

1 General Provisions and Integrity Clause

1.1 These General Conditions of Purchase of the Principal shall apply exclusively. They are a component part of this contract and of any amendments. Any contradictory, supplementary or divergent conditions specified by the Contractor shall form a part of the contract only if expressly accepted in writing by the Principal. This shall also apply to any terms and conditions stipulated in any order confirmation note or other confirmation issued by the Contractor. The receipt of goods or services shall not constitute acceptance of the terms and conditions of the Contractor. The conditions of purchase of the Principal shall also apply if the contract with the Contractor is executed without reservation, despite knowledge of contradictory or supplementary conditions or conditions which diverge from the conditions of purchase of the Principal.

1.2 Principal and Contractor undertake to introduce all necessary measures to prevent corruption and other criminal offences. In particular, they shall take all necessary precautionary steps within their respective companies to prevent gross misconduct. Irrespective of the form of participation in committing, inciting or aiding and abetting an offence, gross misconduct is understood to be:

- a) serious criminal acts committed in business dealings, which shall include punishable offences such as fraud (section 263 StGB (German Penal Code)), breach of trust (section 266 StGB), falsification of documents (section 267 StGB), falsification of technical records (section 268 StGB), falsification of evidentiary data (sections 269 and 270 StGB), constructive false certification (section 271 StGB), suppression of documents (section 274 StGB), collusive tendering (section 298 StGB);
- b) offering, promising or conferring benefits to any civil servant, official or other person specifically bound to carry out public service duties, who is involved in the award or execution of a contract (sections 333-335 StGB: 'Bribery or the conferring of benefits');
- c) offering, promising or conferring benefits to any members of the board, executive directors or employees of DB AG, when these persons are neither public officials nor specifically bound to carry out public service duties (cf. sections 299 and 300 StGB, insofar as bribery of employees or agents is concerned),
- d) offering, promising or conferring benefits to any person engaged in a freelance capacity by DB AG or its affiliated companies who is active in the award or execution of a contract, e.g. planners, consultants and project managers;
- e) any unauthorised procurement, securing, use or communication of commercial or business secrets within the meaning of section 17, para. 2 UWG (German Unfair Competition Act) for competitive purposes, for personal gain, for the benefit of a third party, or with the intention of inflicting damage or loss on the business owner, or any unauthorised use or communication for competitive purposes or for personal gain of documents or technical instructions within the meaning of section 18 UWG entrusted in the course of business transactions, and any unauthorised use or transmission for competitive purposes or for personal gain of documents, technical instructions or commercial information entrusted in the course of business transactions including any such material supplied on disk or other data storage medium; and
- f) any infringement of the first part of the German Restraint of Competition Act (GWB), including collusive agreements on prices or price elements, prohibited price recommendations, involvement in recommendations or collusive agreements regarding the submission or non-submission of bids, the setting-off of deficiency compensation payments, and any profit sharing and payments to other bidders.
- g) any infringement of economic sanctions or the circumvention of European-Union sanctions, especially an infringement of European Council Regulation No. 2580/2001 or European Council Regulation No. 881/2002 (anti-terror regulations) or of other national or international embargo or trade-control regulations.

Gross misconduct, in the above sense, will also be deemed to have been committed if the bidder or contractor offers, promises or grants prohibited benefits to persons who are close to employees, executive directors, or members of the board of the DB Group.

Similarly, gross misconduct, as defined above, will be deemed to have been committed if the bidder or contractor renders specific assistance with planning or with the invitation to tender that is designed to undermine competition.

1.3 If in the course of the award procedure or the provision of goods or services, the Principal is disadvantaged as a result of gross misconduct, within the meaning of section 1.2 above, that is committed by an employee, an executive director or a member of the board of the Contractor or of any sub-contractor working under the direction of the Contractor, the Contractor shall pay the Principal a penalty amounting to

- (a) 7 % of the audited gross amount invoiced if the gross misconduct is committed by an executive director or member of the board of the Contractor, or
- (b) 5 % of the audited gross amount invoiced if the gross misconduct is committed by an authorised signatory or authorised representative, or
- (c) 2 % of the audited gross amount invoiced if the gross misconduct is committed by other employees of the Contractor or by sub-contractors,

but in no case shall the penalty be less than €5000. This contractual penalty shall not affect the rights of the Principal to claim punitive damages for misconduct. However, if a contractual penalty is incurred, it shall be set off against any such claims for punitive damages. A penalty in accordance with the provisions of this section 1.3, can be imposed separately to the contractual penalty in section 5.2. The claim can be raised at any time up until final payment.

A penalty in accordance with the provisions of this section shall be inapplicable if an act of gross misconduct within the meaning of section 1.2 is committed by a subcontractor of the Contractor, and if the choice of this subcontractor was made obligatory by the Principal, and if the Contractor or his employees, board members, executive directors or other third parties working under his instruction did not themselves participate in committing this act of gross misconduct.

1.4 If an act of gross misconduct within the meaning of section 1.2 is committed by an employee, executive director or member of the board of the Contractor,

- (a) the Principal shall be entitled to terminate the contract without notice for exceptional reasons.
- (b) the Contractor shall be debarred from competing for orders awarded by DB AG and its group companies for a period of between four months and three years. In particularly serious cases, the ban may be extended to cover a period of up to seven years. The Principal emphasises that debarment may also be imposed if there is a strong suspicion that gross misconduct within the meaning of section 1.2 has been committed.

The extent of the ban and the re-admission to the competitive tendering process are governed by the 'DB AG Guidelines on Debarring Contractors and Suppliers'. These guidelines may be inspected at anytime at the Principal's premises.

1.5 To make it possible to establish and organise legally-compliant business relations, the Principal and the Contractor shall each give their consent to the other party for regular checks of their information against the latest versions of the sanctions lists based on European Council Regulations No. 2580/2001 and 881/2002 (anti-terror regulations) and other national and international embargo and trade-control regulations. As they do so they will observe all relevant provisions based on data-protection law, especially with regard to data economy and data security.

The Contractor declares that its company and employees are not included on one of the aforementioned sanctions lists. The Contractor agrees to use appropriate measures to ensure that the anti-terror regulations and other national and international embargo and trade-control regulations are implemented in its company's business operations. The Contractor also agrees to notify the Principal immediately in writing, should any matches

be found during the checks against the aforementioned sanctions lists.

2 Implementation Documents

- 2.1 The documents supplied to the Contractor shall not be disclosed to third parties without the consent of the Principal, nor copied, nor used for any other than the agreed purpose. They shall be returned to the Principal on demand.
- 2.2 The Principal shall be entitled to keep any documents supplied to him by the Contractor. The Principal shall be entitled to use the documents for training and maintenance purposes and in individual cases, by prior agreement, to copy such documents and use them for other purposes.
- 2.3 In the event that the contract documents contain both the Principal's and the Contractor's drawing numbers and both the Principal's and the Contractor's reference numbers, only the Principal's numbers shall be binding.

3 Execution, Provision of Materials

- 3.1 The Principal shall be entitled to satisfy himself during business or operating hours that goods are supplied and services rendered in compliance with the contract. Upon request, he shall be provided with the documents relating to the contract which are required to obtain such information. Due attention must be paid to the Contractor's legitimate confidentiality interests.
- 3.2 The Contractor may assign the supply of goods or the rendering of services or essential parts thereof to third parties only with the prior written consent of the Principal. The Principal shall not refuse such consent without good cause.
- 3.3 The Contractor shall ensure that all materials used which fall under the EU chemicals regulation REACH are registered and allowed in accordance with this regulation and having taken into consideration to the use of the materials by the Contractor according to the subject of the agreement. This also shall also apply to Contractors outside of the European Union. Upon request by the Principal, the Contractor shall provide suitable proof of the fulfilment of this requirement.
- 3.4 All materials provided by the Principal shall remain the property of the Principal and must be stored, labelled and managed separately and free of charge. They may be used only for the purpose specified in the contract.

4 Notification of Reservations, Obstructions, Force Majeure

- 4.1 The Contractor shall notify the Principal in writing immediately of any reservations he may have about supplying goods or services in the manner requested by the Principal, or if he believes he is being obstructed by a third party or by the Principal in supplying goods or services.
- 4.2 If, as a result of force majeure, the provision of goods or services is delayed, the Principal shall be entitled to demand the supply of goods or services from the Contractor at a later date on the same conditions or, on expiry of a reasonable extension, to withdraw from or terminate the contract in full or in part.

5 Default

- 5.1 The period specified in the contract for the supply of goods or services is binding. The Contractor shall notify the Principal in writing immediately of any circumstances that have occurred or become apparent and that will prevent compliance with the specified time limit for the supply of goods or services.
- 5.2 In the event of default on the part of the Contractor, the Principal shall be entitled to his full statutory rights. In case of default on the part of the Contractor, the Principal shall be entitled to impose a penalty amounting to 0.3 % of the contractual value of those goods and services that are in default per day, but not exceeding 10 % thereof. The penalty shall be set off against the total amount of the claim for damage caused by default. The Principal reserves the right to enforce the penalty up to the time of final payment.

6 Place of Performance, Transport, Packaging

- 6.1 Place of performance shall be the place of receipt specified by the Principal in the contract.
- 6.2 The costs of transport and packaging shall be included in the fixed price. If requested by the Principal, the Contractor shall collect the packaging materials from the place of receipt and dispose of them at his own expense.

- 6.3 Insofar as economically reasonable for the Contractor, he shall use railbound means of transport for the logistic services and freight transport required for the supply of goods and services. The choice of transport company shall be at the Contractor's discretion. Prior to placing the order, however, he shall request an offer from at least one transport company within the DB Group.

7 Notice of Termination or Withdrawal for Compelling Reasons

The Principal shall be entitled to give notice of termination or to withdraw from the contract for a compelling reason, in particular if the Contractor has filed a petition in bankruptcy or if the Contractor suspends his payments on more than a temporary basis, or if insolvency proceedings have been instituted against the Contractor or rejected owing to lack of assets.

8 Acceptance, Time Limit for Complaints, Passing of Risk, Transfer of Title

- 8.1 All goods delivered and all services rendered by the Contractor shall be transferred to the Principal at the Principal's place of receipt. The Principal shall issue a confirmation note acknowledging receipt, unless a separate agreement has been reached on the acceptance procedure for the supply of goods or services. Any quality inspection, technical acceptance, or official acceptance procedures (e.g. by the Federal Railway Office) shall not replace the confirmed transfer or the agreed acceptance procedure mentioned above.
- 8.2 The Principal shall check the goods and services supplied for any defects within a reasonable period. The delivery of an incorrect item or an insufficient quantity shall be considered to be defects. Notification of defects shall be deemed punctual if submitted within two weeks. In the case of obvious deviations in quality and quantity, the notification period shall commence on the date of transfer of goods and services at the place of receipt. In the case of hidden deviations in quality and quantity, the notification period shall commence on the date of their discovery.
- 8.3 Risk shall pass to the Principal at the time of the confirmed transfer or the agreed acceptance procedure.
- 8.4 Title shall pass to the Principal at the time of the confirmed transfer or the agreed acceptance procedure.
- 8.5 If the goods and services that were supplied under contract or parts thereof are rejected after the confirmed transfer or during the agreed acceptance procedure owing to a failure to comply with the contract, the Contractor shall be obliged to take back the goods and services supplied under contract or parts thereof immediately and at his own expense. If a reasonable period for collection has expired, the Principal shall be entitled to return the goods and services supplied under contract or parts thereof to the Contractor at the latter's expense. In the above cases, risk shall not pass to the Principal prior to renewed confirmation of transfer or the renewed agreed acceptance procedure.
- 8.6 The Contractor shall be obliged at his own expense and own risk to redeliver those goods and services that were supplied under contract or parts thereof or any replacement items to the Principal's place of receipt against issue of a confirmation note or subject to a renewed agreed acceptance procedure.

9. Claims Arising from Defects, Liability of Contractor

- 9.1 Any claims arising from defects asserted by the Principal shall be governed by statutory regulations subject to the following conditions:
 - a) The Contractor shall remain fully responsible for the faultless supply of goods and services even in the event that the Principal has signed, approved, stamped or marked "Seen" etc. any plans, drawings, calculations or other implementation documents submitted to him by the Contractor.
 - b) In cases of particular urgency and/or imminent danger, the Principal shall be entitled to remedy the defects himself and demand reimbursement of the necessary expenses if he cannot reasonably be expected to grant the Contractor an extension for performance. The Principal shall notify the Contractor immediately of any such claims arising from defects and of the nature and scope of the emergency measures taken.
 - c) The Principal shall be entitled to grant the Contractor a reasonable period in which to remove a defective item. On expiry of that period, the Principal shall be entitled to realise the goods and services supplied under contract,

e.g. by way of sale, at the Contractor's expense and paying due attention to the Contractor's business interests.

- d) The period in which claims arising from defects may be asserted shall be two years from the date of acceptance or the date of issue of a transfer confirmation note, unless a longer period has been agreed in individual cases or a longer period is prescribed by law. This period shall be extended by the duration of the period in which the defective goods and services cannot be used for their intended purpose.
- e) The period in which claims arising from defects may be asserted shall be suspended if the Contractor himself is examining the existence of a defect. Suspension of this limitation period shall be lifted only when the Contractor notifies the Principal in writing that negotiations have been concluded or the results of the examination are sent to the Principal, or the Contractor sends a written refusal to continue rectification of the defect. In the event of recommencement of negotiations, examination or rectification of the defect, the period of limitation shall again be suspended.

9.2 The Contractor shall be liable in accordance with the statutory regulations.

10 Secrecy

The Contractor shall be entitled to inform outside parties of (partial) order values or (partial) prices only in circumstances compulsorily prescribed by statute. Press releases and other publications relating to orders placed shall be permissible only with the consent of the Principal. This shall also apply to any disclosure of rounded or approximate values and to percentage values for the purpose of comparison with previous orders.

11 Industrial Property Rights

In the event that any claims are filed against the Principal by a third party for alleged infringement of industrial property rights, the Contractor shall be obliged to indemnify the Principal from such third-party claims upon the first written demand by the Principal, unless the infringement is beyond the control of the Contractor. This indemnity obligation shall cover all expenses sustained by the Principal in connection with the claims filed by third parties.

The right of indemnity shall be limited to a period of two years from the date at which the circumstances establishing this right become known to the Principal or which would have become known to him had he not acted in a grossly negligent manner. Otherwise, the right of indemnity shall lapse after a period of ten years from the date of establishment of this right irrespective of the Principal's knowledge or grossly negligent ignorance.

12 Invoices, Prices, Supplements

- 12.1 The accounts for each contract (including any supplements) shall be settled with an invoice. Instalment invoices, partial invoices, partial final invoices and final invoices must be indicated as such and consecutively numbered. Invoices not expressly marked otherwise shall be treated as final invoices.
- 12.2 Subject to value added tax (VAT) regulations, invoices must specify the ordering party, the date and reference number of the contract, the contract number, the Contractor's tax number given by the tax office or his VAT identity number, the forwarding station, the place of receipt, the order item number in ascending order and the material number. Already the delivery or performance documents that are to be handed over to the place of receipt must include the contract number and the order item number in ascending order.
- 12.3 The price specified in the contract is a fixed price that excludes any subsequent demands. The fixed price does not include the Contractor's statutory VAT. Payment of the VAT presupposes that the Contractor is entitled and obliged pursuant to the relevant legal regulations to charge the tax separately and that the tax is indicated separately in the invoice.
- 12.4 Payment shall be made for any additions and/or modifications to the supply of goods and services only if the parties have entered into a written supplementary agreement prior to the provision of these additional or modified goods or services.

13 Payment, Discounts

- 13.1 As a general rule, payments shall be remitted by transfer to the Contractor's bank account stated on the invoice, or by cheque.

13.2 The payment period shall be 21 days subject to a 3 % discount, or 30 days net.

13.3 The payment period shall commence on receipt of a verifiable final invoice, within the meaning of 12.2. at the address stated in the contract, but not before the date of acceptance of contractual performance or the date of issue of a transfer confirmation note.

13.4 If the parties have agreed for payment to be made in instalments, the payment period shall commence on the date of receipt of a verifiable instalment invoice, but not before the provision of any agreed securities.

13.5 Compliance with the payment period by the Principal shall be determined by the date on which the transfer order is submitted to the bank or the date on which the cheque is posted. Section 286, subsection 3 German Civil Code (BGB) shall not apply.

14 Assignment of Claims, Retention Rights, Set-Off

14.1 The Contractor shall not be permitted to assign his claims against the Principal to a third party. Any rights under section 354a German Commercial Code (HGB) shall remain unaffected.

14.2 The Contractor shall not be entitled to exercise any lien or other right of retention if this is based on counterclaims from other legal transactions with the Principal.

14.3 The Contractor shall be entitled to offset his claims only against claims (including claims arising from other legal relationships) that are undisputed or that have been established as final and absolute by a court of law.

14.4 The Principal shall be entitled to full rights of retention and set-off.

15 Legal Venue, Applicable Law, Written Form

15.1 Legal venue, where legally permissible, shall be the place at which the Principal or an affiliated company of the Principal as the ordering party has its registered office. In the case of framework agreements, this shall also apply to any disputes in connection with individual call orders, irrespective of the registered office of the party calling for delivery. The Principal shall, however, also be entitled to invoke the courts at the place where the Contractor has its registered office.

15.2 The legal relationship between the parties shall be governed solely by the laws of the Federal Republic of Germany, to the exclusion of the UN Convention on Contracts for the International Sale of Goods. Only the German version of the contract shall be binding.

15.3 Any amendment to the contract must be made in writing for the preservation of evidence.