

Contract for Cloud Services

Summary

1	Subject matter and components of the contract.....	2
1.1	Subject matter of the contract.....	2
1.2	Contractual components.....	2
2	Overview of the agreed services.....	3
3	Subject matter of the services.....	4
3.1	Services in accordance with section 1.1 EVB-IT Cloud-AGB	4
3.2	One-off performances.....	4
3.3	Services on call	5
3.4	Ticket system.....	5
4	Due date and payment of the remuneration.....	5
4.1	Due date of the remuneration	5
4.2	Payment of the remuneration	6
4.3	Invoice address	6
4.4	Price adjustment.....	6
5	Supplementary agreements in the case of remuneration for services rendered by persons on a time and effort basis	6
5.1	Agreement on the price categories for remuneration according to time and effort by personnel employed by the Contractor.....	6
5.2	Deviating regulations for the determination and remuneration of person daily rates	7
5.3	Special provisions on remuneration by time and effort	7
6	Deviating liability regulations.....	7
7	Representatives and contact persons.....	7
7.1	Agent of the Contractor (name, email address).....	7
7.2	Contact person for questions regarding the contract (name, email address).....	7
8	Further regulations.....	7
8.1	Special requirements for employees of the Contractor	7
8.2	General safety requirements	7
9	Audit rights	8
9.1	Subcontractor	8
9.2	Confidentiality	8
9.3	Liability insurance	8
10	Other Provisions	8
10.1	General provisions.....	8
	The contract comes into force upon notification of its award.	8
10.2	Regulations for the provision of the initial service as work.....	8

Contract number / identifier Client: **10015780**

Contract number / identifier Contractor: _____

CONFIDENTIAL

Contract for cloud services

between Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH "GIZ or Principal"and Contractor named in the Contract award notification "Contractor"

the following contract is concluded:

1 Subject matter and components of the contract

1.1 Subject matter of the contract

The subject matter of the contract is the following cloud services: _____ (IT Solution)

1.2 Contractual components

The following shall apply as integral parts of the contract in the following order of priority:

1.2.1 this contract text with the following annexes:

Annexes to the EVB-IT Cloud Contract			
(Attention: The Contractor's GTC are not to be indicated here, but in section 1.2.4)			
Annex No.	Designation	Date/Version	Number of pages
1	2	3	4
1	Terms of Reference (ToR) incl. Annexes	<u>Date</u> _____ <u>of</u> <u>publication</u>	##
2	Price Sheet	<u>Date</u> _____ <u>of</u> <u>publication</u>	##
3	■ Technical Offer	<u>According to the</u> <u>contract award</u> <u>letter</u>	##
4	Special terms and conditions of GIZ	<u>According to the</u> <u>contract award</u> <u>letter</u>	_____
5	Data processing agreement (DPA) including the technical and organisational measures (TOM)	<u>In the respective</u> <u>valid version</u>	_____
6	If applicable, license regulations (EULA). of the contractor	<u>According to the</u> <u>contract award</u> <u>letter</u>	
7	Bidder Questions and corresponding answers		

☐ The annexes shall apply in the following order of priority

1.2.2 The Supplementary Terms and Conditions for Cloud Services (EVB-IT Cloud-AGB) in the version applicable at the time of provision of the tender documents

Contract number / identifier Client: **10015780**

Contract number / identifier Contractor: _____

CONFIDENTIAL

1.2.3 and thereafter the General Conditions of Contract for the Execution of Services (VOL/B) in the version applicable at the time of provision of the tender documents.

1.2.4 and thereafter

- ☐ the following General Terms and Conditions of the Contractor regarding the type and scope of the Cloud Services (together Annex No. _____)

Designation	Date/Version	Number of pages
_____	_____	_____
_____	_____	_____

- ☒ the Contractor's GTC according to the "Annex for the Inclusion of Contractor's GTC", therein "I. Annex to the EVB-IT Cloud Contract".

The aforementioned Contractor-side GTC* on the nature and scope of the cloud services are also effectively included insofar as they provide for a dynamic reservation of the right to make changes, insofar as the changes are not to the disadvantage of the Client.

Any inclusion of the contractor's GTC* on the nature and scope of the cloud services shall only be subordinate to all other provisions and only to the extent that they neither conflict with nor restrict all other contractual provisions.

Notwithstanding the foregoing, with regard to individual concrete requirements, corresponding contractor-side GTC* provisions on the type and scope of the cloud services shall apply with priority to the EVB-IT Cloud-AGB, insofar as this is expressly agreed with regard to the categories listed here in the Annex for the inclusion of contractor-side GTC*, therein "II Annex to the Catalogue of Criteria".

Further Contractor-side GTC* are excluded, irrespective of whether they have been included in this contract or not.

The EVB-IT Cloud-AGB are available for inspection at www.cio.bund.de and the VOL/B at www.bmwi.de.

The euro shall apply uniformly as the currency for all amounts stated in this contract. The agreed remuneration is net of the statutory value-added tax, insofar as value-added tax is payable.

1.2.5 Order of priority of the right of use regulations

Agreed rights of use shall apply in the following order of priority:

- Rights regulations of the Client according to Annex No. _____ (e.g., Annex No. 3 Criteria Catalogue(s) for Cloud Performance or Annex No. 1 Service Description)
- Item 14 EVB-IT Cloud-AGB
- the right of use provisions from the contractor's GTC* on the nature and scope of the cloud services included in accordance with section 1.2.4. However, these only apply insofar as they neither conflict with nor restrict the other contractual provisions.

2 Overview of the agreed services

- ☒ Special initial services (setup)
- ☒ Software as a Service* (SaaS*), Platform as a Service* (PaaS*)
- ☐ Infrastructure as a Service* (IaaS*)
- ☐ Managed Cloud Services* (MCS*)
- ☐ Performances at the end of the contract
- ☒ Other services, [according to annex 2 Terms of reference](#)

Contract number / identifier Client: **10015780**

Contract number / identifier Contractor: _____

CONFIDENTIAL

3 Subject matter of the services

The nature, scope, and dates of the services to be provided are shown in the following table (schedule of dates and services):

3.1 Services in accordance with section 1.1 EVB-IT Cloud-AGB

No.	Product/Service: (Product and service description and/or reference to criteria catalogue(s) for cloud services in Annex No. 3)	Quantity	MV D ¹	Start ²	End/Date ³	Deviating notice period in months ⁴	Automatic renewal by number of months ⁵	Monthly price or deviating price model according to Annex
1	2		3	4	5	6	7	8
1	Pursuant to Terms of References	Pursuant to Terms of References and Price Sheet	N/A	Pursuant to Contract award notification	Pursuant to Contract award notification	Pursuant to Contract award notification	N/A	Pursuant to Price Sheet (Annex 3)

¹ MVD = Minimum contract period

² If there is no default start date, leave the field blank. In this case, the conclusion of the contract is considered the start

³ e.g., fixed date with time if necessary or "after 48 months" (if the contract is open-ended, leave the field blank).

⁴ If, in deviation from clause 20.1 of the EVB-IT Cloud-AGB

⁵ The service period is extended by the agreed months if it is not terminated with three months' notice to the end of the term.

⁶ Inclusion of a price sheet is possible here, especially in the case of a deviating price model.

3.2 One-off performances

3.2.1 Initial performances

3.2.1.1 Type and scope of the initial performance

- ☒ The Contractor shall owe initial performances to bring about operational readiness*.
- ☒ Details according to Annex No. 2 Terms of reference and in connection with the provisions in No. 9.2 of this contract
- ☐ The performances shall not be provided on the basis of this contract, but within the framework of a separate contract pursuant to Annex No. _____.
- ☐ Further regulations on initial performance according to Annex No. _____

3.2.1.2 Remuneration of the initial performance

The initial performances are not remunerated separately, unless otherwise regulated below:

- ☐ The remuneration for the initial services shall be paid at a fixed flat rate of _____ Euro according to price sheet (annex 3) and after acceptance according to 9.2 of this contract.
- ☐ The remuneration for the initial services shall be made according to effort in accordance with category/categories _____ from number 5.1
- ☐ with an upper limit in the amount of _____ Euro.

3.2.2 Other one-off performances

3.2.2.1 Nature and scope of other performances

- ☒ The Contractor shall provide the other performances described in Annex No. 2 Terms of reference

Contract number / identifier Client: **10015780**

Contract number / identifier Contractor: _____

CONFIDENTIAL

3.2.2.2 Remuneration for other performances

- ☐ Remuneration for the other performances shall be paid at a fixed flat rate of _____ Euro.
- ☒ Remuneration for the other performances shall be made according to effort in accordance with category/categories 1 from number 5.1
- ☒ with an upper limit in the amount of _____ Euro according to annex 3 price sheet.

3.2.3 Performances at the end of the contract**3.2.3.1 Nature and scope of performances at the end of the contract**

- ☒ Pursuant to Section 13.2 EVB-IT Cloud-AGB, the Contractor is obliged to render performances to a reasonable extent which are necessary to enable a new Contractor or the Client to take over the services.
- ☐ In deviation from/supplement to clause 13.2 EVB-IT Cloud-AGB, the Contractor owes the following performances in connection with the end of the contract: _____

3.2.3.2 Remuneration for performances at the end of the contract

- ☐ Remuneration for the performances at the end of the contract shall be made at a fixed flat rate in the amount of _____ Euro.
- ☐ Remuneration for the performances at the end of the contract shall be based on effort in accordance with category/categories _____ from number 5.1
- ☐ with an upper limit in the amount of _____ Euro.

3.3 Services on call

The services according to no. _____ (here number 3.1 no. X or number 3.2.2) are provided on call.

- ☐ The minimum lead time for the call-off is _____ (hours/days).
- ☐ The estimated utilization is _____ (quantity) per _____ (e.g., contract month/contract quarter/contract year/contract term); the maximum quantity or value is _____ (quantity/euro).
- ☐ The agreed minimum utilization is _____ (quantity) per _____ (e.g., contract month, contract quarter, contract year, contract term).

The Client is not obliged to call off. This does not apply to the minimum utilization agreed here, if applicable.

3.4 Ticket system

- ☐ The Parties shall use the ticket system for the reporting, classification, and confirmation of disruptions*, other reports and requests as well as for the observation and monitoring of the processing progress

- _____
- ☐ of the Contractor,
- ☐ of the Client,
- which
- ☐ is accessible at the web address _____.
- ☐ is provided as follows _____.

4 Due date and payment of the remuneration**4.1 Due date of the remuneration**

By way of derogation from section 16.1 EVB-IT Cloud-AGB, the remuneration for recurring services is not due monthly in arrears by the 15th of each month, but:

- ☐ quarterly by the 15th of the second month of the current quarter
- ☐ annually by _____ of the current year
- ☐ one-off by _____
- ☐

Contract number / identifier Client: **10015780**

Contract number / identifier Contractor: _____

CONFIDENTIAL

In deviation from section 16.2.1 EVB-IT Cloud-AGB, the remuneration for services according to effort is not due monthly in arrears by the 15th of each month, but:

☐ _____

4.2 Payment of the remuneration

☐ In deviation from section 16.3 EVB-IT Cloud-AGB, remuneration due is payable not 30 days but _____ days after receipt of an auditable invoice.

4.3 Invoice address

☐ The invoice must be submitted electronically in accordance with the requirements of the e-Invoice Regulation.

The routing ID _____ must be indicated in the invoice or for invoice creation. In addition, all compulsory fields, and the additional fields

must be filled in.

An invoice that is not issued electronically contrary to the above provision does not constitute a delay pursuant to Section 286 (3) of the German Civil Code (BGB).

☒ The invoice address is shown in [Annex No. _____](#) the contract award letter.

4.4 Price adjustment

☒ A price adjustment is agreed:

☐ in accordance with section 16.5 EVB-IT-Cloud GTC:

☐ for the monthly flat-rate fixed price in accordance with point 3.1.

☐ for the following further allowances: _____.

☒ according to [Annex No 5 Special terms and conditions of the GIZ](#)

5 Supplementary agreements in the case of remuneration for services rendered by persons on a time and effort basis

5.1 Agreement on the price categories for remuneration according to time and effort by personnel employed by the Contractor

No.	Designation of the personnel category	Remuneration for activities within business hours		Surcharges in per cent on the remuneration rates from columns 3 and 4 for activities within the following periods				
		Hourly rate	Daily rate	Working days - Monday to Friday outside business hours	Saturday		Sundays and public holidays at the place of performance	
					from _____ to _____	from _____ to _____	from _____ to _____	from _____ to _____
1	2	3	4	5	6	7	8	9
Category 1	Services according to annex 2 Terms of reference		According to annex 3 price sheet.	_____ %	_____ %	_____ %	_____ %	_____ %
Category 2				_____ %	_____ %	_____ %	_____ %	_____ %
Category 3				_____ %	_____ %	_____ %	_____ %	_____ %

Determination of business hours:

Contract number / identifier Client: **10015780**

Contract number / identifier Contractor: _____

CONFIDENTIAL

Working day	Business hours			
Monday till Thursday	from		to	o'clock
Friday	from		to	o'clock

- ☐ further agreements (e.g., on travel expenses deviating from clause 16.2.1 EVB-IT Cloud-AGB according to Annex No. _____.

5.2 Deviating regulations for the determination and remuneration of person daily rates

- ☐ In deviation from section 16.2.3 sentence 2 of the EVB-IT Cloud-AGB, up to 10 hours may be invoiced for a person day if appropriate evidence is provided.
- ☐ In deviation from section 16.2.3 sentences 2 and 3 EVB-IT Cloud-AGB, a full daily rate can only be invoiced if at least 10 hours have been worked. If less than 10 hours are worked per day, these are to be invoiced on a pro rata basis.
- ☐ further agreements according to Annex No. _____.

5.3 Special provisions on remuneration by time and effort

- ☐ By way of derogation from section 16.2.1 EVB-IT Cloud-AGB, ancillary costs/travel expenses/travel time/material costs shall be remunerated in accordance with Annex No. _____.
- ☐ Further special provisions on remuneration by time and effort are agreed in Annex No. _____.

6 Deviating liability regulations

- ☐ In deviation from section 19.1 EVB-IT Cloud-AGB, the liability for slightly negligent breaches of duty shall be governed by the provisions set out in Annex No. _____.
- ☐ In deviation from section 19.2 EVB-IT Cloud-AGB, the Contractor shall also be liable for loss of profit.

7 Representatives and contact persons

7.1 Agent of the Contractor (name, email address)

- ☐ Information security: _____,
- ☐ Data protection: _____,
- ☐ Secret protection: _____.

7.2 Contact person for questions regarding the contract (name, email address)

for the Contractor [according to self-declaration](#)

for the Client [according to contract award letter](#).

8 Further regulations

8.1 Special requirements for employees of the Contractor

- ☐ For the tasks according to Annex No. _____ only personnel who are willing to be obligated on the basis of the Commitment Act shall be deployed.
- ☐ Minimum requirements for the Contractor's personnel to be deployed (e.g., security clearance in accordance with SÜG) are set out in Annex No. _____.

8.2 General safety requirements

For the term of the contract, the Contractor undertakes

- ☒ to comply with the regulations on IT security in accordance with Annex No. [2 Terms of reference \(or annex to Terms of reference\)](#).
- ☐ to be subject to confidentiality supervision in accordance with Annex No. _____.
- ☐ to comply with the Client's regulations on safety at the place of work in accordance with Annex No. _____.
- ☐ comply with the following further regulations: _____.

Contract number / identifier Client: **10015780**

Contract number / identifier Contractor: _____

CONFIDENTIAL

9 Audit rights

- ☐ In addition to section 6.4 EVB-IT Cloud-AGB and without prejudice to the statutory provisions, not only the Client and auditing firms obliged by the Client to maintain professional secrecy, but also
- ☐ the supervisory bodies of the Client
 - ☐ the BSI
 - ☐ the following auditors appointed by it _____
- Are entitled to check compliance with the measures. The Contractor shall grant the necessary rights of access, inspection and information for this purpose and shall provide support to the extent required.
- ☐ In addition to or in deviation from section 6.4 EVB-IT Cloud-AGB, regulations on audit rights are set down in Annex No. _____.

9.1 Subcontractor

- ☐ With regard to the use of subcontractors, section 15.3 EVB-IT Cloud-AGB shall apply instead of section 15.1 EVB-IT Cloud-AGB.

9.2 Confidentiality

- ☐ In addition to or in deviation from section 6.3 EVB-IT Cloud-AGB, regulations on confidentiality are set down in Annex No. _____.

9.3 Liability insurance

- ☐ Proof of liability insurance in accordance with section 21 EVB-IT Cloud -AGB is agreed.

10 Other Provisions

- ☒ Other agreements:

10.1 General provisions

10.1.1 Start of the contract, place of supply

The contract comes into force upon notification of its award.

The Contractor performs the work/service for a GIZ country office in GIZ Country Office Ethiopia and Djibouti, O. Box 100009., Kirkos Sub-City, Woreda 8, Addis Ababa, Ethiopia. In accordance with Section 3a, Paragraph 2, Sentence 2 of the German VAT Act (Umsatzsteuergesetz – UStG), the place of supply for VAT purposes is therefore in Ethiopia (third country).

10.1.2 Advance payment

Advance payments shall be made upon written request for payment no later than 15 days after the end of the calendar month in which the contractually agreed work was started.

The provision and the amount of any advance payments shall be specified in the contract award notification. The amount is based on the funds required for three or, if applicable, six months. In the event that security is required, this shall be mentioned in the contract award notification.

The advance payment shall be offset over the contract term, at the latest against the final invoice. Notwithstanding section 9.3 of the EVB-IT Service Contract GTC, invoices shall be issued quarterly in arrears if advance payment has been made.

10.1.3 Options or follow-on contract

Pursuant to Section 12 in the terms of reference, GIZ reserves the right to exercise options or enter into a follow-on contract.

10.2 Regulations for the provision of the initial service as work

10.2.1 Initial configuration and operational readiness

The Contractor shall customise the IT solution in accordance with the specifications in Annex 2 Terms of Reference,

Contract number / identifier Client: 10015780**Contract number / identifier Contractor: _____****CONFIDENTIAL**

make the customised IT solution ready for operation as set forth in Annex 2 Terms of Reference, and make the ready-to-operate IT solution available for acceptance by the agreed date at the latest.

If the Contractor defaults in operational readiness of the IT solution, the Client may claim damages for delay and contractual penalties in accordance with Section 10.2.11.

10.2.2 Rules for acceptance

Acceptance shall be made in text form.

The client shall be entitled to warranty claims for defects that are obvious at the time of acceptance even if the right to make such claims was not reserved at the time of acceptance.

Expenses for acceptance, testing, and test licences are not remunerated separately.

10.2.3 Object of acceptance

The object of acceptance is the operational version of the contractually customised IT solution. The acceptance criteria set out in Annex 1 Service Description shall apply.

10.2.4 Declaration of acceptance

The Contractor shall declare readiness for acceptance to the Client in text form as soon as the IT solution, upon the conclusion of the Contractor, fulfils the criteria set out in the Terms of Reference and can be used by the Client in accordance with the contract.

10.2.5 Functional test

The Contractor shall always carry out a functional test on the basis of a test concept developed by the Contractor and agreed upon with the Client, or on the basis of test cases. The technical requirements and/or functions defined or described in the Terms of Reference of this contract or otherwise in writing shall be tested on the basis of the test concept or the test cases.

10.2.6 Deficiencies

The Client shall notify the Contractor immediately in text form of any defects identified and shall classify the defects in accordance with the table below.

Defect category	Definition
Category 1 (minor defect)	A minor defect is deemed to exist if the functionality of the system, or the function, or the application is only insignificantly impaired.
Category 2 (Defect hindering operation)	A defect that hinders operation is deemed to exist if the functionality of the system, or the function, or the application is noticeably restricted. The basic functionalities are retained. A defect hindering operation is also deemed to exist if minor defects lead to a noticeable overall restriction of the functionality of the system, or the function, or the application.
Category 3 (Defect preventing operation)	A defect preventing operation is deemed to exist if the functionality of the system, or the function, or the application is severely impaired or if there is a total failure of the system core components.

The Contractor shall immediately rectify any defects preventing further testing. Defects that do not prevent further testing shall be rectified by the Contractor in consultation with the Client's test manager at regular intervals.

The Client is entitled to cancel the functional test in the event of defects preventing operation.

10.2.7 Remedy of defects

Upon cancellation of the functional test, the Client shall set a reasonable deadline for the Contractor to remedy the defects. Once they have been eliminated, the Client shall again declare the operational readiness of the overall

Contract number / identifier Client: **10015780**

Contract number / identifier Contractor: _____

CONFIDENTIAL

system accordingly. The Contractor shall have the right to carry out a new functional test within 14 calendar days. This shall also apply if the previous functional test was carried out in full despite defects preventing operation. If the Client cancels the functional test again, the Contractor shall be in default in accordance with Section 10.2.11. This shall not be the case if the delay is attributed to the Client. The Client is authorised to carry out further functional tests at own discretion until the defect-free function has been established. The Client's rights under Section 10.2.11 shall remain unaffected. The Contractor shall reimburse the Client for all costs incurred as a result of repeated functional tests, starting with the third repetition.

10.2.8 Certification of faultlessness

If the functional test is faultless, the Client shall issue the Contractor with a certificate to this effect. If it only contains defects in defect category 1 (minor defect), the Client shall not unduly refuse to issue the certificate.

10.2.9 Migration of login and profile data

For the avoidance of doubt, the parties agree that the provisions of paragraphs 10.2.3 to 10.2.8 above shall also apply to any agreed migration of login and profile data.

10.2.10 Warranty claims

The statute of limitations for claims for defects of material and title is 24 months. The statute of limitations for claims for defects of title in the IT solution is 36 months. Both shall apply in each case as of the declaration of acceptance, unless otherwise agreed. Notwithstanding sentences 1 and 2, claims shall become time-barred within the regular statute of limitations if the Contractor has fraudulently concealed the defect. In this case, the statute of limitations shall not end before the limitations enshrined in sentences 1 and 2.

10.2.11 Contractual penalty for delay

If the delay pursuant to Section 10.2.1 exceeds more than seven calendar days, the Client shall be entitled to demand a contractual penalty of 0.1% of the contract value for each calendar day on which the Contractor is in default. The contract value according to paragraph 1 above is a lump sum and corresponds to the gross invoice amount of all remuneration invoiced by the Contractor in the last 12 months from the due date of the respective contractual penalty. The total of the contractual penalties to be paid on the basis of the aforementioned paragraphs shall not exceed 5% of the contract value. The contractual penalties shall be offset against claims for damages. Insofar as this contract provides for contractual penalties and/or lump-sum claims for damages by the Client, this shall not exclude the assertion of actual higher damages.

☐ The other agreements are shown in Annex No. _____.

Date, Client

No signature required

Date, Contractor

No signature required