

General Terms and Conditions of Purchase for Deliveries and/or Services ("Terms and Conditions of Purchase") applicable to Gutehoffnungshütte Radsatz GmbH (last revised: November 2024)

1. General information – scope

- 1.1 These Terms and Conditions of Purchase apply exclusively to all our orders and business relationships with contractors/suppliers/subcontractors (uniformly referred to here as the "**Contractor**"), provided that the Contractor is a trader within the meaning of section 14 German Civil Code (*BGB*), a legal entity under public law or a special fund under public law. We do not recognise any terms and conditions of sale and delivery of the Contractor that conflict with or deviate from our Terms and Conditions of Purchase unless we have expressly consented to their application in writing. It will not constitute consent, for example, if we accept the Contractor's delivery and/or performance without reservation in the knowledge of terms and conditions of the Contractor that conflict with or deviate from our Terms and Conditions of Purchase.
- 1.2 All agreements which are to form part of the contract or which are made between us and the Contractor in connection with the performance of the contract must be documented in writing or in text form in order to take precedence over these Terms and Conditions of Purchase.
- 1.3 Unless otherwise agreed, the version of our Terms and Conditions of Purchase that is valid at the time of our order will also apply as a framework agreement (section 305 (3) German Civil Code (*BGB*)) to any subsequent contracts with the same Contractor without us having to refer to our Terms and Conditions of Purchase again.

2. Order; order acceptance

- 2.1 Only our written orders are binding. Telephone or verbal orders or agreements require our confirmation in writing or text form to be valid. The Contractor must notify us of any obvious errors (in particular, obvious arithmetical errors, incorrect product specifications or omissions) in our orders (and associated documents) so that we can correct them before the contract is entered into; otherwise the contract will be deemed not to have been entered into.
- 2.2 The Contractor can only confirm our order within the commitment period stated in it, otherwise within ten (10) working days. The date when we receive the order confirmation is decisive for determining whether or not the deadline has been met. A delayed acceptance is deemed to be an offer with exactly the same content as our respective cancelled order; it is at our discretion whether to accept. To confirm the order, the Contractor must use the "Order Confirmation" form attached to the order.
- 2.3 We reserve all title, copyright and property rights regarding all documents, materials and other items (essentially our order documents, plans, drawings, illustrations, calculations, product descriptions and product specifications, manuals, samples, models and other physical and/or electronic items, documents, information and objects) which we provide to the Contractor. The aforementioned items provided to the Contractor under the contract may not be made accessible

to third parties without prior consent. Reproduction of the documents and use for purposes other than those agreed in the contract is prohibited without express prior written consent. At our request, documents must be returned without undue delay once the contract has been fulfilled.

3. Prices; terms of payment; offsetting

- 3.1 The price stated in the order is a binding fixed price. This price includes delivery to the location specified in the order, including packaging and all other ancillary services (e.g. assembly/fitting, mounting, installation, test run).
- 3.2 Statutory value-added tax (VAT) is not included in the price.
- 3.3 We can only process invoices if they are prepared in accordance with the specifications in our order and, in particular, if the order number stated in the order and the respective article number are indicated. Each contract is to be settled with an invoice. Partial invoices must be marked as such. Invoices are to be sent in electronic form exclusively to the following email address: einvoice@ghh-bonatrans.com.
- 3.4 The agreed price is due within sixty (60) calendar days of delivery and receipt of a proper invoice. If we make payment within fourteen (14) calendar days of complete delivery and performance and receipt of a proper invoice, the Contractor will grant us a three percent (3 %) discount on the net amount of the invoice. If the delivered goods are goods for which a (where applicable, new) Initial Sample Approval was still required at the time of the order in accordance with clause 7.7 and if these goods are delivered before the Initial Sample Approval, the payment periods specified in this clause 3.4 will only commence when the Initial Sample Approval has been granted, but no later than thirty (30) days after delivery.
- 3.5 We are entitled to set-off and retention rights to the extent provided for by statute. We are, in particular, entitled to withhold payments as long as we are still entitled from the relevant order to a claim due to incomplete or defective delivery/performance; this applies at least to the extent that withholding a payment is not in breach of good faith based on the circumstances, in particular because of the relative insignificance of the defect or incompleteness of the delivery/performance.
- 3.6 The Contractor only has the right to set-off and to assert a right of retention if its counterclaim is (a) either undisputed or has been ruled final and absolute by a court of law or (b) ready for a decision at the time of the last hearing where it is asserted in court or (c) synallagmatic to the principal claim.

4. Delivery and/or performance date

- 4.1 The delivery deadline specified in the order is binding and must be adhered to by the Contractor. If a delivery period is not indicated in the order and also not agreed otherwise, it is thirty (30) days from when the contract is entered into.
- 4.2 Early delivery or partial delivery will always require our prior written consent and will not affect the agreed payment date. If this consent is not given, we reserve the right to refuse acceptance of the delivery. In this case, the delivery will be collected again at the Contractor's expense and delivered again in due time.

- 4.3 The Contractor will notify us in writing without undue delay if circumstances arise or become apparent which mean that the agreed delivery deadline cannot be met.
- 4.4 If the Contractor does not perform or does not perform within the agreed delivery period, or if the Contractor is in default, our rights, in particular with regard to rescission and compensation, will be based on the statutory provisions. In the event of default, we will also have a right to liquidated damages in accordance with the following clause 4.5.
- 4.5 If the Contractor is in default, we are entitled – in addition to further-reaching statutory claims and in addition to performance – to liquidated damages for our losses caused by the delay in the amount of 0.5 % of the net value of the delayed part of the delivery for each weekday, but in total not more than 5 % of the net value of the delayed part of the delivery. This will have no effect on our right to prove that the loss suffered was higher. We do not need to prove a minimum loss. If any further losses are asserted, the liquidated damages incurred as a result of the delay will be offset against these further losses.

5. Force majeure

- 5.1 If force majeure makes it impossible or unreasonably difficult for us to fulfil our contractual obligations, such as the obligation to accept delivery (if agreed), our obligations will be suspended until the obstacle has been removed. Claims for damages cannot be derived from this. We are required to provide the Contractor with the necessary information without undue delay to a reasonable extent.
- 5.2 Events of force majeure within the meaning of clause 5.1 are external, unforeseeable and unavoidable obstacles, such as industrial action, strikes, operational disruptions, shortages of staff, energy and raw materials, natural disasters, war and acts of war, fire, epidemics, pandemics or other events for which we are not responsible.
- 5.3 If we have to change the delivery schedule due to an event of force majeure and one or more deliveries are therefore postponed, the Contractor will retain the goods concerned in accordance with our instructions and will deliver them after the event of force majeure has ended.
- 5.4 If the event of force majeure lasts for more than three (3) months, either party will have the right to rescind the contract by way of written notice to the other party.

6. Delivery; transfer of risk

- 6.1 "DDP Incoterms (2020)" will apply to all deliveries (made to the delivery address specified in our order or, if the address is not expressly stated, made to the delivery address of our respective ordering establishment), unless agreed otherwise.
- 6.2 Regardless of the agreed Incoterm, the risk of accidental loss and accidental deterioration of the goods to be delivered will in all cases only pass to us at the time when they are handed over at the delivery address as defined in clause 6.1. If and to the extent that acceptance (in the sense of acceptance as the term is used in contracts for work and services) has been agreed, the risk will only pass to us once the goods have been successfully accepted.
- 6.3 The Contractor must indicate the order number and the respective article number on all shipping documents and delivery notes in accordance with the specifica-

tions in our order. We will not be responsible for any consequences arising from non-compliance with this obligation.

- 6.4 In accordance with the statutory provisions, only such materials for which a return system is in place (lattice boxes, roll containers, Euro pallets or similar) or which can be fully recycled (marked with a RESY symbol or similar) may be used for the packaging of the goods to be delivered. We will return any material which does not comply with statutory provisions to the Contractor on a carriage forward basis or dispose of it at the Contractor's expense.
- 6.5 The obligation to return the packaging will require a special agreement.

7. Quality; Initial Sample Approval

- 7.1 The Contractor's deliveries and/or services must correspond to the contractually agreed quality (in particular the agreed specifications) and the recognised rules of technology, including the applicable DIN standards and other technical regulations.
- 7.2 All certificates and documentation components and process documents must also be delivered free of charge. These include, in particular, storage, assembly and operating instructions and safety data sheets, product-specific programmes including the data on data carriers, as well as documents for the maintenance and repair of the delivered goods and programmes.
- 7.3 The Contractor must introduce and maintain a documented quality assurance system, suitable in scope and nature, which corresponds to the latest state-of-the-art technology. It must prepare records, especially with respect to quality reviews, and provide us with these records without undue delay at our request.
- 7.4 Without our prior written consent, the Contractor may not relocate the goods to be delivered, the manufacturing process or the production facility for the manufacture of goods and/or the provision of services. We may refuse this consent provided this does not put the Contractor at an unfair disadvantage.
- 7.5 The Contractor warrants that the delivered goods comply with all provisions of Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH Regulation) and Regulation (EC) No 1272/2008 of the European Parliament and of the Council on Classification, Labelling and Packaging of Substances and Mixtures (CLP Regulation).
- 7.6 The Contractor must be and remain holder of an ISO 9001 Certification to be renewed on a regular basis and provide us with proof of this at our request.
- 7.7 In the following cases, the Contractor must prepare an initial sample, which we will check and approve in writing if the agreed requirements are met ("**Initial Sample Approval**"):
- initial production;
 - product modification (e.g. change in material);
 - relocation of the production site;
 - change in the production process;
 - change in production or process workflows;
 - suspension of production for a period of more than twelve (12) months; and

- change of subcontractor.

The Contractor must inform us without undue delay in writing if any of the above reasons for an Initial Sample Approval arise.

- 7.8 The Contractor warrants that it will manufacture initial samples with standard operating equipment and standard components and otherwise under standard conditions. All quality features agreed in the drawing and specification are to be sampled. Upon request, the Contractor will provide us with detailed initial sample test reports including the test results obtained in accordance with state-of-the-art technology and in accordance with the other agreed requirements. Unless explicitly agreed in writing, the Initial Sample Approval will not result in any changes to the originally agreed specifications. After Initial Sample Approval, the initial sample will remain with us.

8. Incoming goods inspection; rights in the case of material defects and defects in title

- 8.1 The statutory provisions and additionally this subsection apply to our commercial inspection duties and duties to provide notification of defects. Our duty to inspect incoming goods is limited to inspecting the delivered goods for any obvious deviations in quality and quantity as well as transport damage. A notification of defects for obvious defects that we are required to provide will be deemed to have been provided in good time if it is received by the Contractor within a period of eight (8) working days from the date of receipt of the goods or, in the case of hidden defects, within a period of five (5) working days from the date of their discovery. If the delivered goods are goods for which a (where applicable, new) Initial Sample Approval was still required at the time of the order in accordance with clause 7.7 and if these goods were delivered before the Initial Sample Approval, the periods specified in this clause 8.1 will only commence when the Initial Sample Approval has been granted, but no later than thirty (30) days after delivery.
- 8.2 If, in addition to delivery, the contractually agreed performance of the Contractor includes assembly, programming, set-up, control or other activities connected with the delivered goods after their delivery to the location specified in the order, clause 8.1 will apply with the proviso that the completion of the aforementioned activity will be decisive for calculating the period for notification of defects instead of the receipt of the goods. If and to the extent acceptance has been agreed, there will be no duty to inspect.
- 8.3 In the event that the goods are defective, we will be entitled to request that the Contractor, at our discretion, remedy the defect or deliver defect-free goods. If defective goods have been installed in or attached to another item in accordance with their nature and intended use, subsequent performance will also include, at our discretion, (a) removing the defective goods and installing or attaching the improved or newly delivered goods which are free of defects or (b) paying our expenses incurred for this.
- 8.4 If the Contractor does not satisfy its obligation to provide subsequent performance by a reasonable deadline set by us, we may remedy the defect ourselves or have it remedied and request from the Contractor in each case reimbursement of the expenses incurred for this. If subsequent performance by the Contractor has failed or is unreasonable for us (e.g. owing to a particular level of urgency, risk to operational safety or impending disproportionately high losses), it will not be necessary to set a (where applicable, new) deadline; we will inform the Contractor of the cir-

cumstances governing the unreasonableness without undue delay, if possible before we remedy the defect ourselves.

8.5 The Contractor undertakes to reimburse us for the costs and expenses we incur in connection with the handling of a justified notification of defects.

8.6 In all other respects, the statutory provisions apply.

9. Limitation period

9.1 The limitation period for our claims and those of the Contractor will be governed by the statutory provisions subject to the following subsections.

9.2 In derogation of section 438 (1) no. 3 German Civil Code (*BGB*), the general limitation period for contractual claims based on material and legal defects is three (3) years, commencing as of delivery within the meaning of section 438 (2) German Civil Code (*BGB*). Claims based on legal defects will not be statute-barred as long as the third party (i.e. the owner of the claim or right giving rise to the defect) can assert this claim or this right against us, in particular because the matter is not statute-barred. Section 9.4 shall remain unaffected.

9.3 The regular statutory limitation period (sections 195, 199 German Civil Code (*BGB*)) applies to any non-contractual claims for defects. However, if limitation periods are applied to contractual claims and this results in a longer limitation period, the same applies to non-contractual claims.

9.4 In accordance with the delivery conditions of the International Union of Railways (UIC), the limitation period for raw or vendor parts for our products, such as wheel bodies, wheel tyres, solid wheels, wheelset axles, wheelsets, bogies or similar, is five (5) years, calculated as of the date of delivery.

9.5 Upon remedy of a defect or subsequent delivery of defect-free goods, the original full limitation period for our warranty claims regarding the remedied parts or defective parts replaced by the subsequent delivery will start running again unless we had to assume based on the Contractor's conduct that it did not consider itself obliged to make the subsequent delivery, but only did so as a gesture of goodwill or for similar reasons.

10. Reservation of title

Title to the goods will be transferred to us unconditionally and irrespective of our payment of the purchase price. Reservation of title by the Contractor will only be binding if it has been agreed separately in writing. If, in individual cases and notwithstanding sentence 1, we accept an offer by the Contractor of transfer of title (reservation of title) subject to payment of the purchase price by us or if a reservation of title by the Contractor arises in another manner (e.g. by virtue of an express agreement with us or by virtue of mandatory law), this respective reservation of title will expire when we have paid the purchase price for the goods delivered in full in each case at the latest.

11. Provided Items

11.1 Clause 2.3 will also apply to all items that we provide to the Contractor ("**Provided Items**"). The Contractor will store the Provided Items on our behalf free of charge. It must mark them as our property, handle them with care and insure them at its

own cost against fire and water damage, theft and other loss or damage at their new replacement value. If maintenance, servicing, inspection or similar work is required on the Provided Items during the storage period (this does not include the replacement of, or subsequent improvement to, defective Provided Items), the Contractor must carry this work out, or have it carried out, at its own expense in good time and in a professional manner, unless otherwise agreed in the individual case.

- 11.2 The Contractor will bear the risk of accidental loss of/damage to the Provided Items. The Contractor will inform us without undue delay if Provided Items are lost or damaged/destroyed. The Contractor must surrender any Provided Items to us at any time on request; there will be no rights of retention.
- 11.3 We will retain title to all Provided Items. Processing or transformation (section 950 German Civil Code (*BGB*)) by the Contractor will be carried out for us as manufacturer in our name and for our account. If our Provided Items are processed together with other items which do not belong to us, we will acquire joint title to the new item in the ratio of the value of the respective Provided Items (purchase price plus VAT) to that of the other processed items at the time of the processing.
- 11.4 If the Provided Items are inseparably combined or intermixed (sections 947 and 948 German Civil Code (*BGB*)) with other items which do not belong to us, we will acquire joint title to the new item in the ratio of the value of the respective Provided Items (purchase price plus VAT) and the other intermixed items at the time they are intermixed. If the items are intermixed in such a way that the Provided Items are to be regarded as the principal component, the parties will be deemed to have agreed that the Contractor will transfer co-title to us on a pro rata basis.

12. Product and manufacturer's liability; insurance obligation

- 12.1 If a claim is asserted against us by a third party owing to a physical injury or damage to property as a result of product liability and/or manufacturer's liability and if the damage can be attributed to a defective product of the Contractor, the Contractor must indemnify us against claims of third parties and hold us harmless to the extent that the Contractor itself is liable towards third parties.
- 12.2 If we have a duty to issue a product warning or recall a product of the Contractor because it is defective and constitutes a risk for persons and/or property, the Contractor must also bear all costs of the product warning or product recall as part of its indemnification obligation arising from clause 12.1. Further-reaching statutory claims on our part and the Contractor's own statutory product warning and recall obligations remain unaffected. We will inform the Contractor of forthcoming product warning and recall measures without undue delay where it is possible and reasonable for us to do so and give the Contractor an opportunity to comment.
- 12.3 If the Contractor has indications that its goods unexpectedly pose a risk to persons and/or property, it must immediately inform us in writing of the cause, type and extent of the risk. This especially applies in the case of product defects. Statutory obligations to provide notifications and warnings remain unaffected.
- 12.4 The Contractor has a duty to maintain at its own expense a product liability insurance policy with a cover amount of at least EUR five (5) million per physical injury or instance of property damage. The Contractor must provide us with proof that the insurance policy exists and its scope on our request at any time by providing us with confirmation of insurance and/or a copy of the insurance policy.

13. Third-party intellectual property rights

- 13.1 The Contractor will be responsible for ensuring that no intellectual property rights of third parties are infringed in connection with its delivery or performance.
- 13.2 If claims are asserted against us in connection with the Contractor's delivery or performance owing to the infringement of third-party intellectual property rights, the Contractor must indemnify and hold us harmless from these claims upon our written request. The Contractor must satisfy this indemnification obligation on our first request.
- 13.3 The Contractor's indemnification obligation extends to all necessary expenses we may incur as a result of or in connection with the claims asserted against us by a third party.
- 13.4 However, the claims under clauses 13.2 and 13.3 above do not exist if the Contractor proves that it is neither responsible for the infringement of intellectual property rights, nor should have been aware of it at the time of delivery or performance if it had exercised the due care of a prudent businessman.

14. Human rights; German Supply Chain Due Diligence Act; compliance

- 14.1 With regard to human rights and the environment, the Contractor must at least comply with the due diligence obligations in the currently valid version of the German Supply Chain Due Diligence Act (*LkSG*) to the extent described in this Act (see in particular section 2 German Supply Chain Due Diligence Act (*LkSG*)) and in the manner described in this Act (see in particular section 3 (2) German Supply Chain Due Diligence Act (*LkSG*)). This also applies if the Contractor itself does not fall within the scope of the German Supply Chain Due Diligence Act (*LkSG*).
- 14.2 The Contractor is required to inform us about risks to human rights and the environment and about breaches of corresponding obligations in its own business area and supply chains without undue delay after their discovery and furthermore to inform us about the measure(s) it intends to take to remedy the grievance. As far as necessary and possible, we will support the Contractor in this process.
- 14.3 The Contractor will endeavour to ensure that its subcontractors as defined in the German Supply Chain Due Diligence Act (*LkSG*) comply with clauses 14.1 and 14.2.
- 14.4 We have a right to verify whether the Contractor is complying with its obligations under clauses 14.1 to 14.3, undertaking this check at our own expense using our own employees or third parties by means of audits on site and/or other suitable measures once a year and any time there is sufficient reason for us to do so. The Contractor must provide reasonable access to the relevant areas and documents. Unless otherwise agreed, the inspection may only take place during the Contractor's business hours and may not interfere with the Supplier's business operations. "Sufficient reason" within the meaning of sentence 1 means cases where we have reason to expect that the risks at the Contractor and/or at its subcontractors have changed or increased significantly.
- 14.5 If the Contractor breaches one of the obligations under clauses 14.1 to 14.4, we may set the Contractor a reasonable deadline to end the breach or otherwise remedy the breach. If the Contractor does not end the breach or provide another

remedy before the deadline and provide us with appropriate evidence of such, we may rescind the contract or terminate it without notice for good cause with immediate effect. Irrespective of this, we may terminate the contract with immediate effect under the conditions of section 7 (3) German Supply Chain Due Diligence Act (*LkSG*). The Contractor is not entitled to any remuneration, compensation or other claims arising from or in connection with a termination pursuant to this subsection.

- 14.6 If the Contractor breaches one of the obligations under clauses 14.1 to 14.4, the Contractor must compensate us for the resulting losses and expenses unless the Contractor is not responsible for the breach and the resulting losses and expenses.
- 14.7 The Contractor further undertakes to take all necessary measures to avoid corruption, other criminal acts and other serious misconduct. In particular, it undertakes to take all necessary precautionary measures in its company to avoid serious misconduct and the commission of criminal offences at home and abroad.

15. No subcontractors or third parties; prohibition of assignment

- 15.1 The Contractor is not entitled to have the services it owes to us rendered by third parties (e.g. subcontractors) without our prior written consent.
- 15.2 The Contractor is not entitled to assign its claims against us to third parties. In addition, section 354a (1) German Commercial Code (*HGB*) remains unaffected.

16. Special right of rescission/termination

We will have a special right to rescind or terminate the contract in the following cases: (a) The Contractor stops making payments to its creditors; (b) the Contractor itself applies for insolvency proceedings to be opened over its assets; (c) we file or a third party permissibly files such an application; (d) provisional or final insolvency proceedings are opened; or (f) such an application is refused owing to lack of assets.

17. German Minimum Wage Act / German Act on Mandatory Working Conditions for Workers Posted Across Borders and for Workers Regularly Employed in Germany

- 17.1 The Contractor warrants that it will fulfil its obligations under the German Act on Mandatory Working Conditions for Workers Posted Across Borders and for Workers Regularly Employed in Germany (*AEntG*) and the German Minimum Wage Act (*MiLoG*). The Contractor will also assume a corresponding warranty for any subcontractors it engages with our prior written consent.
- 17.2 The Contractor will indemnify us against all claims asserted against us by employees of the Contractor or by employees of any subcontractors engaged in individual cases on the basis of the German Minimum Wage Act (*MiLoG*) or the German Act on Mandatory Working Conditions for Workers Posted Across Borders and for Workers Regularly Employed in Germany (*AEntG*), and will be liable for any losses and costs we incur as a result of disputes arising in this connection. The claims under sentence 1 do not exist if the Contractor proves that it is not responsible for the infringement. Section 774 German Civil Code (*BGB*) (statutory devolution of claims) remains unaffected.
- 17.3 The Contractor undertakes to provide us with records of wages and salaries (doc-

uments pursuant to section 17 German Minimum Wage Act (*MiLoG*)) taking into account the relevant data protection regulations, i.e. if necessary in (partially) anonymised and/or (partially) redacted form and/or a declaration from a tax advisor on the payment of the minimum wage without undue delay upon request.

- 17.4 If the Contractor breaches the obligations incumbent upon it under this section 17 and if such a breach is likely to give rise to claims by employees of the Contractor or by employees of any subcontractors engaged in individual cases or to the initiation of administrative fine proceedings against us, we will be entitled to terminate the contract without notice.

18. Choice of law; jurisdiction; place of performance

- 18.1 Exclusive place of jurisdiction for all disputes arising from or in connection with the contract and its performance is Oberhausen, Germany. However, we are also entitled to take legal action against the Contractor at the court which has jurisdiction over its place of business.
- 18.2 Unless otherwise stated in the order or these Terms and Conditions of Purchase, our place of business will also be our place of performance.
- 18.3 These Terms and Conditions of Purchase and the business relationship between the Contractor and us will be governed by the law of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

19. Severability clause

Should individual contractual provisions, including these Terms and Conditions of Purchase, not become part of the contract, or be or become void, invalid or unenforceable in whole or in part, this will not affect the validity of the other provisions. If provisions have not become an integral part of the contract, or are void or invalid, the content of the contract will be based on the statutory provisions (section 306 (2) German Civil Code (*BGB*)). Only in all other respects, and only to the extent that supplementary interpretation of the contract is not possible, will the parties agree on a valid provision which comes as close as possible in economic terms to the essence and purpose of the provision which has ceased to be part of the contract or become void, invalid or unenforceable.

Miscellaneous:

- └ HGV deliveries Monday to Friday from 7 a.m. to 3 p.m.
- ☐ Invoices will be sent in duplicate in electronic form exclusively to einvoice@ghh-bonatrans.com