



## General Terms of Sale of DB AG and its Affiliated Companies (hereinafter referred to as the “Seller”)

- GTS last modified March 2024 -

### 1. General terms and compliance clause

1.1 All business transactions shall be governed solely by the Seller’s Terms of Sale. They shall form an integral part of the agreement and of any addenda. Any contradicting, amending or diverging conditions of the Purchaser shall constitute a part of the agreement only if expressly approved in writing by the Seller. This shall also apply to any terms and conditions stipulated in any offers, confirmation of order or other confirmation by the Purchaser. The acceptance of payments or securities shall not constitute acceptance of the conditions of the Purchaser. The Seller’s Terms of Sale shall also apply if the agreement with the Purchaser is executed without reservation, despite knowledge of contradicting or amending conditions or conditions which diverge from the Seller’s Terms of Sale.

1.2 The Seller and Purchaser undertake, as part of their business relationship, to comply with all applicable laws, regulations, directives and other legal provisions, including but not limited to anti-corruption laws.

1.3 Within the framework of their contractual relationship, the Purchaser and the Seller mutually consent to the regular review of their data in accordance with the respective current sanctions lists, including the Consolidated Financial Sanctions List of the European Union, of the United Nations Security Council, the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), the Office of Financial Sanctions Implementation (“OFSI”) of the United Kingdom and the Swiss State Secretariat for Economic Affairs (“SECO”). In respect of these reviews, all applicable data protection provisions, in particular those concerning data minimisation and data security, shall be observed.

The Purchaser declares that neither its company, nor any of its employees, nor any natural or legal persons, of which the Purchaser holds direct or indirect majority ownership (50% and more) or that the Purchaser controls in any other way, de jure or de facto, alone or jointly, are named on any of the aforementioned sanctions lists. The Purchaser undertakes to ensure, by way of appropriate measures, that the requirements of current sanctions, in particular the financial sanctions, embargoes and foreign trade regulations of the European Union and its Member States, of the United Nations, of the USA, of the United Kingdom and of Switzerland are implemented in the business operations of its company. This also in-

cludes not entering into or maintaining any business relationships with natural persons, companies or organisations that are on one of the aforementioned sanctions lists or are owned or controlled by sanctioned persons, companies or organisations and not entering into any corporate transactions with such natural persons, companies or organisations within the scope of and in connection with the execution of this agreement. Furthermore, the Purchaser undertakes to notify the Seller in writing without undue delay of any positive results found during the review in accordance with the aforementioned sanctions lists and in the event that the Purchaser or natural persons, companies or organisations owned or controlled by the Purchaser become a sanctioned person.

The assertion of damages of any kind (in particular due to delay or non-fulfilment) and of other rights by the Purchaser shall be precluded insofar as this is connected to the Seller’s compliance with applicable sanctions. This shall not apply if the Seller is charged with deliberate intent or gross negligence. The Seller shall be entitled to termination of the agreement for cause in the event of a breach of the applicable sanctions (including the specifications for goods and technologies covered by Article 12g of Regulation (EU) No. 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine) by the Purchaser or in the event that the Purchaser or natural persons, companies or organisations owned or controlled by the Purchaser become a sanctioned person. This shall not affect the Seller’s right to enforce further claims. If any matches are found during the aforementioned reviews against the sanctions list, the Seller shall be entitled to invoke extraordinary termination of the agreement.

Performance of the contractual obligations (providing goods and services) shall be subject to the proviso that it does not conflict with any applicable national, European or international export control regulations, such as embargoes, sanctions or other bans and restrictions. The Purchaser undertakes to provide any information and documentation required for export or transfer.

Delays due to testing and approval procedures based on export control regulations may negatively affect delivery times and agreed deadlines. If the necessary approvals are not granted or if the contractual service cannot be approved, the Seller is entitled to terminate or withdraw from the agreement. Where this is the case, assertion by the Purchaser of claims for compensation of any

kind, particularly due to delay or non-performance, or of other rights, shall be precluded.

The Purchaser undertakes vis-à-vis the Seller to comply with all applicable export control regulations. If the goods delivered by the Seller are passed on to third parties, the Purchaser must comply with the applicable provisions of export control law.

Wherever the items for sale are goods and technology covered by Article 12g of Regulation (EU) No. 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine and the delivery is made to a third country outside the European Union that is not a partner country within the meaning of Annex VIII of that EU regulation, resale and re-export to Russia or to another third country for use in Russia are prohibited.

The provisions and obligations set out in this Section 1.3 shall apply only if agreement thereof or the submission or solicitation of a declaration based thereon do not result in the Purchase or the Seller violating Article 5 (1) of Council Regulation (EC) No. 2271/96, Section 7 of the German Foreign Trade and Payments Ordinance (*Außenwirtschaftsverordnung*, "AWV") or against similar anti-boycott or non-discrimination regulations.

## 2. Pricing, invoicing

2.1 The prices (net prices) are in euros (EUR) and are subject to the respective statutory value added tax (VAT). They apply ex works or ex location of the Seller, unless otherwise agreed. Deducting a discount for prompt payment shall be allowed only if this has been agreed in writing.

2.2 In the event of sales based on weight or measurements, the sales document shall state a provisional invoice amount. The final invoice amount shall be calculated on the basis of the quantity actually supplied. This is based on the quantity determined by weighing or measuring. Minor deviations up to and including EUR 30.00 will not be compensated.

If, in the event of sales by weight or measurement, the invoice is drawn up on the basis of the weighing results shown in the weighing slips to be sent in accordance with Section 7.2, the invoice amount stated in the invoice shall not constitute an acknowledgement of the accuracy and completeness of the weighing results shown. The Seller reserves the right to check the weighing results documented in the weighing slips and, if a deviation to its disadvantage is found, to assert the claim exceeding the invoice amount stated in the invoice by further billing. Invoicing on the basis of the weighing results shown in the weighing slips does not constitute a waiver of the assertion of claims to which the Seller is entitled.

## 3. Terms of payment, dunning fees, assignment of claims, liens, offsetting

3.1 Unless otherwise agreed, the Seller shall hand over the goods upon receipt of the full purchase price.

3.2 No bills of exchange will be accepted.

3.3 If the Purchaser defaults on payment, the Seller shall be entitled to charge a dunning fee of EUR 8 for each payment reminder. This shall not affect the Seller's right to enforce further claims.

3.4 The Purchaser is not entitled to assign its claims against the Seller to third parties. This shall not affect the provisions of Section 354a of the German Commercial Code (*Handelsgesetzbuch*, "HGB"). If the Purchaser is a consumer, the prohibition of assignment shall not apply to monetary claims of the Purchaser.

3.5 The Purchaser may not invoke any liens which are based on counterclaims arising from other legal transactions with the Seller.

3.6 The Purchaser shall be entitled to offset only monetary cross-claims (including cross-claims arising from other legal transactions) which are undisputed or which have been determined as legally binding and absolute by a court of law.

3.7 The Seller shall be entitled to full rights of offsetting and retention.

## 4. Circumstances preventing proper performance

Events constituting force majeure and any unforeseeable obstructions to performance for which the Seller is not responsible, entitle it to defer performance by the duration of the obstruction plus any reasonable set-up time. The Purchaser's right to withdraw from the agreement after setting a reasonable deadline shall remain unaffected by this. If performance becomes impossible in full or in part due to the aforementioned reasons, the Seller shall be entitled to cancel the agreement as a whole or the part of the agreement which has not yet been fulfilled, subject to prompt notification of the Purchaser in relation to physical impossibility of performance and prompt refund of the Purchaser's consideration. The Seller is not obliged to arrange substitute procurement. The Purchaser can require the Seller to provide a declaration as to whether it will effect performance within a reasonable time limit or rescind the agreement. If the Seller does not provide a declaration, the Purchaser may withdraw from the agreement.

## 5. Limitation of liability

The Purchaser shall not be allowed to claim payment concerning compensation, regardless of the claim's legal nature. This does not apply in the case of statutorily mandatory liability (such as liability under the German Product Liability Act); in the event of intentional or gross negligence; in the event of injury to life, limb or health; in the event of the assumption of a guarantee for the quality of an item or in the event of a breach of material contractual obligations. However, the claim for damages due to a slightly negligent breach of material contractual obligations is limited to the foreseeable damage typical for the agreement, unless it is a claim for damages arising from statutorily mandatory liability; injury to life, limb or health or the assumption of a guarantee of quality. Material contractual obligations are obligations that must be fulfilled to enable orderly performance of the agreement and upon whose fulfilment the Seller regularly trusts and is entitled to trust.

## 6. Transport documents, late pick-up, drop-off

- 6.1 The Purchaser shall arrange the time of collection with the Seller's drop-off location within the agreed collection period. If the parties have agreed that the Seller's drop-off location is responsible for arranging transport, the Purchaser shall complete and submit any transport documents required for export to a third country and also any export documents required for customs clearance (e.g. export declarations) to the Seller's drop-off location. Where appropriate, the Seller shall also provide a stamped addressed envelope for posting the duplicate consignment note to the consignor stated in the consignment note or, if the consignor is located in another country, an international reply paid envelope. The consignor stated in the consignment note shall fill in the transport documents with the required data, such as the weight of the consignment, in the case of carriage in freight wagons the classification code and wagon number.
- 6.2 If the Purchaser fails to collect the goods within the stipulated period of time for reasons within the Purchaser's control, the Seller shall be entitled to store the goods at its discretion at the expense and risk of the Purchaser. The Seller shall be entitled to demand compensation amounting to 0.5% of the invoice amount for each (part) week of storage, up to a maximum of 5% of the invoice amount, without submission of proof regarding expenses. Proof of lower damages by the Purchaser or higher damages by the Seller and the corresponding assertion shall remain unaffected.

## 7. Loading and weighing

- 7.1 Direct ownership of the goods sold is transferred to the Purchaser when they are provisioned or handed over. The loading of the sold goods after

the Purchaser has obtained direct possession shall be at the Purchaser's own responsibility and expense. Non-ferrous metals may be loaded only under the supervision of the Seller's drop-off location.

- 7.2 The expected delivery quantities are determined free of charge by the Seller's drop-off location. Weighing shall be the responsibility of the Purchaser, unless otherwise agreed. Axle-based weighing shall be permissible. The Purchaser shall bear all weighing expenses. The weighing agent is not a performing agent of the Seller within the meaning of Section 278 of the German Civil Code (*Bürgerliches Gesetzbuch*, "BGB").

Weighing shall be carried out on the nearest public and officially calibrated scales after consultation with the Seller's drop-off location. In principle, both a gross weighing (full) and an empty weighing (without the object of purchase – tare weight value within the meaning of Section 6 No. 15 of the regulation concerning the placing on the market and provisioning of measuring devices, as well as their usage and calibration (*Verordnung über das Inverkehrbringen und die Bereitstellung von Messgeräten auf dem Markt sowie über ihre Verwendung und Eichung*, "MessEV")) of the lorry must be carried out. Exceptions require the prior written consent (e.g. by e-mail) of the Seller's drop-off location. During the weighing process, lorries and trailers must be weighed separately, and the weighing results must be shown on separate weighing slips stating the respective vehicle registration number (i.e. the lorry vehicle registration number on one and the trailer vehicle registration number on the other). The weighing slips must be sent by e-mail to both the Seller's drop-off location (to the e-mail address previously provided by the Seller) and to DB Resale & Services (to [recycling.dbresale@deutschebahn.com](mailto:recycling.dbresale@deutschebahn.com)) within 7 days of collection from the Seller's drop-off location. Together with the weighing slips, information on the type of vehicle (manufacturer) and the vehicle superstructure (e.g. tipper body or loading bridge plus container), as well as the registration certificate including information on the empty weight must be sent.

If, in exceptional cases, a stored tare weight value is to be used to determine the net weight value (weight of the object of purchase), the Purchaser must explain the reasons for this in writing (e.g. by e-mail) and obtain the prior written consent of the Seller's drop-off location.

If the required information is not complete, the drop-off location reserves the right not to accept the weighing slips as documents justifying the invoice. Section 2.2 shall remain unaffected.

The Purchaser must ensure that the Seller's drop-off location can directly request the documents to be retained by the public weighing scales in accordance with Section 32 Para. 2 MessEV. If, in

exceptional cases, non-public weighing scales may be used with the consent of the Seller's drop-off location, Section 32 MessEV shall apply accordingly.

- 7.3 The Purchaser shall be permitted to sort and/or handle the purchased goods on railway premises only with the prior consent of the Seller's drop-off location. Any and all work performed in connection with the sale and transport of the goods shall be at the sole risk of the Purchaser. As long as the Purchaser is in the vicinity of railway facilities, it shall be obliged to take all necessary measures to ensure that its conduct does not cause typical risks occurring on railway premises. In particular, it shall take all necessary preventive measures to protect its employees against the dangers of railway operations.

## 8. Provision, passage of risk

- 8.1 The goods shall be provided unpacked. If, in exceptional cases, the goods are to be packed, the Purchaser shall provide the necessary packaging material or load-securing devices or shall bear the costs of such packaging material or load-securing devices. Any exceptions regarding the aforementioned must be agreed in writing.
- 8.2 Risk shall pass to the Purchaser on transfer of the goods to the Purchaser, the carrier or the party authorised to receive the goods, but no later than on the date on which the Purchaser would have been entitled to take over the goods.

## 9. Performance of the service

Within the Purchaser's business or operating hours, the Seller may inform itself as to whether the Purchaser is properly fulfilling its contractual obligations. Upon request, the Purchaser shall submit the documents required for information relating to the contract performance to the Seller for inspection. The Purchaser's confidentiality interests must be taken into account.

## 10. Claims for defects

- 10.1 Unless otherwise agreed, all used items are sold in the condition as seen by the Purchaser and excluding the Seller's liability in relation to defects of used items (warranty).
- 10.2 If the parties have agreed that the Seller shall be held liable regarding claims for defects of used items, the Purchaser shall be entitled only to demand a reduction of the purchase price.
- 10.3 Notwithstanding Sections 10.1 and 10.2, the Seller shall be liable for damages in the cases of Section 5 Sentences 2-4.

- 10.4 The Purchaser's claims for defects shall become statute-barred one year from the start of the statutory limitation period for both the sale of new and the sale of used goods if, in the latter case, liability for claims for defects within the meaning of Section 10.2 has been agreed. In the event of the sale of new goods, the one-year limitation period does not apply in the cases of Section 438 Para. 1 No. 2 BGB. In these cases, the statutory limitation period shall apply. Claims pursuant to Section 10.3 shall become statute-barred pursuant to statutory provisions.

- 10.5 If the Purchaser is a consumer within the meaning of Section 13 BGB, the above warranty provisions shall not apply. Rather, claims for defects shall be governed by the statutory provisions. In the case of the sale of used goods, these claims shall become statute-barred one year after the passage of risk in accordance with Section 8.2. Claims in accordance with Section 10.3 shall become statute-barred in accordance with statutory provisions.

## 11. Reservation of title

- 11.1 Unless otherwise agreed by the parties, title shall pass pursuant to Section 929 BGB. Until all obligations of the Seller arising from the business relationship between Seller and Purchaser have been fulfilled completely, all sold goods shall remain the property of the Seller. If the Purchaser is a consumer within the meaning of Section 13 BGB, the items sold shall remain the property of the Seller only until complete payment of the purchase price resulting from the respective purchase agreement relating to them.

- 11.2 The Purchaser may sell goods subject to retention of title only in the ordinary course of business. It is not entitled to pledge these goods or assign them as security. The Purchaser shall be obliged to defend the goods against distraint or any other detriment upon the Seller's rights to the best of its ability and to notify the point of sale in writing without undue delay of any such incidents.

- 11.3 The Purchaser already assigns to the Seller as of now the Purchaser's own claims arising from any resale of the goods. The Purchaser shall be entitled to collect debts in its own name for as long as it continues to fulfil its obligations to the Seller.

On request by the Seller, the Purchaser shall be obliged to notify its debtor regarding the assignment of the claim in order to provide the Seller with all necessary information to enable the Seller to collect the debt and to provide all documents relating to the debt.

- 11.4 If the value of the securities exceeds the Seller's claims by more than 10%, the Seller shall release its securities to this extent on request by the Purchaser.

**12. Place of jurisdiction, applicable law  
Requirement of form**

- 12.1 If the Purchaser is not a consumer within the meaning of Section 13 BGB but instead a merchant, a legal person under public law or a special fund under public law, the place of jurisdiction is Hanover. If the Purchaser, who is not a merchant, does not have a general place of jurisdiction in Germany or if its place of residence or habitual abode is not known at the time of the legal assertion, the place of jurisdiction is also Hanover. The Seller shall, however, be entitled to invoke the courts at the domicile of the Purchaser.
- 12.2 The agreement shall be governed solely by German law, excluding the UN Convention on Contracts for the International Sale of Goods. Only the German version of this agreement shall be binding. For consumers within the meaning of Section 13 BGB whose residence is in the EU, the mandatory provisions of the consumer protection law of the member state in which the consumer is resident shall also apply if these are more favourable to the consumer than the provisions of German law.
- 12.3 Changes or supplements to the agreement, including to this clause, must be agreed in writing for purposes of collecting evidence. Each party may subsequently request a notarisation in written or electronic form. The use of an advanced electronic signature is sufficient to fulfil the electronic form requirement.

**13. Online dispute resolution in consumer matters (ODR regulation)/notice according to the VSBG**

- 13.1 The European Commission provides a platform for online dispute resolution in consumer matters, which is available at <https://ec.europa.eu/consumers/odr/>.
- 13.2 The Seller is neither willing nor obliged to participate in dispute resolution proceedings before a consumer arbitration board in accordance with the Consumers' Dispute Settlement Act (*Verbraucherstreitbeilegungsgesetz, "VSBG"*).

**14. Special conditions for the sale of secondary raw materials**

- 14.1 In addition to Section 1.2, the following provisions apply to contracts for secondary raw materials. This does not exempt purchasers of items other than secondary raw materials from complying with the requirements in Section 1.2 and the individual legal regulations mentioned here, among others.

14.2 Secondary raw materials are batteries, waste oil, transformers, recycling materials, parts from vehicle dismantling and other materials that are available via the DB Resale platform ([www.dbresale.com](http://www.dbresale.com)) under the secondary raw materials section.

14.3 The Purchaser and Seller undertake to introduce all measures necessary to prevent corruption, other criminal offences and gross misconduct in the scope of the contractual relationship. In particular, they shall take all necessary precautionary measures within their own companies to prevent gross misconduct domestically and abroad. Irrespective of the nature of the involvement in committing, inciting or aiding and abetting an offence, gross misconduct is deemed to be:

- a) serious criminal offences committed in business dealings. This includes criminal offences which constitute, in particular, fraud, breach of trust, forgery and other similar offences,
- b) offering, promising or granting undue advantages to civil servants, officials or persons with special public service obligations, office holders (bribery or granting an undue advantage) or to Management Board Members, Managing Directors or other employees of Deutsche Bahn AG or its Group companies (bribery in business transactions),
- c) offering, promising or granting undue benefits to other third parties who are active in the context of contract processing, including independent contractors who work on behalf of Deutsche Bahn AG or its Group companies in the processing of contracts,
- d) any unauthorised procurement, securing, exploitation or disclosure of business and trade secrets for competitive purposes, for personal gain, for the benefit of a third party or with the intent to inflict damage or loss on the proprietor of a business, or any unauthorised exploitation or disclosure of information papers or technical specifications entrusted in business dealings, for competitive purposes or for personal gain, and additionally any unauthorised exploitation or disclosure of documents, information papers or specifications of a technical nature or financial information belonging to the Seller, entrusted in business dealings, including any such material supplied on data carriers, for competitive purposes or personal gain,
- e) any violation of regulations designed to protect unimpeded competition; in particular, violations of hardcore restrictions in accordance with Article 101 of the Treaty on the Functioning of the European Union (TFEU), Section 1

of the German Act Against Restraints of Competition (*Gesetz gegen Wettbewerbsbeschränkungen*, “GWB”) (price, bidding, quantity, quota, territorial and customer allocation agreements),

- f) any infringement of economic sanctions or the circumvention of European Union sanctions or of other applicable national, European or international embargo or trade-control regulations, and
- g) other serious criminal offences or gross misconduct. These include criminal offences; in particular, terrorist offences, involvement in a criminal organisation, money laundering, terrorism financing, child labour and other forms of human trafficking or similar torts.

Gross misconduct in the above sense shall also be deemed to have been committed if undue advantages are offered, granted or promised to persons who are close to employees, Managing Directors or Members of the Management Board of the Deutsche Bahn Group.

- 14.4 Where it is shown that the Purchaser, or its appointed representatives or persons acting on its behalf, have made an agreement in relation to the purchase which constitutes unlawful anti-competitive practices, it shall pay compensation of 15% of the net order value unless the Purchaser is not responsible for the violation. Proof of lower damages by the Purchaser or higher damages by the Seller and the corresponding assertion shall remain unaffected. Furthermore, other contractual or statutory claims on the part of the Seller shall remain unaffected.
- 14.5 In case of gross misconduct as per Section 14.3 in connection with execution of the agreement to the detriment of the Seller committed by an employee or managing director/board member of the Purchaser or a subcontractor commissioned by the Purchaser, the Purchaser shall pay a penalty to the Seller, unless the Purchaser is not to be held responsible for the violation. The penalty shall amount to
  - a) 10% of the net purchase price if the misconduct was committed by a managing director/management board member of the Purchaser,
  - b) 7.5% of the net purchase price if the misconduct was committed by an agent holding a full power of attorney or commercial power of attorney of the Purchaser,

- c) 5% of the net purchase price if the misconduct was committed by other staff or subcontractors of the Purchaser.

The assertion of a claim for compensation by the Seller as a result of misconduct shall remain unaffected by the contractual penalty, in which case any contractual penalty incurred shall be deducted from such compensation.

A contractual penalty in accordance with this provision shall be waived if a subcontractor of the Purchaser is guilty of serious misconduct in accordance with Section 14.3, the selection of said subcontractor was stipulated by the Seller if and to the extent that the Purchaser or its employees, management board members, managing directors, or other third parties deployed by the Purchaser are not involved in the serious misconduct.

Cases of unlawful anticompetitive practices according to Section 14.4 and concurrent acts of gross misconduct according to Section 14.3 shall not be subject to the contractual penalty provision. Section 14.4 shall apply conclusively in this respect.

- 14.6 If gross misconduct in accordance with Section 14.3 is committed by an employee or the managing director/management board member of the Purchaser,
  - a) the Seller shall be entitled to terminate the agreement without notice.
  - b) the Purchaser may be debarred from purchasing from Deutsche Bahn AG and its Group companies and/or from competing for orders awarded by Deutsche Bahn AG and its Group companies for a period of up to five years, in the absence of any statutory provision to the contrary. Should the Purchaser demonstrate appropriate, sufficient self-corrective actions, a ban may be waived, taking the severity and circumstances of the misconduct into consideration.

The scope of the ban and re-admittance shall be governed by appropriate application of the “Deutsche Bahn AG guideline on the exclusion of contractors and suppliers”, which is available from the Seller at any time.

- 14.7 The Purchaser undertakes to contribute towards preventing gross misconduct within the meaning of Section 14.3 and actively clarifying suspected misconduct and cooperating with the Seller in this respect. If the Purchaser gains knowledge of facts that constitute a suspicion of gross misconduct within the meaning of Section 14.3 with an impact on the Seller, the Purchaser is obliged to notify the Seller of such in writing without undue delay. Furthermore, if such gross misconduct lies within the

sphere of responsibility of the Purchaser, the Purchaser is obliged to investigate the circumstances of the case without undue delay. If the suspicion is confirmed, the Purchaser is obliged to take appropriate specific technical, organisational and personnel measures to terminate the misconduct without undue delay and to prevent such misconduct in the future. The Purchaser shall promptly inform the Seller in writing of the progress and outcome of the investigation of the circumstances of the case and of any measures taken.