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General Terms and Conditions of Purchase of DB AG and its Affiliated Companies (hereinafter referred to as the "Client")

- General Terms and Conditions of Purchase as at May 1, 2020 -

德国铁路股份有限公司及其附属公司（以下简称“客户”）

采购通用条款和条件 2020年5月1日版

1 General provisions and integrity clause

1 通用规定及廉洁条款

1.1 These Terms and Conditions of Purchase of the Client apply exclusively. They form an integral part of the contract and any supplements. Any contradictory, supplementary or divergent terms and 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 that are specified in order confirmations or other confirmations of the Contractor. Acceptance of goods and/or services shall not constitute acceptance of the terms and conditions of the Contractor. The Terms and Conditions of Purchase of the Client shall also apply if the contract with the Contractor is executed without reservation, despite knowledge of contradictory terms and conditions, supplementary terms and conditions or terms and conditions that diverge from these Terms and Conditions of Purchase of the Client.

1.1 本采购通用条款和条件应作为合同以及其任何补充协议的条款和条件予以排他性适用。承包商规定的任何与之矛盾的、补充或不同的条款和条件，只有在客户明确书面接受的情况下才构成本合同的一部分。这一原则也应适用于订单确认书或承包商的其他确认书规定的任何条款和条件。客户对货物和/或服务的验收和/或接受不应被视为对承包商条款和条件的接受。尽管客户知晓任何与之矛盾的条款和条件、补充条款和条件或其他与本文件所述的通用合同条款和条件有分歧的条款和条件，客户与承包商的合同仍应无保留地根据本文件所述

的通用合同条款和条件予以履行。

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, abuse of trust, document forgery or similar offenses,

b) offering, promising or granting undue benefits to any civil servant, public official or other office holder or person specifically bound to carry out public service duties (bribery or granting an undue advantage), or members of the Management Board, managing directors or other employees of Deutsche Bahn AG or its Group companies (bribery in business conduct),

c) offering, promising or granting 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. technical designers, consultants and project control officers,

d) in connection with the activity of the Contractor for Deutsche Bahn AG or its Group companies, offering, promising or granting undue benefits to any other German or foreign civil servant, public official or other



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- office holder or person specifically bound to carry out public service duties or to any employee 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 of the Client 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 Article 101 of the Treaty on the Functioning of the European Union, section 1 of the German Act Against Restraints of Competition (GWB) (price, bidding, quantity, quota, customer allocation and territorial agreements), **and/or an applicable national law and local regulations.**
- 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 Management Board members of the Deutsche Bahn Group are offered, promised or granted undue benefits and if specific planning and tendering assistance is provided in order to subvert competition.
- 1.2 在合同框架内，缔约各方承诺其应采取一切必要的措施以防止腐败、其他刑事犯罪，以及其他形式的严重不当行为。双方特别承诺其应当采取一切必要的预防措施，以避免在德国和德国国外发生严重不当行为。不论参与、煽动、协助或教唆犯罪的形式为何，严重不当行为包括：
- a) 在商业交易过程中犯下的严重违法违规行为，包括刑事犯罪，尤其包括欺诈、违反信托、伪造文件或其他类似的罪行；
- b) 向公务员、公职人员、或其他有明确履行公共服务职责义务的任职者或人员提供、承诺或授予不当利益（贿赂或不正当好处）或向德国铁路股份有限公司或其集团公司的管理委员会成员、常务董事或其他雇员提供、承诺或授予不正当利益（商业贿赂）；
- c) 向德国铁路股份有限公司或其集团公司所雇佣的主动参与合同判授或履行的任何从事自由职业的人员，（如技术设计人员、顾问和项目控制人员）提供、承诺或给予不正当利益。



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- d) 向任何与德国铁路股份有限公司或其集团公司承包商的活动有关的德国或外国公务员、公职人员、或其他有明确履行公共服务职责义务的任职者或人员提供、承诺或授予不正当利益，或向任何与第三方订立、判授或履行合同有关的其他企业的雇员或被任命人员提供、承诺或授予不正当利益；
- e) 任何出于竞争目的、为个人利益、第三方利益、或试图对企业所有者造成损失或损害的未经授权采购、保护、使用或传播商业或业务秘密的行为；任何出于竞争目的或为个人利益而未经授权使用或交换在商业交易过程中取得的委托文件或技术说明的行为；以及任何出于竞争目的或为个人利益未经授权使用或传播在商业交易过程中取得的客户文件、技术说明或商业信息，包括在数据存储介质上提供的任何此类材料；
- f) 任何违反保护自由竞争规定的行为，尤其是违反《欧洲联盟运作条约》（Treaty on the Functioning of the European Union）第 101 条，德国《反限制竞争法》（Das Gesetz gegen Wettbewerbsbeschränkungen, GWB）第 1 节的核心反垄断限制（价格、招标、数量、配额、客户分配和区域协定）的违反，**和/或对任何适用的国家法律和地区法规的违反。**
- g) 任何违反或规避经济制裁或欧盟制裁的行为，尤其是违反欧洲理事会第 2580/2001 号法规或欧洲理事会第 881/2002 及第 753/2011 号法规（反恐法规）或其他任何适用的国内、欧洲和国家的禁运或贸易管制条例；以及
- h) 其他严重违法违规或严重不当行为，包括犯罪行为，尤其是恐怖主义罪行、参与集团犯罪、洗钱和恐怖主义融资、雇佣童工以及参与其他形式的人口贩卖或类似的违法违规行为。
- 若任何与德国铁路集团的雇员、常务董事或管理委员会成员相关之人员被提供、承诺或授予不正当利益，且提供了专门的计划和投标协助以破坏竞争，则应当被视为已构成前述条款意义上的严重不当行为。
- 1.3 If, at the time of awarding the contract, the Contractor or persons appointed by it or acting on its behalf are shown to have come to an agreement that represents an unlawful restriction of competition, the Contractor shall pay compensation in the amount of 15% of the net contract value, unless it is not responsible for the infringement. The right to prove and claim damages of different value shall remain unaffected. Furthermore, other contractual or legal claims of the Client shall remain unaffected.
- 1.3 若有证据表明承包商或承包商授权之人员或代表承包商行事的任何人员在授标时已明确达成协议，构成非法限制竞争，则承包商应承担合同净值的 15% 作为赔偿金，但承包商对该违规行为无需承担责任的情况除外。客户证明并主张因价格差异而导致损害赔偿的权利不受到影响，此外，客户的任何基于合同或法定之权利均不应受到任何影响。
- 1.4 If, in the context of awarding or providing services, an employee, a managing director or a member of the board of the Contractor, or any subContractor working under the direction of the Contractor, commits gross misconduct within the meaning of section 1.2 to the detriment of the Client, the Contractor shall pay the Client a contractual penalty, unless it is not responsible for the infringement. The penalty shall amount to 7% of the net contract value if the gross misconduct is committed by a managing director or member of the board of the Contractor, or



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- a) 5% of the net contract value if the gross misconduct is committed by an agent holding full power of attorney or authorized representative, or
- b) 2% of the net contract value if the gross misconduct is committed by other employees of the Contractor or by subContractors, but the minimum contractual penalty shall amount to €5,000. 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 offset against any such claims for damages.
- d) A contractual penalty in accordance with this provision 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 if the Contractor or its employees, board members or managing directors, or other third parties working under its instruction, did not participate in committing this act of gross misconduct. Cases of unlawful restriction of competition according to section 1.3 and concurrent acts of gross misconduct according to section 1.2 (whereby the same offender commits several separate acts of gross misconduct punishable under criminal law or whereby one and the same act of gross misconduct is an offense against several different statutory provisions) shall not be subject to the contractual penalty. Section 1.3 shall apply conclusively in this respect.
- 1.4 若承包商的雇员、常务董事、董事会成员或其分包商在授标或服务提供过程中实施了上述第1.10节所述的严重不当行为损害客户利益，除非承包商对该违规行为无责，则承包商应支付客户合同违约金。合同违约金金额为：
- a) 若承包商的常务董事或董事会成员实施了严重不当行为，合同违约金为合同净值的7%；
- b) 若承包商的授权签字人或授权代表实施了严重不当行为，合同违约金为合同净值的5%；
- c) 若承包商的其他雇员或分包商实施了严重不当行为，合同违约金为合同净值的2%；但合同违约金最低不应少于5,000欧元。合同违约金不应影响客户就该等不当行为主张损害赔偿的权利。但是，该等情况下，相应的损害赔偿金中可以扣除合同违约金。若承包商的分包商实施了第1.2节所指的严重不当行为，但该分包商系由客户强制选定，和/或系承包商或其雇员、董事会成员、常务董事或在其指示下工作的其他第三方，且没有参与这种严重不当行为，则此条款中规定的合同违约金不适用。第1.3节所述的非法限制竞争行为和第1.2节所述的严重不当行为同时存在（即同一行为人分别实施了数个根据刑法应受惩罚的严重不当行为，或同一严重不当行为违反了数个不同的成文法规），那么本节违约金条款不予适用，而应最终适用第1.3节。
- 1.5 If an 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 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-corrective actions, the ban may not be implemented. The severity and the



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circumstances of the misconduct shall be taken into account.

The extent of the ban and the readmission to the competitive tendering process are governed by the Deutsche Bahn AG guidelines on barring contractors and suppliers. These guidelines may be inspected at any time at the Client's premises.

1.5 若承包商的雇员、常务董事或董事会成员犯下第 1.2 节所指的严重不当行为，

a) 客户有权要求不经事先通知立即终止合同；

b) 除非法律另有规定，承包商在最长五（5）年时限内不得参与竞争任何德国铁路股份有限公司及其集团公司发起的招投标项目。若承包商可以提供证据证明自己采取了适当且充分的自我改正措施，则该禁令可以不予以履行。不当行为的严重性和具体情况都应被考虑在内。

禁令的范围和重新进入竞争性投标程序的许可由德国铁路股份有限公司关于禁止承包商和供应商的准则来规定。此等准则可以在任何时候在客户的营业场所进行查看。

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 the misconduct without delay and 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.

1.6 承包商承诺其应当为防止第 1.2 节所指的严重不当行为做出积极贡献，调查可疑的不当行为，并就此配合客户。

若承包商了解任何涉嫌构成第 1.2 节所述严重不当行为且影响客户的事实，承包商有义务立即以书面形式通知客户。此外，若该等严重不当行为在承包商管辖范围之内，承包商有义务立即调查案件情况。若怀疑得到证实，则承包商有义务立即采取特定技术、组织以及人员措施及时终止该不当行为并阻止该不当行为未来再次发生。承包商应将案件调查进展及结果、案件情况及其所采取的相应措施以书面形式及时告知客户。

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. (EC) 2580/2001, (EC) 881/2002 and (EU) 753/2011 (antiterror regulations) and other applicable national, European and international embargo and trade-control regulations. When doing so, they shall observe all relevant provisions based on data protection law, especially with regard to



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data economy and data security.

The Contractor declares that its company and employees are not included on any of the aforementioned sanctions lists. The Contractor undertakes to use appropriate measures to ensure that the antiterror regulations and other national, European and international embargo and trade-control regulations are implemented in its company's business operations. The Contractor also undertakes to promptly 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 nonperformance) 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 extraordinary termination of the contract if any matches are found during the aforementioned checks.

- 1.7 为了建立和组织符合法律规定的业务关系，客户及承包商在此同意对方根据欧洲理事会(EC)2580/2001号法规，(EC)881/2002号法规及(EU)753/2011号法规（反恐法规）或其他国内、欧洲和国家的禁运或贸易管制条例对其信息进行定期的双向检查。进行此类检查时，双方应当遵守基于数据保护法的所有相关规定，特别是关于数字经济和数据安全的规定。

承包商声明其公司及其雇员均未被列入上述任何制裁清单。承包商同意采取适当的措施，以确保在其公司业务活动中能落实反恐法规

以及其他国内、欧洲和国际禁运或贸易管制条例。承包商进一步同意，若在检查中发现任何符合上述制裁清单所列规定的情况，承包商应当立即书面通知客户。

承包商就遵守适用的国内、欧洲和国际禁运或贸易管制条例有关的任何类型的承包商损害赔偿主张（尤其是违约或未履行所引起）以及其他权利主张都应被排除在外，除非客户存在故意或重大过失。若客户在检查中发现承包商符合任何上述制裁清单所列任何一项，客户有权立即终止合同。

2 Execution documents

2 执行文件

- 2.1 The documents transferred to the Contractor may not be made accessible to third parties, duplicated or used for a purpose other than that agreed without the consent of the Client. They must be returned on request.

未经客户同意，承包商不得将客户提供给承包商的文件披露、复制或为约定以外的任何目的披露给第三方。若客户要求，该等文件应当退还给客户。

- 2.2 The Client may retain the documents transferred to it by the Contractor. The Client is entitled to duplicate and use documents for training and maintenance purposes, and for other purposes agreed in specific cases.

客户有权保留承包商向其提供的任何文件。客户有权出于培训、维护之目的或其他在具体情况下商定的目的，复制或使用该等文件。

- 2.3 If the contract or the award documents specify both Client and Contractor drawing numbers or Client and Contractor item numbers, only the Client numbers shall be deemed binding.



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若本合同或其相关判授文件同时包含客户及承包商之图纸编号以及项目编号，则仅客户之编号具有约束力。

apply to contractors outside of the European Union. Upon request by the Client, the Contractor shall provide suitable proof of fulfillment of this obligation.

3 Service execution, provisions

3 服务履行及条款

3.1 The Client may find out information about contractually executing the goods and/or services within business or operating hours. The documents that relate to executing the contract and are required in order to find out this information must be provided for inspection on request. The confidentiality interests of the Contractor must be taken into account.

3.3 承包商应保证其使用的所有材料均已根据欧盟化学品法规 REACH 予以注册并符合该法规相关规定，并且承包商应考虑到客户根据本合同之目的对该等材料的使用。本条亦适用于欧盟以外的承包商。若客户要求，承包商应当提供适当的证据以证明其符合上述要求。

3.4 Provisions shall remain the property of the Client and must be stored separately, labeled and managed at no charge. They may only be used for the purposes of the contract in question.

3.1 客户可以在营业时间或工作时间内了解有关合同执行的货物和/或服务信息。承包商应按要求提供与执行合同和了解信息有关的文件以便客户审查。承包商的保密利益也须被予以考虑。

3.4 客户所提供的材料均应归客户所有，且应分别予以免费储存、标记及管理。该等材料仅限于本合同指定之目的。

3.2 The Contractor may transfer the execution of the goods and/or services or material parts thereof to third parties only with the prior written consent of the Client. The Client must not refuse to grant this consent without good reason.

4 Notification of reservations, notification of obstructions, force majeure

4 保留通知、阻碍通知及不可抗力

3.2 承包商只有在事先征得客户书面同意的情况下，才能将货物和/或服务的提供或其重要部分转让给第三方。客户无合理理由不得无故拒绝给予该等同意。

4.1 The Contractor shall notify the Client in writing immediately of any reservations it may have about executing the goods/services in the manner requested by the Client, or if the Contractor believes that it is being obstructed by a third party or by the Client from executing the goods/services.

3.3 The Contractor shall ensure that all materials used that fall under the EU chemicals regulation REACH are registered and allowed in accordance with this regulation and having taken into consideration the use of the materials by the Client according to the subject of the contract. This shall also

4.1 若承包商在以客户要求的方式提供货物/服务时有任何保留意见，或承包商认为其因第三方或客户的阻碍无法提供货物/服务，则应立即以书面形式通知客户。

4.2 If the execution deadline is exceeded as a result of force majeure, the Client may request that the Contractor execute the



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goods/services at a later point under the terms and conditions originally agreed, or the Client may withdraw from or terminate the contract in whole or in part after a reasonable grace period has elapsed.

- 4.2 若由于不可抗力而导致延迟履行，客户有权要求承包商之后以最初约定的条款和条件提供货物或服务，或在合理的宽限期期满后，全部或部分地撤销或终止本合同。

5 Delay

5 延误

- 5.1 The lead time specified in the contract is binding. The Contractor shall inform the Client immediately in writing of any circumstances that arise or are identified and prevent the specified lead time from being adhered to.
- 5.1 合同中规定的交付期具有约束力。若出现或发现任何妨碍遵守约定交付期的情况，承包商应立即以书面形式通知客户。
- 5.2 In the event of a delay by the Contractor, the Client shall be entitled to its full statutory rights. In the event of a delay by the Contractor, the Client shall be entitled to claim a contractual penalty amounting to 0.3% of the order value of the delayed goods/services, for each calendar day, but no more than a maximum of 10%. The contractual penalty shall be set off against the total amount of damages claimed in respect of the delay. The Client reserves the right to claim the contractual penalty until final payment.
- 5.2 如果承包商延迟履行货物或服务义务，客户应享有其全部法定权利。在承包商延误的情况下，客户有权要求承包商承担合同违约金，每延误

一个日历日需要支付的金额为延误货物/服务订单价值的 0.3%，但总金额最高不超过该订单价值的 10%。合同违约金应在延误所要求的损害赔偿总额中予以抵扣。客户保留在最终付款前对合同违约金的索赔权利。

6 Place of performance, transport, packaging

6 履约地点、运输、包装

- 6.1 The place of performance shall be the Client's receiving location specified in the contract.

- 6.1 履约地点应为客户在合同中规定的收货地点。

- 6.2 The costs of transport and packaging are included in the fixed price. At the request of the Client, the Contractor shall pick up the packaging materials from the receiving location, and dispose of the packaging materials, at its own expense.

- 6.2 运输和包装的费用已包括在固定价格中。若客户要求，承包商应当自收货地点收集并自费用处置该等包装材料。

- 6.3 Where it is financially viable for the Contractor to do so, it must use rail-based means of transportation for the logistics services and goods transportation required for the purpose of executing the goods and services. The Contractor is free to choose the transport company that it wishes to use. Before the contract is awarded, however, it must ask at least one DB Group company to provide a quotation.

- 6.3 在承包商经济条件允许的范围内，承包商应当使用铁路运输工具提供执行货物/服务所需的物流及货运服务。承包商可自行选择运输公司。但是，在合同判授之前，承包商应至少要求一



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家德铁集团内的运输公司提供报价。

7 Termination or withdrawal for cause

7 因故终止或撤销

7.1 The right to termination without notice for cause remains unaffected. In particular, cause exists in cases where a contracting party violates the contract so severely that the other contracting party is unable to reasonably engage in any further cooperation. This may involve, for instance, a significant infringement of the principles and requirements set out in the agreed code of conduct for business partners, or multiple individual contractual violations that exceed the limits of what is considered reasonable. Termination without notice requires a previous unsuccessful written warning.

7.1 不经通知因故终止合同的权利不受影响。尤其是因一方严重违反合同且导致另一方无法继续合作的原因而终止合同。此类情况包括严重违反双方约定的《商业伙伴行为准则》中所述的原则和要求，或多次且超出合理范围地违反合同约定。不经通知的因故终止合同要求先行就违约方的违约事项发出书面警告。

7.2 The Client is also entitled to terminate the contract without notice and without any further preconditions if the ability to fulfill the contract correctly is put at risk due to the Contractor's financial situation significantly worsening. This applies in particular if (i) the Contractor ceases to pay its creditors on more than just a temporary basis, or (ii) no contractually agreed suretyships have been issued, or (iii) insolvency proceedings have been rejected due to a lack of assets.

7.2 若承包商的财务状况显著恶化，并使其面临失去准确履行合同的能力的风险，客户也有权不

经通知而终止合同，且不附加任何前提条件。本条适用且尤其适用于以下情况：(i) 承包商并非暂时地未能按时向其债权人支付款项；(ii) 承包商未能提供合同约定的担保，或(iii) 因承包商缺乏资产而导致破产程序被驳回。

8 Acceptance, complaint period, transfer of risk, transfer of ownership

8 验收、投诉期、风险转移、所有权转移

8.1 In each case where the Contractor provides goods and/or services, confirmation of receipt must be provided at the point of handover at the Client's receiving location, unless a separate agreement for accepting goods/services has been made. Quality checks, technical acceptance and official acceptance (by the German Federal Railway Authority, for example) replaces neither confirmation of receipt at the point of handover nor acceptance.

8.1 除非双方已就接受货物/服务达成单独协议，承包商每次将货物和/或服务送到客户指定的收货地址交付时，均应提供收货确认。质量检查、技术验收和官方验收（例如，由德国联邦铁路局官方验收）既不能取代交付时的收货确认，也不能被视为验收。

8.2 The Client shall check the goods and/or services for defects within a reasonable period. Delivery of a different item or of too low a quantity is considered to be a defect. A complaint shall be considered to have been submitted on time if it is submitted within two weeks. In the case of obvious deviations in quality and quantity, this period shall begin at the point when the goods and/or services are handed over at the receiving location. In the case of concealed deviations in quality and quantity, the period shall begin at the point



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when they are discovered.

- 8.2 客户应在合理期限内检查承包商所提供的货物和/或服务是否存在任何缺陷。承包商交付的货物不正确或数量不足均应被视为缺陷。投诉书应当在两周内提交。若质量和数量存在明显差异，上述投诉期限应自货物和/或服务在收货地点交付及转让之日起计算。若质量和数量存在隐性缺陷，上述投诉期限应自客户发现之日起算。
- 8.3 Risk shall transfer to the Client when confirmation of receipt is provided at the point of handover, or upon acceptance.
- 8.3 客户在交接点提供收货确认或验收后，风险转移至客户。
- 8.4 Ownership shall transfer to the Client when confirmation of receipt is provided at the point of handover, or upon acceptance.
- 8.4 客户在交接点提供收货确认或验收后，所有权转移至客户。
- 8.5 If, following confirmation of receipt at the point of handover or on the acceptance date, the contractual service or parts of the contractual service is/are rejected as not having been executed in line with the contract, the Contractor shall undertake to take back the service/part of the service at its own expense. Once a reasonable grace period has elapsed, the Client shall be entitled to return the contractual service/part of the service to the Contractor at the Contractor's expense. In such cases, risk shall not transfer to the Client before either confirmation of receipt at the point of handover or acceptance takes place once again.
- 8.5 若在交付时提供收货确认时或在验收之日，因

承包商不符合合同约定导致合同项下全部或部分的服务被拒收，承包商应自负费用收回合同项下全部或部分的服务。若承包商未能在合理的收回期限收回上述服务，客户有权返还承包商合同项下全部或部分服务，相应费用均由承包商承担。在上述情况下，在再次提供收货确认或验收之前，风险不应转移至客户。

- 8.6 The contractual service or parts of the contractual service that is/are to be handed over at the receiving location in return for confirmation of receipt, or accepted, or the items that are to be supplied as replacements, must be supplied by the Contractor to the Client's receiving location once again at the Contractor's own expense and risk.

- 8.6 承包商应当自负费用且自担风险在客户指定收货地点向客户重新交付合同项下应当提供的全部或部分服务或任何替代的服务，以便客户签发确认书或验收。

9 Defect claims, liability of the Contractor

9 缺陷索赔、承包商责任

- 9.1 The statutory provisions apply to defect claims asserted by the Client, with the following stipulations:
- a) The Contractor shall remain responsible for its goods and/or services and providing them without defects even in cases where the Client has signed, approved, stamped or labeled as "seen" or similar the plans, drawings, calculations and other execution documents provided by the Contractor.
- b) In cases of particular urgency and/or where there is a risk of delay, the Client may, if it deems the deadline set for supplementary performance to be unreasonable,



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- undertake self-performance in order to rectify the defect and demand compensation of the necessary expenses. The Client shall immediately inform the Contractor of any such defect claims and of the nature and scope of the urgent measures taken.
- c) The Client may grant the Contractor a reasonable deadline for removing a defective item. Once this deadline has elapsed, the Client may use the contractual service at the Contractor's expense and while protecting the economic interests of the Contractor; for example, through purchase.
- d) The limitation period for defect claims is two years from the point of acceptance or handover in return for confirmation of receipt, unless a longer period has been agreed on a case-by-case basis or **applicable** legal provisions stipulate a longer period. This period shall be extended by the time during which the defective goods and/or services cannot be used as intended due to the defect.
- e) The limitation on defect claims shall also be suspended if the Contractor checks for the presence of a defect itself. The suspension on the limitation shall not end until the Contractor notifies the Client in writing that negotiations have ended or the result of the check is sent to the Client or the Contractor refuses in writing to continue rectifying the defect. If negotiations, checks or attempts to rectify the defect are resumed, the limitation shall be suspended once again.
- 9.1 客户主张的缺陷索赔应受到法律法规之约束，并遵循以下条款：
- a) 即使客户在承包商提交的任何计划、图纸、计算或其他执行文件上签名、批准、盖章或标记
- “已阅”或类似词语，承包商仍应为其提供无缺陷的货物和/或服务承担全部责任；
- b) 在紧急情况下和/或发生延误风险的情况下，若客户无法合理预期承包商后续履约的时间，客户有权自行纠正缺陷并要求承包商赔付必要的费用。客户应当立即通知承包商由履行缺陷引起的任何索赔以及其所采取的应急措施的性质和范围。
- c) 客户可向承包商提供合理期限以弥补其履行合同之缺陷。该等合理期限期满后，客户可使用合同项下的服务，例如通过购买取得，但相应费用应在适当注意承包商商业利益的情况下由承包商予以承担。
- d) 除非双方另行约定更长的期限或**适用的**法律规定更长的期限，由履行缺陷引起的索赔主张期限为自验收或提供收货确认之时起两（2）年。该期限应根据有缺陷的货物和/或服务因缺陷而无法按预期使用的时间而延长。
- e) 若承包商自行检验是否存在缺陷，则上述因履行缺陷引起的索赔主张期限的计算应予以中止。在承包商以书面形式通知客户谈判结束或将检查结果发送至客户或承包商以书面形式拒绝继续纠正缺陷前，该等中止之期限应继续计算。如果双方恢复谈判、检查或纠正缺陷，则时效期限应再次中止计算。
- 9.2 The Contractor is liable in accordance with statutory provisions.
- 9.2 承包商应根据法律规定承担责任。
- 10 Confidentiality**
- 10 保密**
- 10.1 The contracting parties shall ensure that any persons they entrust with processing, fulfilling or handling the contract comply with



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statutory data protection regulations and the German Federal Trade Secrets Act **and/or any applicable national law and local regulations.**

10.1 合同双方应确保其委托处理、履行或管理合同的任何人员遵守法定的数据保护法规和《德国联邦商业秘密法》（Gesetz zum Schutz von Geschäftsgeheimnissen, GeschGehG）**和/或及适用的国家法律和地方法规。**

10.2 The Contractor may provide information about (partial) order values or (partial) prices to external parties only in cases that are strictly prescribed by law. Press releases and other publications on orders that have been issued are only permitted in consultation with the Client. The same applies to any communication of rounded or approximate values, and to figures comparing percentages with previous orders.

10.2 承包商仅在法律严格规定的情况下才可以向第三方提供有关（部分）订单价值或（部分）价格信息。承包商仅在与客户协商一致后，才可以就客户已发出订单发布相关的新闻稿和其他出版物。前述规定同样适用于与以往订单的进行比较的四舍五入值、近似值以及百分比数值。

11 Property rights

11 产权

If a third party asserts a claim against the Client due to alleged infringements of property rights, the Contractor shall undertake to indemnify the Client against these third-party claims upon the Client's first written request to do so, unless the Contractor is not responsible for the infringements. This obligation to indemnify

shall cover all expenses that the Client incurs in relation to the third-party claims. **The right of indemnity shall be limited to a period as stipulated under applicable law and regulations.**

若任何第三方因涉嫌侵犯产权而向客户提出任何索赔，承包商应在客户首次提出书面要求时就客户因该第三方索赔所受的损失做出补偿，除非承包商对该侵权行为无需承担责任。该等补偿应包括客户因第三方索赔而产生的所有费用。**客户要求补偿的时效期限和起算时间应当符合适用的法律法规。**

12 Invoices, prices, supplements

12 发票、价格、补充协议

12.1 Each contract (plus any supplements) shall be settled by means of an invoice. Invoices on account, partial invoices, partial final invoices and final invoices must be labeled as such and numbered consecutively. Invoices with no specific labeling shall be treated as final invoices.

12.1 每个合同（包括任何补充协议）的账目均应以发票结算。分期发票、部分发票、部分最终发票和最终发票都必须注明且连续编号。未能明确注明的发票视为最终发票。

12.2 Subject to value-added tax (VAT) regulations, the invoice must specify the ordering party, the day, the contract reference, the contract number, the Contractor's tax number assigned by the tax office or its VAT identity number, the forwarding station, the receiving location, the order item numbers in ascending order and the material numbers. The goods and/or services documents to be handed over at the receiving location must contain the contract number and the order item numbers in ascending order.



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- 12.2 根据增值税（VAT）相关规定，发票必须注明订购方、日期、合同参考编号、合同号、税务局提供的承包商的税号或承包商的增值税号、转运站、收货地点、以升序排列的订单项目编号和物料编号。在收货地交付的货物和/或服务文件必须包含合同编号和以升序排列的订单项目编号。
- 12.3 The price specified in the contract is a fixed price and excludes any subsequent claims. The fixed price does not include the Contractor's statutory value added tax (VAT). A VAT refund 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.
- 12.3 本合同约定之价格为固定价格，且不含任何后续费用。该固定价格不包含承包商的法定增值税（VAT）。增值税退税的前提是，根据相关法律法规，承包商有权且有义务单独收取该税款，且在发票中应单独注明该税款。
- 12.4 Remuneration shall only be provided for additional goods and/or services and/or changes to the goods and/or services if a supplemental agreement was made in writing before the execution of the goods and/or services.
- 12.4 当且仅当双方于货物和/或服务执行前达成书面补充协议后，才须为增加和/或修改的货物和/或服务支付报酬。
- 13 Payment, discount**
- 13 付款、折扣**
- 13.1 Payment shall be made by bank transfer to the Contractor's account specified in the invoice.
- 13.1 款项应通过银行转账方式汇至发票上注明的
- 承包商的帐户。
- 13.2 The payment period is 21 days with a 3% discount or 30 days net.
- 13.2 付款期限为 30 天，若在 21 天之内付款则客户享受 3% 的现金折扣。
- 13.3 The payment period shall begin when the verifiable final invoice (as specified in section 12.2) arrives at the location specified in the contract, but not before the day on which the contractual service is handed over in return for confirmation of receipt or is accepted.
- 13.3 付款期限自收到符合本合同第 12.2 条约定的可验证的最终发票起算，但不得在移交合同服务并签发收货确认或服务验收的日期之前。
- 13.4 In the case of agreed payments on account, the payment period shall start on the day when a verifiable invoice on account is received, but not before collateral is provided as agreed.
- 13.4 在约定分期付款的情况下，付款期限应从收到可验证的分期发票之日开始计算，但不得在按约定提供担保之前。
- 13.5 The point at which the transfer instruction is submitted to the bank/credit institute shall be decisive in determining whether the Client has made the payment on time.
- 13.5 转账指令提交给银行/信贷机构的时间应作为确定客户是否按时付款的决定性依据。
- 14 Assignment of claims, right of lien, set-off**
- 14 债权的转让、留置权、抵销**
- 14.1 The Contractor shall not be permitted to assign its claims against the Client to a third party. Section 354a of the German



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Commercial Code (HGB) shall remain unaffected **if applicable.**

14.1 承包商不得将其对客户的债权转让给任何第三方。**若适用**，《德国商法典》（Handelsgesetzbuch, HGB）第 354a 条项下的权利不应受到任何影响。

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.

14.2 若承包商就其与客户任何其他合法交易提出反诉，承包商无权行使任何留置权或其他保留之权利。

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

14.3 承包商仅有权将无争议的或由法院最终判定的（包括由于其他法律关系引起的）的索赔进行抵销。

14.4 the Client shall be entitled to full rights of lien and set-off.

14.4 客户应享有充分的留置权和抵销权。

15 Jurisdiction, applicable law, written form

15 管辖、适用法律、书面形式

15.1 The place of jurisdiction shall be the location of the Client's registered office. In the case of framework contracts, this jurisdiction shall also apply to disputes relating to individual orders, regardless of the seat of the ordering party. However, the Client is also entitled to invoke the courts at the place where the Contractor has its registered office.

15.1 管辖地应是客户的注册登记的所在地。就框架协议而言，上述管辖约定也应适用于单个订单相关的任何纠纷，与订购方的注册所在地无关。但是，客户有权在承包商注册登记地的法院提起诉讼。

15.2 The legal relationship between the parties shall be governed solely by the laws of the People's Republic of China, excluding the Chinese conflict of laws rules and the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG).

15.2 双方之法律关系应仅受中华人民共和国法律管辖，中国冲突法及《联合国国际货物销售公约》的规则均应予以排除适用。

15.3 In order to preserve evidence, changes or additions to this contract - including this clause - must be agreed in the form of the contract of which the General Terms and Conditions of Purchase are an integral part.

15.3 本合同的变更或补充（包括本条款），必须以合同的形式商定，且本《采购通用条款和条件》应是该商定合同的组成部分。

15.4 Should any individual provisions of this contract be or become void, the remainder of the contract shall remain unaffected. The void provision shall be replaced by the relevant statutory regulation.

15.4 如果本合同的任何个别条款无效或变得无效，合同的其余部分应不受影响。无效的条款应被相关成文法规定所取代。

15.5 The English and Chinese version of this contract is valid and legally enforceable. Unless otherwise expressly agreed in the contract, all documents shall be created in the English or Chinese language and all



Please note: In case of inconsistencies or doubts as to meaning, the Chinese text shall prevail.
请注意：如果译文与原文不一致或有歧义，应当以中文文本为准。

**General Terms and Conditions of Purchase of DB AG and its Affiliated Companies
(hereinafter referred to as the "Client")**

- General Terms and Conditions of Purchase as at May 1, 2020 -

德国铁路股份有限公司及其附属公司（以下简称“客户”）

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statements shall be issued in the English or Chinese language. In case of any conflict between the English and Chinese version, the Chinese version shall prevail.

15.5 本合同的中文和英文本均为有效并具有法律效力的版本。除非合同中另有明确约定，所有文件都应以中文和英文制作，所有声明都应以中文和英文发布。若中英文版本存在任何冲突或不同，应当以中文版本为准。