscal legislation and has paid the corresponding taxes (income tax, other taxes, social contributions),
- ii. vouches for the code of conduct of its employees, and subcontractors' employees if any, and particularly as far as the respect of the public Order and generated accepted moral principles, laws and rules are concerned ; for the Prevention Plan stipulated in article R4512-7 of the Labour Code and Business France sites policies and procedures, for example in matters of health and security.

Should any modification occur during the execution of the service, in particular as for to the address of the company head office or its legal entity, or any person committed to the Contracting Party, the latter shall immediately send a written notification to Business France.

### ARTICLE 3 – GENERAL PROVISIONS RELATED TO THE ORDER EXECUTION

#### 3.1 Obligations for Business France

Business France shall:

- 3.1.1 respond to the Contracting Party's written requests for information on the conditions in which the Order will be applied, and honestly collaborate with the Contracting Party,

3.1.2 pay the agreed price to the Contracting Party, in compliance with the terms and conditions agreed on in the Order,

3.1.3 allow free access to the Contracting Party's employees - or to any designated third party, as long as Business France previously provided requested authorisations - in Business France facilities, offices and/or locations, where necessary, for implementing the service; take all the necessary measures to facilitate the exercise of this right, excepted for additional event sites that do not belong to Business France.

### **3.2 Obligations for the Contracting Party**

3.2.1 The Contracting Party is committed to successfully executing and completing the provided services, in conformity with the terms of the Order as for the quantity, quality, performance and deadlines, with the obligation of achievement, and to globally ensure that the provided services (including all the documentation necessary to use and maintain the services) will meet the usage for which they are intended, as well as the current standards and regulations for any country in which the goods are being delivered and/or the services are being performed. They shall be delivered ready-to-use and with no obvious or hidden flaw.

3.2.2 The Contracting Party is committed to defining and managing the human and equipment resources that are required to execute the Order. It shall have at the disposal of Business France a qualified and highly-skilled team so that the quality and deadlines objectives the Parties agreed on can be met.

3.2.3 The Contracting Party commits itself not to use illegal work for the provided services. It declares to comply with the standards and rules, in this area, defined by its State of establishment and by the State where the staff realises the provided services. It guarantees Business France against any legal and judicial litigation regarding this issue. The Contracting Party is committed to providing to Business France, upon request, any information either on its employees or on the equipment that is being used for the implementation of the provided services. With regards to this, Business France may decide that a duly authorised representative would demand from the Contracting Party a signed affidavit - with adequate letterhead - certifying that the provided service is actually being implemented by regular employees as required in the Labour Code, and with the guarantee of no clandestine labour.

In case of non compliance with the requirements regarding illegal work stated by article L.8221-3 to L.8221-5 of the French Labour Code, or by any equivalent standard in the legislation of the State of establishment, the Contracting Party will be liable to pay to Business France a penalty which could reach 10% of the global amount of the contract but not exceed the amount of fines applicable in respect of articles L8224-1, L.8224-2 and L.8224-5 of the French Labour Code.

If the Contracting Party fails to comply with the formal notice sent by Business France to regularize its situation, Business France could either apply the aforesaid penalties, or terminate the contract, without compensation, at the Contracting Party's risks and expenses.

3.2.4 The Contracting Party employees shall remain, in all circumstances, under the line of authority and disciplinary control of Business France. As employer, the Contracting Party shall consequently be responsible for the administrative, accounting and social management of the employees taking part to the implementation of the provided service. Regardless of the cause, the Contracting Party shall be responsible for its employees in all circumstances.

The Contracting Party shall notably assume responsibility for road accidents and work accidents of its employees which occur because of or during the implementation of the provided service and arrange for all mandatory medical control (including controls specifically required for the performance of certain activities).

The Contracting Party shall also be responsible for accidents occurring on account of its personnel, as well as for damages caused during the execution of the provided services.

3.2.5 The Contracting Party employees that have been designated to implement the provided services are juridically responsive to the latter. The Contracting Party commits itself to never employ nor make work, whatever the way, any of Business France employees, at the present time or in the future, excepted if the latter explicitly agrees to. The current condition is valid, whatever the expertise of the concerned employee, included in the case the request is being made by the employee himself.

The current item applies as long as the service is being implemented, and then for a twelve-month period after its completion.

3.2.6 In the case one or more person(s) working on the implementation of the provided service is absent, whatever the reason, the Contracting Party shall immediately take all the necessary measures to avoid the postponement of the project - and thus respect the terms and conditions defined in the Order.

3.2.7 The Contracting Party, as a professional in its speciality, shall check that Business France requests are coherent and shall advise the latter so that the provided service and the objectives that are being pursued are coherent to each other. Furthermore, whenever the information happens to be ambiguous, the Contracting Party shall be made responsible for asking any further detail and/or explanation from Business France - thereby ensuring that no existing error or omission might lead to the incomplete or incorrect implementation of the provided service; the Contracting Party shall also give appropriate feedback on the documents and studies provided by Business France as the implementation is being performed. Should that not be the case, no appeal, reservation or exception procedure may be subsequently invoked by the Contracting Party.

3.2.8 The Contracting Party shall solicit and verify any document or technical information required to meet its obligations.

3.2.9 The Contracting Party is committed to getting - when necessary - the authorisations documents from third parties - notably from the holders of intellectual property rights - in order to have the provided services implemented. The Contracting Party guarantees that protests or claims shall not be held by third parties against Business France, either during or after the implementation of the service. It shall indemnify Business France for any consequences the latter might suffer from, as a result of the failure to obtain the above-mentioned authorisation documents, by the fault of the Contracting Party.

3.2.10 The Contracting Party guarantees that the provided service will be successful, from a technical point of view ; it shall ensure conformity with the specifications, as referred to in the conditions defined either in article 7.2 or in article 10, as requested.

3.2.11 The Contracting Party shall entitle an official representative who will take all the decisions to have the provided service completed and who will take part to the coordination meetings.

3.2.12 The Contracting Party will diligently let, whenever necessary, all the required checking processes being performed, so that the provided service will be effectively executed.

3.2.13 The Contracting Party guarantees that claims or legal proceedings shall not be held by third parties against Business France, as far as the provided service and/or the results are concerned, notably in the case of infringement to the detriment of Business France.

3.2.14 Conditions for shipment shall be referred to by specific provisions mentioned in the Order. If such is not the case, the Contracting Party shall assume responsibility for the packaging, insurance and transport of the goods to the location specified by Business France.

3.2.15 Any advertising activity performed by the Contracting Party dealing with its relationship with Business France shall be subject to prior written approval by Business France.

#### **ARTICLE 4 – FINANCIAL PROVISIONS**

4.1 Unless otherwise stipulated in special conditions of the Order, the prices mentioned therein are in euros, net of VAT, firm, inclusive and not revisable.

In conformity with the current regulations, prices are subject to VAT, excepted specific cases.

4.2 Agreed prices include follow-up and proper completion of the provided service, as well as compliance with contractual provisions. They include travel and accommodation fees, the meals, all taxes excluding VAT, and any applicable customs duties, technical warranty and bank charges. The particular conditions will possibly refer to price adjustment, with one or more price adjustment formulae based on the price-variation index previously agreed upon by the two parties.

Business France keeps the right to request that the Contracting Party should decide on a warranty (financial surety or on-demand guarantee) or the possibility of deductions on payment or still of completion committed payment.

4.3 When setting the price, the Contracting Party openly stated that it will take into account the uncertainties specific to its profession and to the provided service specificities. No additional fees shall be invoiced without prior written approval by Business France.

4.4 In principle, Orders shall not lead to pre-payment (no payment on account, no down payment). If stipulated in the Special Conditions, a pre-payment will possibly be paid on the signature date of the Order. In case the Contracting Party fails to meet its obligations, as decided when signing the Order, and notably does not comply with the agreed upon delivery date, Business France may request the cancellation of the Order in accordance with article 18.2 and then be immediately refunded the entire pre-payment, plus interest equal to the interest rate applied by the European central bank to its most recent refinancing operation increased by ten (10) percentage points.

4.5 Should a given payment be related to a particular step in the provided service execution process, the corresponding invoice payment shall be subordinated to the effective and total implementation of that step, as defined in the conditions established on payment. Once the payment corresponding to a given gate has been performed, the deliverables ownership is transferred to Business France.

4.6 One (1) copie of the invoice shall be issued, and sent as stipulated by the Contracting Party in the Order or, alternatively, after full completion of the provided service. In case of payment at different dates, an invoice by given date has to be sent to the invoice address mentioned in the Order.

4.7 In application of order n°2014-697 dated 26 June 2014 relating to the development of electronic invoicing, the Contracting Party and sub-contractors accepted for direct payment of contracts agreed with Business France must send their invoices in electronic form via the "Chorus Pro" Invoicing Portal.

This obligation applies to contracts being executed or agreed at a later date:

- On 1 January 2017 - for large companies and public corporations;
- On 1 January 2018 - for intermediate size companies;
- On 1 January 2019 - for small and medium-sized companies;
- On 1 January 2020 - for micro-companies.

From 1 January 2017, any company not subject to this obligation may send its invoices in printed form or in electronic form via the Chorus Pro Portal.

4.8 Invoices shall be paid for on their due date on the condition that (i) there is evidence of progress on the execution of provided service, with respect to the execution schedule, (ii) the delivery of the provided service is being performed in accordance with the terms and conditions stipulated in the Order. Business France may suspend payments and even apply collection of payment, Business France will thereof inform the Contracting Party about its decision and shall also send written justification of its decision at the moment the provided service is being delivered.

4.9 Excepted in the case of particular conditions, payment shall be performed via bank transfer thirty (30) days after the invoice has been received at the invoice address that was specified on the Order, and on the condition the mentioned addresses are similar, the Order number shall be noticed on the Order and any necessary additional document shall be made available.

4.10 If the Contracting Party does not comply with the sent letter of formal notice for thirty (30) days after the latter has been received, and in the absence of protests or opposition by Business France, the Contracting Party may invoice late delivery charges equal to the interest rate applied by the European Central Bank to its main and most recent refinancing operations, in force on the first day of the semester of the civil year in which the default interests started to accrue, increased by eight (8) points of percentage. Said interest shall begin to run on the day following the date the letter of formal notice has been received and will be subject to the conditions set forth in article 18.3.

4.11 Any professional delaying the payment becomes automatically debtor, in addition to the penalties for late payment, of a fixed allowance for recovery costs of forty (40) euros without VAT according to articles L441-6 and D441-5 of the French commercial code.

4.12 For Contracting Parties located abroad (inside or outside of the EU): unless an International Treaty has been signed between France and the state where the Contracting Party is located which retains cuts or exemption, any payment, whatever the type, that is being made by Business France for using or conceding royalties, patents or software shall be subject to tax deduction at source, as stated in current French legislation. Unless official documents which attest that the state where the Contracting party physically resides are added to the sent invoice, the latter shall not be entitled to benefit from the provisions mentioned in said International Treaty.

4.13 For Contracting Party who are natural persons living in France and professionals: in accordance with current legislation, the Contracting Party shall provide Business France with evidence of his or her affiliation with the relevant social security organisations for his or her activity and his or her registration number must be mentioned on the invoice. If the Contracting Party is affiliated with a special regime exonerating it from the application of VAT to the amount invoiced for its services, the provision of the French General Tax Code authorising said exoneration must be mentioned on the invoice.

#### **ARTICLE 5 – DEADLINES – PROJECT EXECUTION SCHEDULE - DELAYS**

5.1 The Contracting Party is under the obligation to deliver the service - deliverables or sub-deliverables - to Business France as mentioned in the Order specifications, within the specified deadlines they agreed upon. No postponement will be allowed.

5.2 Excepted because of a force majeure, if the agreed deadlines are not respected, Business France may apply late delivery charges; Business France will have the right to cancel the Order agreement or to have the provided services performed by a third party, the fees being paid by the Contracting Party.

5.3 Late delivery charges amount is defined in the Special Conditions. If such is not the case, the Contracting Party shall incur late delivery charges to the amount of 0.1% per late scheduled day, it is calculated on the basis of the Order total fees incl. VAT and limited to ten per cent (10%) of the

Order fees incl. VAT. Late delivery charges may also be requested, with no further legal proceeding, in case the Contracting Party received a legal notice, but have not sent any answer for the following fifteen (15) working days.

5.4 Invoice shall be presented before payment. The latter will be paid, to the choice of Business France, either via Contracting Party bank transfer, or via some financial compensation to the sums owed to the Contracting Party.

The charges related to mandatory deadlines are part of a moratorium, as stated in article 1231-6 paragraph 3 of the French Civil Code. Consequently, if the Contracting Party cannot respect a mandatory deadline, the latter shall remain fully liable for providing the service related to the originally agreed upon deadline, and shall not be considered to be obligations-free as far as late delivery charges fees are being concerned.

5.5 Notwithstanding the above mentioned late delivery charges, the Contracting Party shall remain fully liable to Business France as for the consequences due to the corresponding delay.

5.6 Unless specifically specified otherwise, any delay exceeding three (3) months may lead to the request by Business France to cancel the Order agreement, as of right.

#### **ARTICLE 6 – MODIFICATIONS**

6.1 Any modification made to the Order (as for technical or commercial clauses) during the execution of the provided service (e.g. deletion or extension of a provision) shall be drawn up in an amendment between the parties specifying the impact of said modification on the agreed upon Special Conditions, notably in terms of deadline, price and performance.

6.2 Generally speaking, each party shall inform the other party, as early as possible, of any modification it is aware of, and which could significantly either impact the execution schedule for providing the service, or have some consequences on the service itself, regardless of the cause.

6.3 In the case of modifications by the Contracting Party that have not been authorised by Business France, the Contracting Party will be in charge of implementing the nullification, corrections or re-working necessary to work on in conformity with the Order specifications, without prejudice to any damages that may result from the impact of these modifications on the quality of the delivered service and/or third parties deliverables.

6.4 Exceptionally, in the case of an emergency or for security reasons, the Contracting Party may spontaneously make modifications or additions to equipment or works that prove to be necessary during the execution of the service, provided that it immediately informs Business France about it. Business France shall add an amendment to make official those additional services thereby provided.

#### **ARTICLE 7 – ACCEPTANCE**

7.1 The Contracting Party shall set up the tools and means required, that will allow to check conformity between the provided service and the Order. Even if Business France implements the conformity checking process, the Contracting Party shall remain liability to checking the conformity, particularly as far as the provided service quality, quantity or performance is concerned.

7.2 If the Provided service is not in conformity with the Order specifications (due to partial non-fulfilment; failure to comply with plans, standards, contractual documents or good engineering practice; or failure to achieve the performance; etc.), Business France may refuse to accept the delivery. Acceptance with reservations may be declared by Business France if the latter comes to the conclusion that minor parts of the service have not been provided.

In this case, the amount paid to the Contracting Party on the invoice will depend on the value of the accepted services deliverables.

Moreover, the Contracting Party shall meet, totally and at its own expense, any defect on deliverables and shall perform - within the time schedule set by Business France - any additional work necessary to have these reservations cancelled.

In the case the Contracting Party proves to be incapable of providing good quality services, Business France may have additional services provided by another company, at the expense of the Contracting Party, without any possible objection by the latter. Any related out-of-pocket costs will be invoiced to the Contracting Party and/or deducted from any sums due to the latter by Business France.

#### **ARTICLE 8 – FORCE MAJEURE**

8.1 None of the Parties shall be held responsible for any delay, non-fulfilment or non-respected obligations although stipulated in the Order, in the case these defects result from a case of force majeure. Any unavoidable, unpredictable or beyond control of the Parties event shall be considered as cases of force majeure, as stated in article 1218 of the French Civil Code. However, shall not be considered as cases of force majeure Contracting Party employees - or sub-contractors employees - being on strike or having social group actions.

8.2 The party who submits a case of force majeure shall immediately give notice to the other party when this occurs, using all the means at its disposal; it shall provide with the details on the circumstances at the origin of the case of force majeure in question.

8.3 Whatever the circumstances for a case of force majeure, the Contracting Party shall make any possible effort to avoid deferment. If deferment cannot be avoided, Business France shall have the possibility to call on another service provider until the case of force majeure arises.

8.4 In the case of force majeure, the obligations of the parties will be deferred during the entire duration of the latter and will resume their normal course as soon as the case of force majeure will be removed.

8.5 Should the provided service deferment be due to a case of force majeure that would last for a period longer than fifteen (15) days, Business France may notify the Contracting Party of the Order immediate cancellation by sending a registered letter with acknowledgement of receipt, without any due compensation.

#### **ARTICLE 9 – RESPONSABILITY**

9.1 The Contracting Party is solely liable to Business France for the compliance of his or her services and the resulting obligations.

9.2 The Contracting Party is solely liable for the methods and processes used or established to realise the services entrusted to him or her, in the respect of Business France requests.

9.3 The Contracting Party is liable for any material and/or immaterial damage resulting in particular of the loss, degradation and theft to the products entrusted by Business France and in the technical mistakes of order preparation (inversion, delay) for which he or she is responsible.

9.4 In case of variety of operators, the Contracting Party shall respond for the subcontractors to Business France in the same conditions as if the subcontracted services would have been operated directly by the Contracting Party. In particular, he or she shall assume its coordination.

9.5 The Contracting Party is liable for the infringements to the Laws, Enforcement Decrees and Regulations, committed by him or herself or its staff during the services provided to Business France.

9.6 In case of disaster, Business France shall send to the Contracting Party a detailed invoice "disaster" to be validated by him or her. The Contracting Party undertakes to pay to the beneficiary the invoices "disasters" within forty-five (45) days end of month, date of invoice.

#### **ARTICLE 10 – TECHNICAL WARRANTY**

The Contracting Party shall provide, without extra fees, a technical warranty service for a period of twelve (12) months following the date the service is being delivered. During that period of time, the Contracting Party is committed to totally repairing any technical fault which might lead to lack of compliance with the technical specifications as defined in the Order. This is also the case for any error, fault, noticeable or hidden defect, or still for any faulty functioning that occur during the above mentioned period. The Contracting Party shall therefore make itself totally responsible for any additional requested project so that the service might be provided with none of the aforesaid incidents, and thereby ensure the performance of the service as well as the related documentation.

#### **ARTICLE 11 – INSURANCE**

11.1 Each party subscribes insurance for the financial consequences of damages that may occur to him or her and civil liability he or she could be responsible for regarding orders of products and services provided to Business France.

11.2 So, the Contracting Party undertakes to subscribe, by an insurance company that is known to be solvent, an insurance policy to cover his or her proper damages and his or her civil liability for any material, personal or immaterial damages that could be directly or indirectly cause to Business France and/or third parties, as well as any special risks related to his/her activity, during the time of the orders.

11.3 The events and coverage limits will be indicated in the insurance certificate and will have to match at least with the equivalent amounts of coverage pursuant to practices in the business field of the Contracting Party.

11.4 The insurance certificate of the Contracting Party for all the risks mentioned in this article is given within fifteen (15) days.

11.5 The Contracting Party gives when the policy(ies) concerned expire(s) and at the first demand of Business France an insurance certificate indicating that the policy is in force and reminding the insurance coverage, the amount of cover per damage and the Contracting Party's activities.

11.6 Whenever insurance certificate is not submitted, Business France reserves its right to require from the Contracting Party the payment of a penalty of five hundred (500) euros per day of delay, after a period of thirty (30) days after a formal notice sent by Business France by registered letter with an acknowledgement of receipt remained unanswered.

11.7 Failure to comply with the present article may result in termination of the contract by the Contracting Party's fault.

11.8 In case of termination of the policies, by any reason, the Contracting Party undertakes to notify it immediately to Business France, to pay the insurance premiums he or she would still have to pay to his or her insurer in the periods stipulated in the contract and, generally, to make all the necessary arrangements to maintain in force the policies of the insurance contract.

11.9 The Contracting Party cannot, in any way, use the existence of the insurance policies, an insufficient coverage or insurance deductibles or exclusion of coverage or more generally, any difficulty that the insurer may oppose to him or her in case of damage to obtain a compensation of his or her damages or a limitation of liability.

#### **ARTICLE 12 – EQUIPMENT AT THE DISPOSAL OF THE CONTRACTING PARTY**

12.1 When executing the provided service, the Contracting Party shall only use its own equipment. Reversely, should the Order have it specified otherwise, the Contracting Party shall be responsible for the safekeeping, up-keeping and usage of any equipment at its disposal by Business France, regardless of the nature thereof.

12.2 The equipment that is being made available, in the framework of the Provided service, to the Contracting Party by Business France shall remain the exclusive property of Business France, notwithstanding the transfer of risk to the Contracting Party, which shall assume expenses for material repair or replacement in the case of damages that do not result either from the nature of the above mentioned equipment or from Business France and/or of its employees' actions. The equipment shall be repaired or replaced either at Business France first request, or when the service is being delivered.

Officially, the equipment shall be in perfect condition, unless specified otherwise in a joint statement by the parties.

#### **ARTICLE 13 – DOCUMENTATION**

13.1 The Contracting Party shall acknowledge of all the documents that are referred to in the Order, including these General Conditions of Purchase, and shall be responsible for assessment on possible risks and difficulties which could arise during its execution.

13.2 Any documentation entrusted by Business France to the Contracting Party shall remain the exclusive property of Business France and shall be returned to Business France, either at its first request, or when the service is being delivered.

#### **ARTICLE 14 – ASSIGNMENT – SUBCONTRACTING**

14.1 The Contracting Party shall not assign all or part of the obligations they are committed to vis-à-vis Business France without prior written approval by the latter. If this is not the case, the Contracting Party shall remain personally responsible both towards Business France and towards third parties, and as a result the right to apply the General Conditions cancellation provisions will fall to Business France. Any direct or indirect change in the control of the Contracting Party share capital will lead to the Order transfer.

14.2 As stated in article 3 of law No. 75-1334 of the 31<sup>st</sup> December 1975, if the Contracting Party intends to have the service executed by using one or more subcontractors, it is committed to prior approval by Business France on each subcontractor as well as on the conditions of payment for each of them, both during the formulation of its offer or proposal and all along the service is being executed.

14.3 Should the Contracting Party subcontract all or part of its obligations with the consent of Business France, it shall remain nonetheless fully liable, including for the subcontracted parts of the project, in accordance with articles 9 and 11.

The Contracting Party is committed vis-à-vis Business France to make sure that the service that is being executed complies with all the rules that apply, particularly, in matters of health and safety.

## **ARTICLE 15 – INTELLECTUAL PROPERTY RIGHTS**

**15.1** The resulting provided service, regardless of whether it is filed into a patent, in particular for inventions, improvements, software, developments, modifications, reports and any other document, whatever the form, specifically designed or developed by the Contracting Party during the execution of the provided service shall become the property of Business France once they are created. Business France will be free to use them, whatever the usage and purpose, with no obligation of agreement from the Contracting Party which will not have thereby any right to object.

**15.2** The Contracting Party is therefore committed to obtaining the transfer of rights from third parties (including those from subcontractors) as long as they participated to the provided service implementation, and to providing – per the request of Business France – a copy of any agreement it received in this context.

**15.3** All intellectual property rights relating to the results of the provided service actually belong to Business France, which may proceed in its name in launching any formality with the purpose of preserving its rights.

**15.4** If existing information belonging to the Contracting Party need to be used when implementing the provided service referred to in the Order, the latter shall transfer to Business France, without any further compensation, irrevocable licence for any patent and/or copyright and/or other intellectual property right letting Business France use them for all purposes, implement, reproduce, represent, translate, adapt, distribute all or part of said existing information which are therefore part of the results of the provided service, whatever the means and the country in the world.

**15.5** Business France shall not be under the obligation to give any payment to the Contracting Party's employees even if they contributed to achieving the results, including via inventions. The Contracting Party shall take all the necessary measures as for its own employees.

**15.6** The Contracting Party shall undertake not to reproduce, publish, distribute, translate, adapt or make usage of the results of the provided service referred to in the Order, of any manner whatsoever. As such, it commits itself vis-à-vis Business France to never compete with the latter, whatever the way, either when or after the so-called service is being implemented.

## **ARTICLE 16 – CONFIDENTIALITY**

**16.1** The Contracting Party undertakes to observe and enforce to its employees – and subcontractors if any – absolute professional secrecy concerning information that may be transmitted when implementing the provided service, or of which it may have knowledge when delivering the provided service. It is also the case as far as the results of the provided service are concerned, regardless of the nature and form of the above mentioned information (information on economics, law, science, technical information, etc.).

**16.2** These provisions do not apply to information which:

- when disclosed, are already in the possession of the Contracting Party ; for this, the latter shall provide proof of the said prior possession;
- when disclosed, are already out of copyright, or planned to be, as long as this cannot be ascribed to the Contracting Party;
- are disclosed by a third party legally authorised to behave as such.

**16.3** Accordingly, the Contracting Party shall refrain from copying, communicating or using for its own purpose – or that of third parties – under any form whatsoever, the said information with an objective that is not to meet the objectives referred to in the Order, and also without taking all the necessary precautionary measures. Those precautionary measures include, at the minimum level, the measures that the Contracting Party would take to protect its own confidential information.

It commits itself to returning to Business France – per Business France simple request or when completing the provided service – any document or any other medium which contains information that belong to Business France.

**16.4** This obligation shall apply for a period of ten (10) years following the completion of the Order, whatever the reason for it.

## **ARTICLE 17 – PERSONAL DATA**

**17.1** The contracting party delivers services for which its employees are as competent as required, notably as far as the respect of inside rules is concerned.

Business France explicitly reminded to the latter that all the personal data is strictly and strategically confidential.

As a result, the Contracting party agrees that all the data and files shall respect the French data protection act ("Loi informatique et libertés") and thereby are part of the obligations related to private life and professional secrecy.

**17.2** The Contracting Party commits itself to implement all the necessary procedures so that confidentiality and higher security might be respected. The Contracting Party commits itself to taking all the necessary measures so that both itself and its employee shall respect these obligations, notably that they:

- will not modify or consult the data and files sent but to the end of executing the service it is working on the account of Business France, as stated in the present document;
- will not modify or consult the data but in respect with the rules and recommendations sent by Business France;
- will take any necessary precautionary measure so that data security might be respected and notably, protecting them from being altered, damaged, and also protecting them from any third party access to it without Business France approval
- will take all the measures that will protect the data and files from any misuse, bad use or fraudulent use;
- refrain from consulting or processing data which are not the data referred to in these documents, even though access to these data is technically easy

**17.3** Besides, the Contracting Party shall refrain from:

- communicating, whatever the way, all of part of the data it is working with;
- copying or storing, whatever the means and objectives, all or part of the information or data that is included in the communication media or documents that have been given to them, or been collected by them, as the current contract was under execution.

**17.4** The Contracting Party commits itself in taking all the necessary precautionary measures as for the nature of the data and the risks that using them might imply, in conformity with article 35 of law n°78-17 of January, 6<sup>th</sup> 1978, as amended, with the purpose of ensuring file data security, and notably protecting it from being altered, damaged, lost and from being accessed without authorizations.

**17.5** The Contracting Party commits itself to maintaining the means that will enable it to ensure the files and data security and confidentiality are being respected all along the execution of the current Order, and if otherwise, to immediately inform Business France.

Should these means be modified, whatever the cause, the Contracting Party shall make sure that the new means implemented will be as performing as – or more performing than – the old ones.

The Contracting Party acknowledges and agrees that actions on accessed data and files should be submitted to the rules described in the present document.

17.6 The parties agree that the Contracting Party shall acknowledge so called instructions when having actions that are related to the current dispositions.

The Contracting Party shall only subcontract, as stated in law n°78-17 of January, 6<sup>th</sup> 1978, as amended, all or part of the services execution, notably to a subcontractor located in a country that does not belong to the European Union and/or that has not been recognised as adequately protected by the European Union on the condition it is in possession of:

- previous written and clear approval by Business France
- a written contract that was signed with the subcontractor that refers to the current clause.

17.7 Business France, responsible for the computer processing, collect personal data for its file management and Contracting Parties relationship. The information requested to the Contracting Party is necessary for the proper performance of the Provided service and communicated to Business France services and, when appropriate, to its suppliers or supervising Ministries.

17.8 Data collected under the file management and Contracting Parties relationship can be subject to cross-border flows of personal data according to the French Data Protection Law to be transferred to Business France offices abroad.

17.9 The Contracting Party has a right to query, access, amend and object on legitimate grounds to the processing of personal data. Said right shall be exercised with the Business France Data Protection Officer by e-mail sent to the [cil@businessfrance.fr](mailto:cil@businessfrance.fr) address or via regular mail accompanied by a copy of an ID card to the following address:

Correspondant informatique et libertés  
Business France  
77 Boulevard Saint-Jacques  
75014 PARIS

17.10 Business France implements reasonable measures to ensure the security and confidentiality of the data and may not be held liable in case where fraudulent access or remaining in all or part of the automatic data processing system causes the disclosure, suppression or modification of the data contained in the system or the alteration of the functioning of that system.

#### **ARTICLE 18 – RESOLUTION – SUSPENSION – CANCELLATION**

##### **18.1 In the event of default by the Contracting Party**

Should the Contracting Party fail to meet its contractual obligations, and in particular fail to meet a mandatory deadline, Business France will issue a formal notice so that the former would meet said obligations, and will send registered letter with acknowledgement of receipt within the time period set forth in the Special Conditions or, alternatively, within thirty (30) working days following the date on which said letter was posted.

Once this period has expired, if the Contracting Party has not met the obligations referred to in the formal notice, Business France shall have the choice between resolution, early cancellation of the Order, as a matter of right, or suspension with continued work on the provided service by a third party at the expense of the Contracting Party.

Should the Contracting Party not respect at all the obligations referred to in the Order, Business France will be allowed to cancel or pronounce total or partial resolution of the Order, as a matter of right.

To not respect at all means:

- failing to comply with security rules;
- subcontracting, partially or totally assigning the provided service without prior authorisation and approval by Business France;
- failing to comply with confidentiality obligation.

##### **18.2 Consequences of cancellation**

Regardless of the circumstances of the Order cancellation, those provisions - which by their nature remain valid after the provided service cancellation or completion - and in particular the obligations referred to in articles 10 and 15 of these General Conditions - shall remain effective. The Contracting Party must return, not later than 48 hours following the actual date of the cancellation, any equipment and/or documentation put at its disposal by Business France, in relation with the provided service.

When the provided services are remunerated at a package rate, Business France shall pay to the Contracting Party the amount corresponding to the deliverable actually completed as of the effective date of the cancellation or on a pro rata temporis basis.

When the provided services are not remunerated at a package rate, no compensation is due to the Contracting Party on account of suspension, resolution or early cancellation. Business France shall proceed with the payment of any service deliverable actually provided as of the effective date of the cancellation, on the basis of the contractual tariff and the activity report signed by Business France.

18.3 In the event of default by the Contracting Party, any charges including the additional charges for a third party which may carry on with the project, any additional costs and penalties incurred by Business France due to said default, will be deducted and/or invoiced to the Contracting Party.

The Contracting Party commits itself to communicate and inform Business France, or the third party designated by it, free of charge, on all the files, information and expertise required by Business France, or by said third party, under optimal conditions, that will help resuming and carrying on the execution of the provided service(s).

18.4 The application of this article shall not prejudice Business France the opportunity to possibly intend to recover damages.

#### **ARTICLE 19 – USER'S CHARTER ON Business France INFORMATION SYSTEM**

The Contracting Party commits itself to respecting the user's charter on Business France information system; and is personally engaged in having its employees who will access to the latter respect it. The Contracting Party shall ensure that its employees are properly informed when using the user's charter on Business France information system. The user's charter on Business France information system is communicated by Business France to the Contracting Party. The Contracting Party shall also take into account any Charter modification that it is informed about.

#### **ARTICLE 20 – MISCELLANEOUS PROVISIONS**

20.1 Should one of the Parties not to have mentioned in the Order the existence of the benefit of a clause, this will not mean that this party shall give up future benefits of this clause.

20.2 Should one or more provisions of these General Conditions be held as invalid or declared as such from the application of a law, a regulation or a final decision by a relevant jurisdiction, it (they) shall consequently be declared as not written provision. However, any other provisions of the latter shall remain fully valid and effective.

20.3 The shipment date of any notification by registered letter with acknowledgement of receipt shall be referred to as the date appearing on the postal services seal.

**ARTICLE 21 – GOVERNING LAW – DISPUTES**

21.1 The relations between Business France and the Contracting Party are subject to French law.

21.2 Any dispute between the Parties concerning the interpretation or execution of these General Conditions of Purchase shall be submitted to the exclusive jurisdiction of the competent courts of Paris, even though there may be multiple defendants.

**Contracting Party:**

NAME or Corporate name:

.....

The Contracting Party hereby acknowledges that is has taken cognizance of the General Conditions appearing hereabove and has accepted them.

In ....., on .....

NAME and title of signatory:

Signature and seal of the Contracting Party:

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