

General Purchase Conditions for Supplies and/ or Services Valid for Gutehoffnungshütte Radsatz GmbH (Status 01/2020)

1. General – Scope

- 1.1 For our orders, exclusively these purchase conditions shall apply.
They shall be an integral part of the contract and any possible addendums.
We do not accept sales and delivery conditions of the Contractor (hereinafter called Contractor) which are conflicting with, or deviate from, our purchase conditions unless we have expressly consented to their validity in writing. Our purchase conditions will apply even if we accept the supply and/or service of the Contractor without reservation, knowing that the conditions conflict with, or deviate from, our purchase conditions.
- 1.2 All agreements which are to be subject matter of the contract or made between us and the Contractor in relation to the performance of the contract shall be laid down in writing or text form.
- 1.3 Our purchase conditions apply only towards companies as defined in §14 BGB (German Civil Code), legal entities under public law and public special funds as defined in § 310 BGB.
- 1.4 Within the scope of the contractual relationship, the contracting parties are obligated to take all required measures to prevent corruption, other criminal offences and serious breaches of conduct. Irrespective of the form of participation of perpetrator, instigation or aiding and abetting, any serious breaches of conduct include the following:
 - a. Fraud, breach of trust, document forgery or comparable offences if they are committed within the framework of business activities.
 - b. Bribes or undue advantages given to civil servants, elected officials or to persons specially obligated to public service; in the course of business, offering, promising or granting improper benefits to management boards, managing directors or group companies.
 - c. Unauthorized obtaining, securing, exploiting or communicating of business and trade secrets for competitive purposes as well as the unauthorized exploitation or communication – for competitive purposes – of documents or technical provisions and commercial information by the customer. This also applies for information made available on data carriers.
 - d. Noncompliance or breach of economic sanctions, applicable national, European and international embargo and foreign trade regulations or the circumvention of sanctions by the European Union; in particular, the antiterrorism regulation EG-VO (European Community – Regulation) 2580/2001, EG – VO 881/2002 and EU _VO (European Union Regulation) 753/2011
 - e. Breach of provisions aimed at the protection of unrestricted competition, namely breaches of antitrust hardcore restrictions within the meaning of Art. 101 AEV (Treaty on the Functioning of the European Union), § 1 GWB (Act against Restraints of Competition) (price, submission, quantity, quota, territorial and customer agreements).
 - f. Committing other serious criminal offenses or severe misconducts such as terrorist crimes, participation in a criminal organization, child labour, human trafficking, money laundering and financing terrorism.

2. Order – Order Acceptance

- 2.1 Only orders in writing are binding. Telephone or oral orders or agreements are subject to our approval in writing or text form to be effective.

Supplements of purchase orders only become valid in written form and following written confirmation by the contracting party.

- 2.2 The Contractor is obliged to immediately acknowledge receipt of our order on the form "Order Acknowledgement" attached to the order.
The Contractor is obliged to confirm the order within two weeks after receipt by sending an order confirmation.
If the Contractor does not accept the order within two weeks after receipt, we reserve the right of rescission.
- 2.3 Documents made available to the Contractor within the scope of the contract shall not be made accessible to third parties without prior consent. Any duplication of the documents and any use for other purposes than those stipulated in the contract are prohibited without any explicit prior consent. For its validity, such consent principally requires the written form. Upon request, documents are to be returned to the Customer after completion of the order.
After provision of the service, the Customer may keep the documents provided to him by the Contractor and use them for trainings and maintenance. Any further use is permitted according to agreement in the individual case.

3. Prices – Terms of Payment

- 3.1 The price indicated in the order is binding. If no deviating agreement has been made in writing or text form, the price includes delivery to the place indicated in the order, including packing.
- 3.2 The legal value-added tax (VAT) is not included in the price. The prices indicated in the contract are fixed prices. Additional charges are excluded.
- 3.3 We can only process invoices if these - in accordance with the specifications in our order - state the order number indicated there and the relevant article number.
Every contract is to be settled by an invoice. Partial invoices and progress payment invoices are to be designated as such.

Invoices in electronic form are to be sent exclusively to our following email address:
einvoice@ghh-bonatrans.com.

Invoices cannot be processed if they are sent to us via another email address than the above indicated address of our company.

We are not responsible for any consequences due to the noncompliance with the above obligation.

- 3.4 Unless otherwise agreed in writing or text form, we will pay the purchase price net within 60 days after delivery and receipt of an auditable invoice.
- 3.5 Our payments do not imply recognition of conformity of the supply and/or service with the contract.
- 3.6 We are entitled to rights of set-off and retention to the legal extent.

4. Delivery Date and/or Service Date

- 4.1 The delivery date indicated in the order is binding and is understood as arriving at our premises, for services it is the completion date.
- 4.2 A delivery and/or service ahead of schedule and also a partial delivery are subject to our consent in writing and do not affect the agreed date of payment. If there is no such consent, we reserve the right to reject acceptance of the delivery. In this case, the delivery is to be picked up again at the Contractor's costs and to be delivered again in due time.
- 4.3 The Contractor is obliged to inform us immediately in writing if circumstances occur or are noticeable from which it will result that the agreed delivery and/or service date cannot be adhered to. The Contractor can claim an exceeding of the delivery and/or service date beyond his control only when he has immediately notified us of the reason.
- 4.4 If the Contractor defaults on delivery and/or providing the service, we are entitled to a penalty from that day on which the delivery should have been effected or the service been provided. The penalty is to be paid for each commenced week of delay at a rate of 0.5 % of that part of the price which accounts for the part of supply and/or service on which the Contractor is in default. The penalty amounts to 5 % maximum of the part of the price which accounts for the part of supply and/or service on which the Contractor is in default. Further claims and rights are reserved. The penalty will be set off against a possibly existing claim for damage.

5. Force Majeure – Insolvency – Rescission

- 5.1 If due to force majeure it is impossible, or unreasonably more difficult, for us to fulfill our contractual obligations, these obligations will be suspended until removal of the obstacle. We are obliged to immediately inform the Contractor of the beginning and end of such performance obstacles. If such an obstacle persists longer than three months, each party is entitled to withdraw from the contract.
- 5.2 Force majeure as defined in Item 5.1 includes external, unforeseeable and unavoidable obstacles, in particular industrial disputes, plant interruptions, natural disasters, fire and other events beyond our control independent of whether they occur in our own plant or not.
- 5.3 In the case of a deterioration of the financial circumstances of the Contractor or opening of insolvency proceedings concerning the assets of the Contractor we are entitled to terminate the contract.
- 5.4 Any legally existing rights of rescission or termination remain unaffected by Items 5.1 and 5.3.
- 5.5 In case of rescission or termination a possibly existing damage claim of the Contractor is restricted to the compensation for his services provided till receipt of the notice to rescind or terminate the contract unless he furnishes proof that he suffered a higher loss. This applies independent of whether we are entitled to the rescission or termination resulting from the contract or law.

6. Delivery – Transfer of Risk

- 6.1 Delivery shall be effected, unless otherwise agreed in writing, to the place indicated in the order; the Incoterms as amended will apply. If the contractually agreed service of the Contractor also includes - apart from the delivery - installation, programming, setting-up, control or other work on

the supplied goods after delivery to the place indicated in the order, the risk is transferred only with completion and acceptance of this work.

- 6.2 The Contractor has to observe the regulations valid at the place of use of the supply, in particular as regards safety, accident prevention and environmental protection as well as the provisions of the Foreign Trade Law.
- 6.3 The Contractor is obliged to state - in accordance with the specification in our order - the order number indicated there as well as the relevant article number on all shipping documents and delivery notes. We are not responsible for any consequences caused by failure to fulfill this obligation.
- 6.4 For the packing of the goods to be supplied only materials shall be used in accordance with the legal provisions for which there is a re-use system (stacking mesh pallets, roller containers, Euro pallets or the like) or which can be subjected to complete material recycling (RESY symbol or the like). Any material not conforming to the legal provisions will be returned to the Contractor freight collect or disposed of at his expense.
- 6.5 The obligation to return the packing is subject to a special agreement.

7 Quality – Scope of Supply

- 7.1 The supplies and/or services shall conform to the contractually agreed condition, the specifications included in the contract and the accepted rules of engineering practice, including the DIN standards and other technical standard codes.
- 7.2 All certificates and documentation and operating records are to be included in the supply free of charge. This includes in particular storage, installation and operating instructions and safety data sheets, product-specific programs including data on data carriers as well as documents for maintenance and repair of the delivered goods and programs.
- 7.3 Without our prior consent in writing, the Contractor is not entitled to transfer provision of services and/or other performance of contract or essential parts thereof in whole or in part to third parties (subcontractors and subsuppliers).
- 7.4 Without prior consent in writing, the Contractor is not allowed to relocate the production facility for the manufacture of goods and/or provision of services.
The Customer may refuse this consent unless the Contractor is unreasonably disadvantaged thereby.
- 7.5 The Contractor guarantees that all substances used and falling within the scope of regulation of the EU Chemicals Regulation REACH are authorized and registered in accordance with this regulation even if the Contractor is domiciled outside of the EU.
- 7.6 We only accept over- and underdeliveries within the scope of the respectively applicable EN standard – for the performance object – in its currently valid version.

8. Inspection of Defects – Defects Liability

- 8.1 We are obliged to inspect the delivered goods within a reasonable period for possible quality nonconformities and quantity deviations as well as for transport damage. A notice of defects incumbent on us for open defects is on time, if the Contractor receives it within a period of two

weeks commencing on the receipt of the goods or, in the case of concealed defects, on their detection.

- 8.2 If the contractually agreed service of the Contractor also includes - apart from the delivery - installation, programming, setting-up, control or other work on the delivered goods after delivery to the place indicated in the order, Item 8.1 is valid with the proviso that instead of the receipt of goods the completion of the mentioned work and acceptance are decisive for calculation of the period for examination and notice of defects.
- 8.3 We are entitled to the legal claims for damage without restriction. In any case, we have the right to request the correction of defects or delivery of flawless goods at our choice from the Contractor. The right to compensation for damage, in particular to compensation for damage instead of service is expressly reserved.
- 8.4 In case of imminent danger or particular urgency, we are entitled to remedy the defects ourselves or have them remedied or procure replacement at the expense and risk of the Contractor. Any extra costs incurred due to this (e.g. higher procurement costs at a different supplier) are to be borne by the Contractor.
- 8.5 The Contractor undertakes to reimburse us for the costs and expenses incurred within the framework of preparation of a justified notice of defects.

9. Statutory Limitation

- 9.1 The period of limitation for claims from our orders is five years commencing from the passage of risk, unless the law provides for a longer period of limitation.
- 9.2 According to the terms of delivery of the International Union of Railways (UIC) the period of limitation for unmachined or sub-supplied parts for our products, such as wheel bodies, wheel tyres, monobloc wheels, wheelset axles, wheelsets, bogies or the like is five years commencing from transfer of risk.
- 9.3 The period of limitation is suspended by the notice of defects up to the date on which the contractor finally rejects our claims by registered letter.
The regulations concerning the commencement of the limitation period, suspension of expiry and suspension and the new start of periods remain unaffected.
- 9.4 We and our customers are entitled at all times to monitor manufacture of the goods and perform quality audits in the plant of the Contractor with a reasonable period of notice; the Contractor will ensure that such a monitoring and performance of quality audits is also possible at his subcontractors and sub-suppliers (for this see also Item 7.3). The defects liability of the Contractor remains thereby unaffected.
- 9.5 The above provisions also apply for supplementary deliveries and rework. In particular, the limitation periods commence again after a supplementary delivery or correction of defect.

10. Retention of Title – Secrecy

- 10.1 A retention of title of the Contractor is binding only when it has been separately agreed in writing.

- 10.2 If we provide parts to the Contractor, we retain title to these parts. Processing and conversion are carried out by the Contractor for us. If our object delivered under reservation of title is processed with other objects not belonging to us we acquire co-ownership of the new object in relation of the value of our object (purchase price plus VAT) to the other processed objects at the time of processing.
- 10.3 If the object provided by us is combined inseparably with objects not belonging to us, we acquire co-ownership of the new object in relation of the value of the object delivered under reservation of title (purchase price plus VAT) to the other combined objects at the time of processing. If the combination is effected in such a way that the object of the Contractor is to be considered as the main object, it is understood that the Contractor will transfer co-ownership proportionately to us.
- 10.4 The Contractor will safeguard the sole ownership or co-ownership for us.
- 10.5 We reserve property rights and copyrights to all illustrations, drawings, calculations and other documents handed over to the Contractor in connection with the conclusion of the contract. They are to be kept strictly secret and shall not be disclosed to third parties without our express approval in writing.
The obligation to maintain secrecy also applies after performance of the contract. It expires when and as far as the manufacturing know-how provided with the handed-over illustrations, drawings, calculations and other documents has become generally known.
The handed-over illustrations, drawings, calculations and other documents are to be used exclusively for manufacture of the goods ordered by us and to be returned to us without delay after execution of the order. Basis of this obligation to maintain secrecy is our non-disclosure agreement signed by the Contractor (NDA see Annex).

11. Product Liability

- 11.1 If we are held liable according to German law or another law for product liability the Contractor is obliged to indemnify us and hold us harmless against claims for damage of third parties insofar as the cause is in his sphere of control and organization and he is liable himself as to third parties.

12. Proprietary Rights

- 12.1 The Contractor guarantees that the rights of third parties are not infringed in connection with his supply and/or service.
- 12.2 If in connection with the supply and/or service of the Contractor we are held liable for infringement of rights of third parties, the Contractor is obliged to indemnify us and hold us harmless on first request in writing against these claims. We are entitled to make agreements with the third party – without consent of the Contractor – in particular to reach a settlement.
- 12.3 The obligation of the Contractor to indemnify us refers to all expenses necessarily incurred by us due to, or in connection with, being held liable by third parties.
- 12.4 The limitation period for our claims from Item 12 is ten years commencing from conclusion of the contract.

14. Place of Jurisdiction – Place of Performance

- 13.1 Exclusive place of jurisdiction for all disputes arising from, or in connection with, the contract and its performance is our place of business. We are however entitled to sue the Contractor also at a court having jurisdiction for his place of business.
- 13.2 If the order or these Purchase Conditions do not determine otherwise, our place of business is the place of performance.
- 13.3 Applicable law is the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG), the German international private law and the rules governing the international jurisdiction of German courts.

Miscellaneous:

- Deliveries by truck Monday to Friday 07:00 to 15:00 hours
- Invoice made out in two copies, electronically exclusively to einvoice@ghh-bonatrans.com

We point out in accordance with § 33 of the Federal Data Protection Act (BDSG) that we store personal data regarding your company.