



**General Conditions of Purchase of Deutsche Bahn AG and its affiliated companies
(hereinafter "the client")**

- General Conditions of Purchase as at May 3, 2016 -

1 General Provisions and Integrity Clause

1.1 These General Conditions of Purchase of the client 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 client. 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 client 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 client.

1.2 Within the framework of the contractual relationship, the contracting parties undertake to take all necessary measures to prevent corruption, other criminal offenses, and other forms of gross misconduct. They undertake, in particular, to take all necessary precautionary measures to avoid gross misconduct in Germany and abroad. Irrespective of the form of participation in committing, inciting or aiding and abetting an offense, gross misconduct includes

- a) serious offenses that have been committed in the course of business dealings. These include criminal offenses that involve, in particular, fraud, a breach of trust, document forgery or similar offenses,
- b) offering, promising or conferring undue benefits to any civil servant, official or other person specifically bound to carry out public service duties (bribery or the conferring of benefits), or members of the board, managing directors or other employees of Deutsche Bahn AG or its Group companies (bribery in business conduct),
- c) offering, promising or conferring undue benefits to any person engaged in a freelance capacity by Deutsche Bahn AG or its Group companies who is active in the award or execution of a contract, e.g. planners, consultants, and project managers,
- d) in connection with the activity of the contractor for Deutsche Bahn AG or its Group companies. offering, promising or conferring undue benefits to any other German or foreign civil servant, official or other person specifically bound to carry out public service duties or to any employees or appointee of any other businesses in relation to the initiation, award or execution of a contract by third parties,
- e) any unauthorized procurement, securing, use or communication of commercial or business secrets 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 unauthorized use or communication, for competitive purposes or for personal gain, of documents or technical instructions entrusted in the course of business dealings, and any unauthorized use or transmission, for competitive purposes or for personal gain, of documents, technical instructions or commercial information entrusted in the course of business dealings, including any such material supplied on data storage media,
- f) any infringement of provisions designed to protect unimpeded competition, in particular, violations of hardcore antitrust restrictions in accordance with Art. 101 TFEU, section 1 ARC (price, tender, quantity, quota, territorial and customer agreements),
- 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 and 753/2011 (anti-terror regulations) or of other applicable national, European, and international embargo or trade-control regulations, and

h) other serious offenses or gross misconduct. These include criminal acts, in particular, terrorist offenses, involvement in a criminal organization, money laundering and the financing of terrorism, child labor, and other forms of human trafficking or similar offenses.

Gross misconduct in the aforementioned sense shall also be deemed to have been committed if persons who are associated with the employees, managing directors or board members of the DB Group are offered, promised or granted undue benefits and if specific planning and tendering assistance is provided in order to subvert competition.

1.3 If the contractor or a person mandated by the contractor or acting on behalf of the contractor has demonstrably come to an agreement on occasion of the award that constitutes an illegal restraint of competition the contractor shall be liable to pay damages of 15 % of the net contract value. This does not apply if the contractor is not responsible for the violation. The right to prove and claim damages of different value remains unaffected. Further, any other contractual or statutory rights of the client remain unaffected.

1.4 If in connection with the execution of the award or the provision of goods or services, gross misconduct within the meaning of section 1.2 is committed to the detriment of the client 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 client a contractual penalty. This, however, does not apply if the contractor is not responsible for the violation. The penalty amounts to

- a) 7 % of the net contract value if the gross misconduct is committed by an executive director or member of the board of the contractor, or
- b) 5 % of the net contract value if the gross misconduct is committed by an authorised signatory or authorised representative, or
- c) 2 % of the net contract value if the gross misconduct is committed by other employees of the contractor or by sub-contractors,

but the contractual penalty shall at least amount to €5000. This contractual penalty shall not affect the rights of the client to claim damages for misconduct. However in this case the contractual penalty shall be set off against any such claims for damages.

The contractual 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 the choice of this subcontractor was made obligatory by the client and/or the contractor or his employees, board members, executive directors or other third parties working under his instruction did not participate in committing this act of gross misconduct.

Cases of illegal restraints of competition according to section 1.3 and violations according to section 1.2 conducted in coincidence or joinder of offences shall not be subject to the contractual penalty under section 1.2. Section 1.3 shall be exclusive insofar.

1.5 If a verifiable act of gross misconduct within the meaning of section 1.2 is committed by an employee, managing director or member of the board of the contractor,

- a) the client shall be entitled to invoke an extraordinary termination of the contract without notice,
- b) the contractor shall be debarred from competing for orders awarded by Deutsche Bahn AG and its Group companies for a period of up to five years, unless otherwise specified by law. If the contractor can provide evidence of appropriate and sufficient "self-cleaning" measures, the ban may not be implemented. The severity and the circumstances of the misconduct shall be taken into account.

- 1.6 The contractor undertakes to actively contribute towards preventing gross misconduct within the meaning of section 1.2 and investigating suspected misconduct as well as to cooperate with the client in this respect.

If the contractor gains knowledge of facts that constitute a suspicion of gross misconduct within the meaning of section 1.2 and impact on the client, the contractor is obliged to immediately notify the client of such in writing. Furthermore, if such gross misconduct lies within the sphere of the contractor, the contractor is obliged to investigate the circumstances of the case. If the suspicion is confirmed, the contractor is obliged to take appropriate specific technical, organizational, and personnel measures to terminate misconduct without delay and, if this has not already been done, to take action to prevent such misconduct in the future. The contractor shall promptly inform the client in writing on the progress and outcome of the investigation of the circumstances of the case and on any measures taken.

- 1.7 To make it possible to establish and organize legally-compliant business relations, the client and the contractor shall each give their consent to the other party for regular mutual checks of their information against the latest versions of the sanctions lists based on European Council Regulations No. 2580/2001, 881/2002, and 753/2011 (anti-terror regulations) and other national, European, and international embargo and trade-control regulations. When doing 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 his company and employees are not included on any of the aforementioned sanctions lists. The contractor agrees to use appropriate measures to ensure that the anti-terror regulations and other national, European, and international embargo and trade-control regulations are implemented in his company's business operations. The contractor also agrees to immediately notify the client in writing of any matches found during checks against the aforementioned sanctions lists.

The assertion of claims for damages of any type (in particular due to default or non-performance) and the assertion of other rights by the contractor are excluded if these are associated with compliance with applicable national, European, and international embargo and trade-control regulations. This does not apply in the event that the client is accused of intent or gross negligence. The client is entitled to invoke an extraordinary termination of the contract if any matches are found during the aforementioned checks.

2 Implementation Documents

- 2.1 The documents supplied to the contractor shall not be disclosed to third parties without the consent of the client, nor copied, nor used for any other than the agreed purpose. They shall be returned to the client on demand.
- 2.2 The client shall be entitled to keep any documents supplied to him by the contractor. The client 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 client's and the contractor's drawing numbers and both the client's and the contractor's reference numbers, only the client's numbers shall be binding.

3 Execution, Provision of Materials

- 3.1 The client 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 client. The client 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 client, the contractor shall provide suitable proof of the fulfilment of this requirement.
- 3.4 All materials provided by the client shall remain the property of the client 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 client in writing immediately of any reservations he may have about supplying goods or services in the manner requested by the client, or if he believes he is being obstructed by a third party or by the client in supplying goods or services.

- 4.2 If, as a result of force majeure, the provision of goods or services is delayed, the client 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 client 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 client shall be entitled to his full statutory rights. In case of default on the part of the contractor, the client 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 client 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 client in the contract.
- 6.2 The costs of transport and packaging shall be included in the fixed price. If requested by the client, 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 client 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 client at the client's place of receipt. The client 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 client 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 client at the time of the confirmed transfer or the agreed acceptance procedure.
- 8.4 Title shall pass to the client 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 client 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 client 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 client'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 client shall be governed by statutory regulations subject to the following conditions:
- The contractor shall remain fully responsible for the faultless supply of goods and services even in the event that the client has signed, approved, stamped or marked "Seen" etc. any plans, drawings, calculations or other implementation documents submitted to him by the contractor.
 - In cases of particular urgency and/or imminent danger, the client 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 client shall notify the contractor immediately of any such claims arising from defects and of the nature and scope of the emergency measures taken.
 - The client shall be entitled to grant the contractor a reasonable period in which to remove a defective item. On expiry of that period, the client 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.
 - 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.
 - 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 client in writing that negotiations have been concluded or the results of the examination are sent to the client, 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 client. 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 client by a third party for alleged infringement of industrial property rights, the contractor shall be obliged to indemnify the client from such third-party claims upon the first written demand by the client, unless the infringement is beyond the control of the contractor. This indemnity obligation shall cover all expenses sustained by the client 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 client 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 client'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 Payments shall be remitted by transfer to the contractor's bank account stated on the invoice.
- 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 client shall be determined by the date on which the transfer order is submitted to the bank. 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 client 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 client.
- 14.3 The contractor shall be entitled to offset only with claims (including claims arising from other legal relationships) if that are undisputed or that have been established as final and absolute by a court of law.
- 14.4 The client 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 client or an affiliated company of the client 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 client 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.
- 15.3 Any amendment to the contract must be made in writing for the preservation of evidence.