

General Terms and Conditions for Purchasing and Orders
of
WLS Waggon- und Lokreparatur-Service GmbH
(hereinafter referred to as “WLS” or “Buyer”)

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1. Conclusion of agreement, written requirement, orders, amendments, supply chain security

1. We, WLS (hereinafter also referred to as “Buyer” or “we”, “us” or “our”), place orders on the basis of the following “General Terms and Conditions” (hereinafter abbreviated as “T&Cs”). These T&Cs apply to all orders – including future ones – of goods and services and their handling, provided you are an entrepreneur, a legal entity under public law or a separate fund constituted as a public-law entity (hereinafter referred to as “supplier” or “you” or “your”). Any terms and conditions or other agreements that deviate from these T&Cs will only be valid if we have expressly acknowledged them in writing. Our acceptance of goods and services without an express objection should not be construed as our acceptance or acknowledgement of your terms and conditions. Neither our silence nor the acceptance of the goods or service nor the payment therefor will be deemed such an acceptance.
2. We will only be bound by orders, agreements and amendments if we have issued or confirmed these in writing. Any agreements made verbally or by telephone must be subsequently confirmed by us in writing. The same applies to verbal ancillary agreements and amendments of the agreement. Orders, cancellations and amendments and associated addenda may, if required by us, also be performed by means of remote data transmission, e.g. encoded electronic mails (e-mails), fax transmission or machine-readable data media. If you do not accept our order within two weeks of the order date, we are entitled to revoke the order.
3. We can also demand amendments to the contractual subject matter after conclusion of the agreement provided this is reasonable for you. In this case, the amendments relating to your delivery and performance obligations will be appropriately taken into account by both parties, in particular regarding additional or lower costs and the delivery and performance deadlines.
4. As our supplier you are required to ensure supply chain security and comply with all related legal requirements. WLS upholds certain security standards within its own organisation and in its supply chain to ensure compliance with national, supranational and U.S. regulations and to confirm “Authorised Economic Operator” (AEO) status to the customer. In particular, business contacts are prohibited with [i.e. the direct or indirect provision of funds and economic resources to] a) terrorists or terrorist organisations or b) persons and/or organisations which are included in sanction lists. As our supplier, you are also required to comply with the aforementioned regulations. Furthermore, to ensure supply chain security, you are required to comply with the following:

- a. Goods which are manufactured, stored, transported on our behalf or on behalf of Authorised Economic Operators (AEOs) or, supplied or accepted by the same, must be manufactured, stored, processed and loaded at secure premises and secure transshipment points and protected against unauthorised access during manufacture, storage, processing, loading and transportation.
- b. The personnel employed in the manufacture, storage, processing, transportation and acceptance of such goods must be reliable.
- c. Business partners who are used by you as sub-contractors must provide an undertaking to uphold supply chain security and observe the relevant legal requirements, including those specified in this section.

2. Prices, shipping, packaging, transfer of risk, documentation

1. Unless otherwise expressly agreed, the agreed prices are fixed prices net of VAT in the respective statutory amount and, for import deliveries, inclusive of customs charges and net of import VAT.
2. Each delivery must be accompanied by a delivery note with at least one copy that sets out the delivery precisely by type, quantity and weight. Additionally, delivery notes, bills of lading, invoices and all correspondence must contain the identifiers maintained on our contract or order, in particular our order number and further, if specified, our part and material number, batch number and item number.
3. All paperwork and documentation needed for any intended acceptance, operation, maintenance and for repairs to the contractual subject matter (in German or alternatively in English), in particular inspection logs, factory certificates, drawings, plans, operating instructions, repair manuals etc., will be supplied to us by you in a copyable form free of charge and unprompted.
4. Unless otherwise agreed, shipping is performed at your risk. The risk of any deterioration, including up to accidental destruction, of the contractual subject matter thus rests with you until delivery to the shipping address or place of acceptance or use communicated to you by us.
5. Your duty to take back the packaging derives from the relevant statutory provisions. To avoid transport damage, the goods to be delivered by you must be properly packaged. The deployed packaging materials should only be deployed to such extent as is necessary for safe and damage-free transport of the goods.

3. Invoicing / payment / offsetting of claims / assignment of claims / due-date interest

1. You will invoice us separately for each contract/order and all invoices must be sent via e-mail, i.e. electronically (e-invoicing). We have set up the following e-mail address for electronic invoicing: **wls-moers.de**, to which you are requested to send your invoice.
2. In the case of import deliveries, you are required (in addition to the electronic invoice e-mailed in accordance with the above no. 1) to enclose a commercial invoice in English and in duplicate to the accompanying documentation for customs purposes.
3. Your invoices must contain your tax number and, if available, your VAT number as well as the identifiers maintained on our contract or order, in particular our order number and further, if specified, our part number, batch number and item number. In other respects, the requirements under section 14 (4) of the German VAT Act (UStG) apply. Invoices that are submitted incorrectly or do not satisfy the above provisions will only be deemed received from the time of correction onwards.
4. Reference to monthly goods and services must be made in the invoices. Partial invoices should be marked as such. Unless otherwise agreed with you, the invoice will be settled either within 14 days of receipt of the respective invoice by us with a 2% discount or within 30 days of receipt of invoice by way of a form of payment of our choice.
5. The payment and discount periods commence after the receipt of proper invoices as per the foregoing nos. 1 to 3 in this section 3 of the T&Cs, albeit not prior to receipt of the goods or, in the case of services, not prior to their acceptance and, if the scope of delivery includes documentation, inspection certificates (e.g. factory certifications) or similar documentation, not prior to their contractually compliant submission to us.
6. If we identify errors in the billing or errors in the billing documents within three years of a final payment and if we communicate these to you, you undertake to reimburse us for any surplus amounts received. You are not entitled to invoke the defence of lack of enrichment. If we make use of this right, any errors established in your favour will be set off against your claim for reimbursement. However, the foregoing time limit of three years of a final payment has no effect on our rights under a warranty, any claims due to tortious acts and other damages claims, especially those governed under sections 5, 6, 7 and 9 of these T&Cs.
7. No contractual partner may demand due-date interest. The rate of default interest is five percentage points above the base rate. We are entitled to provide evidence of lower default damages than demanded by you.
8. Without our prior written consent, which may not be unreasonably withheld, you are not entitled to assign your claims or have them collected by a third party. If, counter to the provision of the foregoing sentence, you nonetheless assign claims to a third party, the assignment will nonetheless be valid. However, we may at our election make payments to you or the third party with the effect of discharging the obligation.

4. Deadlines / default / liquidated damages on default / force majeure / sustained impediments to performance / insolvency

1. The contractual deadlines and delivery dates agreed with you have binding effect. Receipt of the goods at the place of acceptance or use communicated to you by us is material for compliance with the delivery deadline or delivery date. Material for the timely performance of the service is the acceptance-ready completion or handover of your work or the contractual subject matter, including handover of the full paperwork and documentation required under the statutory provisions (statutes and ordinances) and contractually agreed in German, or alternatively in English, for example inspection logs, factory certificates, drawings, plans, certificates of conformity, spare parts lists, operating instructions, and repair manuals etc. This paperwork and these documents must be provided by you in a copyable form.
2. As soon as you identify that an agreed deadline cannot be complied with or there is a risk of non-compliance, you must communicate this without undue delay in text form (e-mail or fax), specifying the reasons and the anticipated duration of the delay. In these cases you will take all necessary steps to ensure that the agreed delivery deadline can be complied with or only a minimal delay occurs. If modifications are required to the arrangements agreed by us as a result of a delayed delivery, we will notify you without undue delay and agree the measures to be taken with you. Your notification of an anticipated delay or a delay that has occurred will in no way affect the (delivery) date agreed with you.
3. If you fall behind with your delivery, we have the right to demand liquidated damages totalling 0.5% of the order value per week or part thereof, and a maximum of 5% of the order value. A claim for the liquidated damages does not exclude the right to claim further compensation. The liquidated damages will be set off against any damages for missing the delivery deadline.

4. Should you fail to meet the contractually agreed deadlines and delivery dates on grounds for which you are not at fault, we are entitled, after the unsuccessful expiry of a reasonable grace period set by us, to choose whether to demand damages for non-performance, to opt for procurement from a third party or to withdraw from the contract.
5. In the event of a delivery earlier than agreed, we reserve the right to return it at your expense. If no return is made in the event of an early delivery, the goods will be stored at our premises at your expense and risk until the agreed delivery date. In the event of an early delivery, we reserve the right not to make the payment until the agreed due date. Subject to all further payment requirements, the payment periods set out in clause 3 (5) of these T&Cs will only apply from the agreed delivery date onwards.
6. Industrial disputes, unrest, official measures and other unforeseen and unavoidable events (force majeure) will release the contracting parties from their delivery or performance obligations for the duration of the disruption and to the extent of its effect. The parties to the agreement mutually undertake to provide the necessary information about the type, duration and cessation of the disruption to a reasonable extent without delay and to adapt their duties to the amended circumstances in good faith.
7. In the event of a sustained impediment to delivery, discontinuation of payments or the initiation of insolvency proceedings, the rejection of the initiation of such proceedings due to lack of assets or the initiation of comparable proceedings over the assets of one of the contracting parties, the other contracting party is entitled to choose whether to withdraw from the agreement as a whole or merely the non-fulfilled part. If you are affected by one of the above events, you will use your best endeavours to support us in order for the delivery or performance to be made by us or a third party, including licensing for any industrial property rights required for the rendering of services on standard terms for the sector.

5. Warranties, assurances, retention of title

1. You warrant and assure that all items and goods delivered by you and all services rendered by you comply with the state of the art, the relevant statutory provisions, including the stipulations and policies of public authorities, employers' liability insurance associations and professional bodies. You further assure the use of appropriate materials, proper construction, design and/or realisation as well as flawless functionality and the realisation of the agreed performance subject to the agreed terms. Finally, you undertake, and this also applies to supplies made to you or ancillary services rendered by third parties or the involvement of subcontractors, that environmentally friendly products and processes are deployed with your goods and services to the extent technically and economically possible.
2. In the event that deviations from the specified warranties, assurances and obligations set out in the foregoing no. 1 are required in individual cases, you are required to obtain our written consent in that regard. Agreeing thereto does not limit your obligation under guarantees. Similarly, your sole liability is not limited by official approval of documents or any approval issued by us of drawings, calculations and other technical documents. The same applies to our instructions relating to the type of the rendering of services. If you have any reservations about the type of execution chosen by us, you must notify us thereof in writing without undue delay and develop alternative solutions with us.
3. Further, you warrant and assure that the goods and services are free from third-party rights and that you have unlimited right of disposal thereover. You must disclose to us any third-party rights that apply to the contractual items without being prompted. The terms of any retention of title will only apply provided that the title to the supplied items, products and goods passes to us on payment by us and accordingly the extended form of the "current account reservation" will not apply. Because of the retention of title, you may only require the surrender of the supplied items and goods if you withdraw from the contract.

6. Guarantees, obligation to give notice of defects, guarantee period and scope of the guarantee, serial defects, limitation

1. In the case of purchase contracts and contracts for labour and materials, we will notify you in writing without undue delay to give notice of any open defects affecting the supplied contractual items, products and goods as soon as such defects become apparent in the circumstances of the ordinary course of business. In any event, such a notification of defects will be deemed to have been made without undue delay if it is made within two weeks of the receipt of the delivery to the place of acceptance or use specified by us. We will notify you of any latent defects that we only identify at a later date within two weeks of them coming to our attention and we will submit to you a corresponding notification of defects.
2. If we establish defects to your goods and services, which also includes the absence of assured qualities, during the guarantee period, you are required to rectify the existing defects without undue delay and free of charge by rework or substitute delivery after being prompted by us and at our election. You are also required to bear all ancillary costs associated with the rectification of the defects. This includes in particular the identification of errors, costs incurred for removing the defective part and installing the spare part as well as any necessary expert and transport costs. If you refuse to rectify the defect or if a rework or substitute delivery is not possible or is to no avail, or if the rectification of the defect extends beyond a reasonable deadline set by us in writing, then the statutory rights to rescission of the contract or price reduction will accrue to us. This is expressly without prejudice to damages claims, in particular damages claims for non-performance.
3. In the event of a risk to operational safety, risk of an unusually high losses or risk to the maintenance of our ability to supply our customers, i.e. in all urgent cases, we may perform the rework ourselves at your cost and risk or have it performed by a third party, after consultation with you. If prior agreement with you is not possible, or if at our discretion the urgency of the rectification of defects, where relevant also taking into account the anticipated level of damage, demands immediate rectification of defects, we will initiate the necessary and required measures without undue delay and notify you without undue delay about the measures taken. At the same time, we may rectify smaller defects without prior agreement without this affecting your obligation under guarantees. In this case we may pass on to you the requisite expense incurred as a result of a rectification of defects performed by us or a third party.
4. The guarantee period for the goods supplied by you will end 24 months following final commencement of operations at the end customer, and no later than 36 months following a) handover of the delivery item at the place of acceptance or use which has been agreed or specified by us or b) on agreed acceptance, no later than 36 months of the date of our letter of acceptance. A limitation of ten years will apply to legal defects. As regards services pertaining to real estate or construction sites, including the creation of electrical systems, the guarantee period will be five years from acceptance and ten years from acceptance for all sealing measures to guard against water pressure as well as roofing work. If we are at fault for delaying acceptance, the guarantee period will start at the point at which you rightly prompted us in writing to perform acceptance.
5. As a supplier you warrant that for a period of 48 months after delivery of the respective item, the item will exhibit no serial defects. A serial defect will be deemed to exist if we and you, as the supplier, jointly establish on the grounds of the damage pattern or cause of damage that such damage may occur to all items of the same product or a certain quantity of the delivered series of items (batch). That notwithstanding, a serial defect will be deemed to exist if the same damage is established on 2% of all delivered items of the same product or a given quantity of the series of items delivered (batch) during the period of warranty. To

calculate the damage rate, all equivalent damage relating to the damage pattern and/or cause of damage is used that is identified within a maximum period of 48 months of the occurrence of the same damage.

6. Costs arising as a result of defective delivery of the item, in particular handling, transport, road, labour, material costs, installation and conversion costs, recall costs as well as all preventive replacement costs, costs for a goods-in check going beyond the standard scope and costs that we are required to assume vis-à-vis our customers due to statutory obligations will be borne by you.
7. Limitation will be suspended from the date of the receipt of the notification of the defect until such time as you have given us notice that the defect is remedied or that you refuse to perform rectification. The guarantee period for repaired parts starts to run again on the day of repair or return of the repaired parts or substitute delivery. This only applies to such extent that repairs and subsequent deliveries are more than negligible in terms of their scope, duration or costs.

7. Liability, product liability, indemnity

1. If your delivery or performance contains errors, or you are in breach of contractual duties of care, in particular duties pertaining to custody and information and other contractual auxiliary duties, or if you fail to comply with your delivery obligations and the contractually agreed deadlines (hereinafter referred to as: "Breaches Of Contract"), our claims under these Breaches Of Contract will be based on the statutory stipulations, unless otherwise provided for under these T&Cs. You are liable for all damage and expenditure incurred by us directly or indirectly as a result of the Breach Of Contract. Expenditure also includes an acceptance check going beyond the standard scope, provided at least parts of the performance were acknowledged to be defective. This also applies to a partial or complete review of the received performance in the further course of business for us.
2. If your liability under statutory stipulations is dependent on your liability for the Breach Of Contract, you can release yourself from your liability by providing evidence of a lack of culpability. You will be liable for any culpability on the part of your vicarious agents and assistants as well as your pre-suppliers and subcontractors to the same extent as for your own culpability. You may not relieve yourself of this liability by providing evidence of the proper selection and/or monitoring of the assistants, pre-suppliers or subcontractors.
3. The liability rules set out in nos. 1. and 2. above apply accordingly to any damages claims you may have against us.
4. You will indemnify us against third-party claims to the extent that you are liable.
5. In the event that claims are made against us due to the violation of official safety regulations or under product liability stipulations or product liability laws either domestically or internationally due to a fault in our product which is a result of your goods or product, we will be entitled to demand compensation from you for the damage caused by the goods or product delivered by you. This damage also covers the costs of a precautionary recall.

8. Industrial property rights and copyright

1. You guarantee that all goods and services are free from third-party protected rights and that the delivery, processing, use or resale of the delivered items will not infringe any patents, licences or other protected rights or third-party patent registrations set out on acceptance.
2. If you are notified of the assertion of a breach of third-party rights, you are required to initiate the requisite steps that enable us to procure the goods from you without such a breach, which for instance may be secured by obtaining a licence or redesigning the goods (in accordance with all contractual terms and quality stipulations) or other suitable steps.

9. Materials provided and other property of the Buyer

1. Materials, parts, containers (to be) provided by us and documents or data will remain our property and may not be used for purposes other than those contractually agreed. You may only make reproductions of provided materials, documents or data subject to our prior written agreement.
2. Products that are manufactured in accordance with documents developed by us, such as drawings, models and the like, may not be used by the supplier itself, nor offered to third parties or supplied.

10. Confidentiality

1. You must treat the conclusion of the agreement in confidence and may only make reference to your commercial links with us in publications (for instance, on your homepage, in reference lists or other advertising materials) following receipt of a written agreement by us unless such publication is necessary under cogent legal stipulations. Similarly, in this case, too, you are required to notify us in good time prior to making the statement in question.
2. The contracting parties mutually agree to treat all information, commercial and technical details, documents, data media passed or otherwise made known to them in the course of the business relationship by the other contracting party as a commercial secret and not to pass on or disclose this information without the express written approval of the other contracting party. Subcontractors and sub-suppliers will also give equivalent undertakings. That notwithstanding, we are entitled to pass information to affiliated companies that in turn are bound by this stipulation. This obligation does not apply to information that was rightfully known to the respective contracting party on receipt with no obligation of confidentiality or became known thereafter with no obligation of confidentiality.
3. If you deploy sub-suppliers or subcontractors for the rendering of performance, you must subject these to a corresponding obligation in accordance with the foregoing nos. 1 and 2.
4. The obligations contained in clause 11, nos. 1 to 3 of these T&Cs will also remain in force following expiry or termination of the agreement entered into between you and us.

11. Quality management

1. You are required to permanently monitor the quality of your goods and services. You must be certified in accordance with the current version of "DIN EN ISO 9001" and constantly maintain this certification yourself; the certification must be demonstrated to us (on request) by presenting a correspondingly valid certificate. Any deviations from the requirements under the foregoing sentence 2 must be agreed in writing.
2. You are required to keep records of your quality inspections. You must provide us with these records on first request. Further, you hereby grant us the right to have us or a representative agreed by us with you perform quality audits to assess the effectiveness of your quality management system.

12. Terminating the agreement

1. Without prejudice to other statutory rights of termination or withdrawal, we are entitled to terminate the agreement in full or in part at any time. In such as case you are entitled to the full remuneration for the goods and services rendered up to that point. Additionally, any costs incurred as a result of the order that cannot be averted will also be remunerated. In this case, your claim to the pro-rata profits will be limited to a maximum of 5% of the remaining order value.
2. In the event of a termination for good cause, you also have an entitlement to the full remuneration for the goods and services rendered by you up to that point as well as the costs incurred as a result of the order that cannot be averted; in this case, no further claims will apply. Good cause will apply for instance if we are no longer interested in the contractual performance on cogent legal, economic or operational grounds and/or your asset position deteriorates significantly.
3. Without prejudice to the foregoing nos. 1 and 2 in this clause 13 of the T&Cs, the option of contractual cancellation in accordance with the statutory stipulations remains, for instance in the case of defective performance or delay in performance (default). In these cases you will only be entitled to remuneration for your goods and services to the extent that we are able to use or monetise them. The right to assert damages claims remains reserved.

13. Code of conduct, minimum wage

1. As our supplier, you undertake to

- ! comply with all applicable laws;
- ! assume responsibility for the health and safety of employees at the workplace;
- ! refrain from actively, passively, directly, indirectly or in any other way participating in the violation of the fundamental rights of your employees;
- ! refrain from employing children. Children are defined as persons under the age of 15. In exceptional cases children aged 14 may be employed if the employment of persons aged 14 is permitted in the production country.

You also bear responsibility for and use your best efforts to encouraging and demand sub-contractors to act in accordance with and comply with the above provisions of clause 1.

2. You assure that on executing our contracts and orders you will comply with the stipulations governing the general minimum wage (German Minimum Wage Act, *Mindestlohngesetz*). You further assure that any subcontractors you deploy will be obliged to observe the German Minimum Wage Act to the same extent.
3. If you fail to comply with the provisions set out in this clause 14 (1) and (2) T&Cs, or do not adequately comply with them, you will at our first request indemnify us against all claims brought against us by third parties (including public authorities) in this regard. As regards foregoing no. 2 (compliance with the minimum wage), you are obliged to indemnify us against all fault-based and strict-liability claims by third parties, in particular claims by your own employees and subcontractors as well as claims by the employees of the subcontractor or a further subcontractor contracted by it in conjunction with the stipulations of the German act governing the general minimum wage that arise in the performance of our contracts/orders by you. The indemnity obligation regarding the claims in the foregoing sentence also applies vis-à-vis claims by social-security authorities, tax authorities and in particular also claims by the German Employment Agency (*Bundesagentur für Arbeit*) relating to the payment of insolvency payments.

14. Place of performance, governing law, severance, supplementary law, miscellaneous

1. Unless expressly agreed otherwise, the place of performance for your delivery obligation and your performance is the shipping address or the place of acceptance or use that we have agreed.
2. All legal relations between us and you will be governed exclusively by German law. The application of UN sale of goods law (CISG) is excluded. INCOTERMS as amended from time to time are authoritative for the interpretation of commercial clauses; this is without prejudice to the stipulations in clause 2 (4) of these T&Cs.
3. If you, as our supplier, are a merchant as defined in the German Commercial Code (*Handelsgesetzbuch*), a legal entity under public law or a separate fund constituted as a public-law entity, the exclusive, and also international, place of jurisdiction for all disputes arising under the contractual relationship is Duisburg. The same applies if you are an entrepreneur as defined in section 14 German Civil Code (BGB). However, in all cases we are also entitled to sue at the place of performance of the delivery obligation pursuant to these T&Cs or an individual term or at the general place of jurisdiction of the supplier. This is without prejudice to any overriding statutory stipulations, in particular relating to exclusive competences.
4. Personal data obtained in conjunction with the contractual relationship will be stored by us for purposes of data processing. Our data protection policy can be found on our homepage www.wls-moers.de in the Downloads area.
5. If a provision of these T&Cs should be or become invalid, this will have no bearing on the validity of the remaining terms.