

# GENERAL CONDITIONS OF PURCHASE FOR DEVELOPMENT SERVICES

## of HELLA GmbH & Co. KGaA

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These General Terms and Conditions of Purchase for Development Services (hereinafter referred to as "**T&C-DS**") of **HELLA GmbH & Co. KGaA** (Rixbecker Straße 75, 59552 Lippstadt, Germany) and its **subsidiaries** (hereinafter referred to as "**HELLA**"), apply to all development services provided by the Contractor to HELLA.

Contractor immediately in writing to HELLA before the start of the service provision.

## 1. SUBJECT OF THE CONTRACT

1.1. The term "development services" includes, among other things, IT consulting, software development, software programming, preparation of documentation and descriptions (source code documentation, interface descriptions, etc.), specifications and requirement specifications, analyses and reports (hereinafter referred to as "**services**").

2.3. The Contractor shall perform the services in accordance with the principles of proper professional practice using the respective state of the art. He takes into account recognised process descriptions and industry standards (e.g. ITIL, DIN) and ensures that qualified and reliable personnel are used for the provision of all services.

1.2. Unless expressly agreed otherwise, the following order of precedence shall apply as an integral part of the contract (hereinafter also referred to as "**contract components**")

1. the order of HELLA,
2. the specifications of HELLA,
3. these General Terms and Conditions of Purchase for Development Services,
4. the offer submitted by the Contractor, and
5. otherwise the legal provisions.

2.4. In case of non-automotive development services, the Contractor shall perform its services using a quality management system which at least meets the requirements of the current version of ISO 9001 and undertakes to continuously develop this system in accordance with the state of the art. If HELLA makes further demands on the quality management for the non-automotive development (e.g. ISO/IEC 27001:2017), these are listed separately in the specifications and the Contractor then provide his services while maintaining the required quality requirements. In case of automotive development services (e.g. vehicle-integrated and vehicle-related software), the Contractor undertakes to comply with the Hella quality requirements as specified in the "Hella Guiding Principles for Software Suppliers" (AD-01101) and the "Hella Standard Development Requirements for Suppliers" (AD-01100). These documents will be sent to the Contractor by HELLA prior to the order as part of the supplier qualification process. Further quality requirement for automotive development services is the fulfillment of IATF 16949:2016 or alternatively, in case of non-applicability of IATF 16949:2016, the current version of ISO 9001. If HELLA makes further demands on the quality management for automotive development (e.g. ISO/IEC 26262:2012; ISO/IEC 27001:2017, VDA 6.3, Hella quality management guideline for suppliers"(AD-00385)), these are listed separately in the specifications and the Contractor then provide his services while maintaining the required quality requirements.

1.3. All orders placed by HELLA are exclusively subject to the terms and conditions of purchase of HELLA. Any sales conditions of the Contractor that deviate in content shall not become a basis for the contract, even if HELLA does not expressly object to them in individual cases. Changes or additions and other collateral agreements must be made in writing.

## 2. PROVISION OF SERVICES

2.1. Before the start of the service provision, the parties shall each appoint a responsible contact person. The other contracting party must be informed of any change of contact person.

2.5. HELLA has the right to be informed about the progress of the project at any time. For this purpose, the Contractor shall send the necessary information to HELLA immediately upon request during the normal business hours of HELLA (on working days between 08:00 and 17:00).

2.2. In addition to the contractual components, the specifications, descriptions, functionalities, schedules, performance potential (e.g. of the software to be created) and other documents (hereinafter referred to as "**requirements**") agreed between HELLA and the Contractor shall apply to the provision of services. The requirements are checked by the Contractor before the start of his service provision for completeness, clarity, conclusiveness and technical feasibility. Incomplete, faulty, incomprehensible or technically unfeasible requirements shall be reported by the

2.6. In addition, the Contractor shall report to HELLA regularly and at least every two weeks on the status of the project, in particular on compliance with the requirements of the service description and the schedule.

2.7. The Contractor must hand over the work results to HELLA in electronic form (including source code) after completion of the service. In addition, HELLA can demand the immediate surrender of the work results already achieved at any time and without giving reasons. Upon request, the Contractor shall present the services he has provided in a presentation of results.

2.8. Agreed dates and deadlines are binding. The Contractor shall notify delays immediately as soon as they become apparent. In this case, HELLA reserves the right to assert its statutory rights, in particular to claim damages in the event of a culpable breach of duty by the Contractor.

2.9. The Contractor is obliged to provide the services under this contract himself. Only he is authorized to give instructions to his assigned employees. The parties agree that the assignment shall not result in an employment or service relationship between the employees deployed by the Contractor and HELLA. The inclusion of Subcontractors requires the prior written consent of HELLA. The Contractor shall carefully select the Subcontractors with special consideration of their qualifications and suitability to perform the services. The relevant test documents and qualifications must be made available to HELLA on request.

2.10. HELLA can demand changes and additions to the service at any time, if these are technically feasible and reasonable for the Contractor. The Contractor shall examine change requests for technical feasibility within 5 working days of receipt and inform HELLA of the result in writing. The Contractor shall continue to perform the contractual services as scheduled during an ongoing change in performance procedure, unless HELLA instructs him in writing that the work should be stopped or restricted until a decision is made on the change of performance. If additional costs or a postponement of the project schedule arise in connection with the change, the Contractor shall inform HELLA immediately. Changes and additions must be made in writing. The Contractor must adapt all work results, including the documentation, to the changes.

### 3. OBLIGATIONS TO COOPERATE

If the parties have agreed on cooperative actions by HELLA, the Contractor undertakes to demand these cooperative actions in good time so that the agreed dates and deadlines are not jeopardized. Dates and deadlines remain binding in accordance with clause 2.8. If HELLA does not fulfil its agreed cooperative actions and if the Contractor is therefore

unable to provide its services within the agreed dates and deadlines, these shall be extended by a reasonable period of time.

### 4. SUPPLIES

4.1. Documents, information, hardware and software etc. provided to the Contractor free of charge by HELLA for the provision of the services (hereinafter referred to as "**Supplies**") must not be passed on to third parties. The Supplies remain property of HELLA. HELLA must be notified immediately in writing of any missing Supplies necessary for the provision of the services. If the provision of the service is delayed due to a lack of Supplies, agreed dates and deadlines shall be extended by the duration of the delay.

4.2. The Contractor is obliged to treat the Supplies provided with care and, in accordance with clause **Error! Reference source not found.** of this contract, confidentially. Provided Supplies may only be used for the fulfilment of the service and must be returned to HELLA by the Contractor immediately on request.

4.3. Any use, processing, modification and further development of the provided Supplies is always done for HELLA.

### 5. RIGHTS OF USE

5.1. The term "**work results**" refers to all results and findings (e.g. know-how, inventions, copyright-protected results, software) achieved by the Contractor in the course of providing his services, including the documentation, descriptions, analyses, reports and records produced.

5.2. The Contractor grants HELLA the unrestricted, exclusive and irrevocable right to all known and unknown types of use of the work results at the time of their creation in terms of space, time and content, as well as the sole and unrestricted right of ownership of the work results for which such a right can be established and transferred. In particular, HELLA has the unrestricted right to reproduce, process (e.g. redesign, convert for other operating systems), transfer to other forms of presentation and otherwise change, continue and supplement, distribute, publicly disseminate in unchanged and modified form without restriction, grant sub-licences and transfer all rights of use granted within the scope of this contract against payment or free of charge.

5.3. Insofar as work results are created that can be protected by industrial property rights, the Contractor is obliged to inform HELLA immediately in writing. HELLA is free to

register/apply for registration/application of these work results in the form of property rights in its name or to transfer them to third parties. The Contractor shall provide HELLA with comprehensive support in this respect, and in particular shall immediately provide HELLA with the information required for this purpose, make the necessary declarations and take all other necessary measures. The Contractor is prohibited from making a corresponding entry in his own name or that of a third party or from supporting third parties directly or indirectly in this respect. In the case of inventions and technical improvements, the provisions of the German Employee Inventions Act apply. The obligations arising from the German Employee Invention Act shall remain with the Contractor.

- 5.4. Insofar as the work results do not contain components developed within the framework of this contract, but existing components of the Contractor or components licensed from third parties, the Contractor grants HELLA the non-exclusive, sublicensable right to use these free of charge, without restrictions in terms of time, space and content. The Contractor must inform HELLA about these components in writing.
- 5.5. The Contractor must ensure that the fulfilment of his obligations according to clause 5. is not impaired by the rights of third parties, e.g. employees and Subcontractors, to make appropriate agreements with them regarding rights of use for work results and inventions and to make use of these rights to the extent necessary for the fulfilment of his contractual obligations to HELLA.
- 5.6. The remuneration for the granting of rights in accordance with clause 5. is settled with the remuneration in accordance with clause 10. The Contractor shall have no further claims.
- 5.7. The Contractor guarantees that the work results and services do not violate any rights of third parties. For this purpose, the Contractor shall conduct research into the rights of third parties to the extent customary in the industry. Should third parties assert a violation of their rights against HELLA, the Contractor shall indemnify HELLA against all damages and costs resulting therefrom, including court and settlement costs and the costs for legal advice required at the reasonable discretion of HELLA. The Contractor shall proactively support HELLA in the judicial and extrajudicial settlement of such disputes with third parties, whereby the sole right to litigation and the right to conclude judicial and extrajudicial settlements shall remain with HELLA. If the exercise of the rights arising from this contract is opposed

by the rights of third parties, the Contractor is obliged, at the discretion of HELLA, to acquire the necessary licences at his own expense for the benefit of HELLA or to modify the work results in such a way that the infringement is eliminated in compliance with the specifications and the quality of the work results owed.

- 5.8. The liability according to clause 5.7. shall not apply if the Contractor provides the services to be rendered according to mandatory specifications of HELLA and is not responsible for an infringement of third party property rights and copyrights.

## **6. FORCE MAJEURE**

Industrial disputes, with the exception of strikes restricted to the Contractor's company, unrest, official measures by administrative authorities and other unforeseeable, unavoidable and severe events shall release the contracting parties from their contractual obligations for the duration of the disturbance and to the extent of its effect. The parties are obliged to exchange the necessary information immediately within the scope of what is reasonable and to adapt their obligations to the changed circumstances in good faith.

## **7. CONFIDENTIALITY**

- 7.1. The Contractor shall treat as confidential all information received within the framework of the cooperation, whether in writing or orally or in any other way, in particular documents, specifications, drawings, templates, models, tools, documents, hardware and software, as well as other data carriers, which HELLA has made available to the Contractor on the basis of this contract or in connection with it, and shall not make them available to any third party, in any way whatsoever, or reproduce them, unless this is absolutely necessary for the performance of the services. The Contractor shall ensure that its employees and its vicarious agents shall undertake to maintain confidentiality accordingly. HELLA reserves all property rights and copyrights to the information and objects listed in the first sentence of this clause.
- 7.2. The disclosure of the information referred to in clause 7.1. sentence 1 does not include the right for the Contractor to apply for industrial property rights for inventions contained therein. Disclosure does not imply any right for the Contractor to use the information beyond the purpose of providing the service.
- 7.3. The Contractor will not report publicly about the assignment and will treat it confidentially. He may only use the business

relationship, in particular the name, the company logo or the registered trademark or sample of HELLA as a reference, with the prior written consent of HELLA.

## 8. COMPLIANCE

8.1. The Contractor undertakes to observe the principles described in the HELLA Code of Conduct for Suppliers and Service Providers and ensures that these principles are also observed by its own suppliers and service providers. The Code of Conduct is available on the HELLA homepage in the section Company > Corporate Responsibility > under [https://www.hella.com/hella-com/assets/media\\_global/English-HELLA\\_CODE\\_OF\\_CONDUCT.pdf](https://www.hella.com/hella-com/assets/media_global/English-HELLA_CODE_OF_CONDUCT.pdf).

8.2. The Contractor is obliged to abstain from any acts or omission which may lead to criminal liability for fraud or embezzlement, insolvency offences, offences against competition law, granting of advantages, acceptance of advantages, bribery, corruption or comparable offences by persons employed by the Contractor or other third parties. In the event of an infringement of this provision, HELLA is entitled to withdraw from or terminate all legal transactions with the Contractor without notice and to terminate all negotiations. Notwithstanding the foregoing, the Contractor is obliged to comply with all laws and regulations concerning him and the business relationship with HELLA.

8.3. If the Contractor has entered into a culpable agreement, a concerted practice or any other conduct with regard to the provision of his services, which constitutes an inadmissible restriction of competition within the meaning of the applicable competition/antitrust law regulations, the Contractor shall pay HELLA 8% of the net invoice amount of the scope of delivery affected by this competition/antitrust law violation as damages, unless the Contractor can prove that HELLA has not suffered any or only minor damage due to the competition/antitrust law violation. This obligation shall continue to apply even in the event of performance or termination of the business relationship or an individual order. Other or further contractual or legal claims of HELLA remain unaffected by this; in particular, HELLA may assert higher damages against corresponding evidence.

## 9. OPEN SOURCE SOFTWARE

9.1. If the Contractor intends to use open source software ("OSS") in the provision of services (in particular in the creation or further development of individual software), he will inform HELLA immediately in writing and conclude the

SUPPLEMENTARY AGREEMENT ON OPEN SOURCE SOFTWARE with HELLA. Without the conclusion of and compliance with the SUPPLEMENTARY AGREEMENT ON OPEN SOURCE SOFTWARE, the Contractor is not permitted to use OSS in the provision of services, in any way whatsoever.

9.2. The use of OSS without the conclusion of the SUPPLEMENTARY AGREEMENT ON OPEN SOURCE SOFTWARE as well as a breach of the provisions of the SUPPLEMENTARY AGREEMENT ON OPEN SOURCE SOFTWARE constitutes an essential contractual breach of duty by the Contractor.

## 10. REMUNERATION AND PAYMENT TERMS

10.1. Offers are binding and not to be remunerated, unless the parties have expressly agreed otherwise. Calculation errors are at the expense of the offer creator.

10.2. Unless otherwise agreed, the Contractor must provide HELLA with weekly proof of the hours actually worked and the results of the work performed (hereinafter referred to as "performance records"). The Contractor must hand over performance records in writing, but at least in text form (e.g. by e-mail), to the responsible contact person of HELLA in accordance with clause 2.1. The proper performance record is a prerequisite for the due date of the invoice.

10.3. The Contractor shall receive the remuneration specified in the order for the services actually rendered. Remuneration is only paid after the service has been provided. Unless otherwise agreed, the Contractor shall invoice his services on a monthly basis.

10.4. If the parties have agreed on a budget, the Contractor is not entitled to

- (i) the remuneration of services in excess of the agreed budget, and/or
- (ii) exhaustion of the agreed budget,

unless HELLA has given its prior written consent to the excess or exhaustion. The Contractor shall inform HELLA immediately in writing if the agreed budget is 80% exhausted or if it is apparent that the agreed budget is not sufficient to fulfil the agreed services.

10.5. The remuneration is exclusive of value added tax at the respective legally stipulated rate. The Contractor undertakes to inform HELLA of all other taxes incurred in connection with the order. In the event of violations of tax regulations due to a lack of information on the part of the Contractor, the

Contractor shall indemnify HELLA against all claims. If fees are incurred for the remuneration (e.g. transfer fees), the parties agree on a fee sharing. The remuneration shall be paid in EURO.

10.6. Payment by HELLA is made 90 days after the date of receipt of the invoice, unless the parties have expressly agreed otherwise.

10.7. If necessary journeys and business trips are made in the course of providing the service, HELLA will reimburse the Contractor for the costs incurred by him, subject to the prior written consent of HELLA. The Contractor is obliged to take into account the "HELLA Travel Expenses Guidelines". HELLA will provide the Contractor with the currently valid travel cost guidelines upon request by the Contractor. Expenses for necessary travel and business trips must be shown separately.

10.8. The Contractor is obliged to issue invoices in accordance with the "HELLA invoice requirements". The correct issue of the invoice is a prerequisite for the due date of the invoice. The currently valid invoice requirements are available on the HELLA homepage in the section Company > Purchasing > under [https://www.hella.com/hella-com/assets/media/HELLA\\_Group\\_invoice\\_requirements.pdf](https://www.hella.com/hella-com/assets/media/HELLA_Group_invoice_requirements.pdf).

## 11. LIABILITY

The parties shall be liable to each other in accordance with the statutory provisions for all damages which they cause to the other party or third parties in the course of the commissioned performance of the services or as a result of the breach of obligations existing under this contract.

## 12. TERMINATION

12.1. HELLA reserves the right to terminate the contract prematurely with a notice period of two weeks.

12.2. Both parties are entitled to terminate without notice at any time for good cause. Good cause is deemed to exist for each of the parties in particular if

- (i) the other party is insolvent or insolvency proceedings have been opened over its assets or the petition to open insolvency proceedings has been dismissed for lack of assets; or
- (ii) the other party violates essential contractual obligations and does not remedy this violation even after a written reminder setting a reasonable deadline

or if adherence to the contract is unreasonable for one of the parties even without setting a deadline.

12.3. In the event of premature termination of the contract, the contracting parties shall agree on the remaining execution of the order (in particular the handover of the work results already achieved and remuneration of the costs incurred up to that point).

12.4. Both the ordinary and the extraordinary termination must be in writing.

## 13. MISCELLANEOUS

13.1. HELLA is entitled to set-off and retention rights to the extent permitted by law. The Contractor can only offset his own claims if his counterclaims are legally binding, undisputed or recognised by HELLA. He is only entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.

13.2. Insofar as the written form is provided for in these Terms and Conditions for communications or declarations of the parties, this shall also be complied with by transmitting the declaration by fax.

13.3. Should any provision of these Terms and Conditions be or become invalid, the validity of the rest of the contract shall not be affected. The contracting parties are obliged in mutual agreement to replace the ineffective provision by a provision which comes as close as possible to the ineffective provision in terms of its economic success. This regulation also applies to any gaps in the Terms and Conditions.

13.4. The place of performance is the registered office of the Contractor. If the place of performance differs from the Contractor's place of business, the Contractor must inform HELLA immediately. In exceptional cases and after prior consultation with HELLA, the services can also be provided in the business premises of HELLA.

13.5. The law applicable at the registered office of the commissioning HELLA company shall apply, with the exception of the conflict of laws rules. The application of the UN Convention on Contracts for the International Sale of Goods (Convention of Agreed Nations of 11.04.1980 on Contracts for the International Sale of Goods) is excluded.

13.6. The place of jurisdiction for all disputes arising from or in connection with this contract and the services performed under its validity is the registered office of HELLA or, for

legal actions by HELLA, any other competent court.