

Daldrop + Dr.Ing.Huber GmbH + Co. KG

General Terms and Conditions

1. Scope

- (1) These General Terms and Conditions (hereinafter referred to as GTC) shall apply, if not agreed otherwise, for all future orders by Daldrop + Dr.Ing.Huber + Co. KG or one of its subsidiaries (hereinafter: Daldrop + Huber). The version which applies is the one valid at the time the contract is concluded. This can be found on our home page. In the following our contractual partner will be referred to as Supplier, the supply of goods (as a whole, components parts, etc.) and/or purchase of services (performance and works of all types, training, planning etc.) will be referred to as Contractual Service.
- (2) These GTC shall apply solely for all purchase orders or commissions by Daldrop + Huber. The Supplier acknowledges this with execution of the first delivery. The GTC have priority over all conflicting or deviating terms and conditions of the Supplier, in as far as the latter are not expressly recognized by us in writing. We shall also not recognize conflicting or deviating terms and conditions, despite having knowledge of them when we accept contractual services without reservation.
- (3) All further agreements, verbal agreements and promises which our representatives make on our behalf, require our written confirmation to the Supplier to become effective.

2. Purchase Orders

- (1) All purchase orders, declarations and commissions must be in writing to be binding. Verbal orders and agreements require our written confirmation in each case to be effective. All correspondence must have our job number or purchase order number.
- (2) The Supplier must execute the order himself unless we have agreed in writing to commission a subcontractor or the acquisition of materials or parts by the Supplier is usual or required for executing our order.
- (3) Additional deliveries or services not included in the purchase order may only be executed if they have been previously ordered by us in writing. Additional tenders and order extensions must be calculated based on the main order. All agreements and conditions of the respective order placed shall also apply here. The calculation basis of the main order and the additional tender must be disclosed at our request.
- (4) The preparation of cost estimates, offers, drawings etc. is free of charge for us. Cost estimates are binding.
- (5) The Supplier must confirm our purchase order in writing without delay. Confirmation or execution of the contractual service shall be deemed to be agreement to our GTC. The Supplier shall be under obligation to check our order and to communicate to us any misgivings concerning breaches of technical regulations, standards etc., and any other irregularities, contradictions and peculiarities. If discrepancies are unavoidable the Supplier must inform us without delay of the reason for and scope of the change.
- (6) In so far as copyrights of the Supplier or a third party exist, the Supplier transfers all transferrable rights of use, license rights etc. regarding the contractual services to us.

3. Prices and Terms of Payment

- (1) All the prices referred to in the order are fixed prices plus the respectively valid VAT in so far as nothing else has been expressly agreed. They include the costs for delivery free our delivery address, packaging and insurance as well as the duties and taxes payable. Any price increases or price reservations of the Supplier must be agreed and confirmed by us in writing. If there are considerable changes in material and/or wage costs, negotiations on a price adjustment can be requested four months after conclusion of the contract.
- (2) Unless expressly agreed otherwise, payment shall be made on 30th/31st of the month following due and proper performance of the service in the first half of that month (1st – 15th) after deduction of the agreed discount. If due and proper performance of the service is made in the second half of the month (15th – 30th/31st) payment shall be made on 15th of the following month after deduction of the agreed discount. Payments without discount shall be made 30 days later in each case. Due dates for payments and discounts commence as from the receipt of a proper and verifiable invoice made out to the address given in the purchase order, however not before the goods have been received or, in the case of services, not before their acceptance. We are entitled to make payments by cheque or by bank transfer. For the timeliness of the payment it is sufficient if the cheque is sent by post on the due date or the transfer is initiated at the bank on the due date.
- (3) We have the right to offset or withhold payments to the Supplier irrespective of legal or other reasons.
- (4) The supplier is only entitled to offset or withhold services if his claims are either undisputed or legally confirmed. Enforcing the right to withhold requires furthermore that the supplier's claims arise from the same contractual relationship.
- (5) Assignment of claims against us to which the supplier is entitled is excluded.

4. Performance conditions

- (1) The Supplier provides free delivery to the delivery address indicated by us. The risk of accidental loss or deterioration does not pass to us until the goods are received at their place of destination. The Supplier is obliged to pack and dispatch the goods in such a manner as to make it impossible for the carrier to refuse liability for transportation damages. It is advisable to take out transportation insurance.

- (2) The order data must be given in the advice of dispatch, the bill of lading and the invoice. Goods intended for different departments or different building sites may not be combined to a single consignment.
- (3) The time and/or period of performance specified in the purchase order is binding. For deliveries this refers to the date the goods are received at the delivery address specified in the purchase order. Performance periods commence from the date of the receipt of the purchase order. The Supplier shall not be entitled to deliver part-deliveries unless an agreement has been made to the contrary by way of exception. If this is the case, then part or outstanding delivery must be marked accordingly. We shall not be obliged to take delivery of goods prior to the performance date.
- (4) If delays in delivery are to be expected, the supplier shall notify us without delay of the reason and the probable duration as soon as he recognizes this. Our other rights in the case of a delay in delivery shall not be affected.
- (5) In the event of a failure to meet our delivery dates, we are entitled to withdraw from the contract after a period of reasonable length to be set by us, without prejudice to any other claims. If the supplier is in default, we can claim compensation apart from or instead of the delivery. Furthermore we are entitled to claim a contractual penalty of 0.2% of the gross order value for each week of default commenced, however a maximum of 5% of the gross order value. This will not exclude the pursuit of additional damages arising from delayed payments. The contract penalty however shall be set off against the damages for delay. Acceptance of a delayed service shall not represent a waiver of the claims for compensation to which we are entitled; the reservation of § 341 Section 3 German Civil Code can be declared up until payment has been made in full.
- (6) Ownership is transferred to us at the time the goods are received. Retention of title by the Supplier, in any form whatsoever, is excluded. The Supplier ensures that a third party has no retention of title on the delivered goods.
- (7) Any empty containers, residues and surpluses must be taken back free of charge by the Supplier and disposed of according to legal regulations on his own responsibility.
- (8) Our consent with respect to drawings, calculations and other documents does not affect the Supplier's sole responsibility with regard to the performance object. The same applies for proposals, recommendations and other involvement on our part.
- (9) Prior to accepting the purchase order, it is up to the supplier to check whether the items and/or their components specified in the purchase order are to be classified as hazardous goods (e.g. paints, adhesives, chemicals or flammable, oxidizing, explosive, combustible, toxic, radioactive, corrosive goods, or goods liable to self-heating) in their country of origin, country of destination and/or all transit countries. In such cases the Supplier is obliged to inform us in detail and without delay.
- (10) All deliveries and services must comply with the relevant valid regulations and guidelines (VDE, VDMA, DIN etc.) and the latest accident prevention regulations. In addition, the conditions and specifications of our end customer must be strictly adhered to and, if these are not known, should be requested from us prior to delivery.
- (11) If to execute the order the presence of the Supplier or his agent is required on our premises or in our buildings or those of our client, then the respective company regulations become part of the contract. The liability for accidents suffered by these persons on our premises or in our buildings or in those of our client is excluded unless caused by willful or gross negligent acts of our legal representatives or agents. The Supplier shall take out an accident insurance for these persons and shall provide proof of this on request.
- (12) Invoices and delivery notes must be submitted in triplicate per post to the following address:
Daldrop + Dr.Ing.Huber GmbH + Co.KG
Daldropstraße 1
72666 Neckartailfingen, Deutschland
If the delivery address differs to the address above, then a copy of the delivery note must be enclosed with the delivery. Invoices per email will not be recognized.

5. Liability for defects

- (1) The supplied goods will be checked by us within a reasonable period of time for deviations in quality and quantity. For quantities, weights, size and dimensions the values determined during the incoming goods inspection and or during checking of the goods delivered are decisive. Defects that are recognizable during a normal inspection can be reported up to 10 calendar days from the receipt of the goods, hidden defects within 10 working days after detection. Payment shall not signify acknowledgement that the delivery or performance is as stipulated in the contract and free of defects.
- (2) The Supplier assumes full liability that the contractual performance is free of defects and corresponds to the latest technical knowledge, the contractually agreed properties, the legal regulations as well as safety, work and accident prevention regulations. If individual samples of a consignment are faulty, we can reject the entire consignment. Delivered goods must conform to the drawings and correspond to our respective specifications as well as be packaged correctly and secured for transport. Any instructions regarding installation and maintenance as well as operating instructions must be included in the delivery. Concerning title

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defects, the Supplier is obliged to indemnify us from claims by any third party unless the claim is outside the supplier's responsibility.

- (3) If defects are remedied by the Supplier, the warranty period is extended by the period from the complaint to the acceptance or repair. For corrective measures or replacement parts the respective warranty period commences anew.
- (4) If the services provided are defective, we are entitled according to legal regulations to demand supplementary performance through repair or replacement at our option at the supplier's expense. All return shipments shall be made at the expense and risk of the Supplier. If we incur costs (e.g. labor or material costs) as a result of defective performance, these will also be borne by the Supplier. If the Supplier cannot fulfill the supplementary performance or fails to do so within a reasonable period to be set by us, or if he unjustly refuses this, then we can reduce the price, withdraw from the contract and/or demand compensation instead of the performance. The latter does not apply if the Supplier proves that he is not responsible for the defectiveness of the goods.
- (5) Moreover we are entitled after expiry of a reasonable period of time to remedy the defect at the Supplier's expense or to have this remedied by a third party or to make covering purchases.
- (6) If we withdraw from the contract due to a defect in the goods, then the Supplier is also obliged to pay the contract costs even if he is not responsible for the defect.
- (7) The statutes of limitation shall apply. These commence with the delivery of the goods at the location defined or with the acceptance of the performance.

6. The Supplier's Liability for Damages

- (1) The Supplier is liable without restriction corresponding to legal regulations for damages which we incur during provision of the contractual performance by him or his agent.
- (2) Furthermore the Supplier confirms on acceptance of the order that he has taken out an insurance policy for personal injury, property damage and financial losses with coverage up to € 2,500,000.00 or an equivalent amount in foreign currency. Corresponding confirmation from the insurer must be submitted annually.
- (3) If the Supplier is to install and/or assemble the object of delivery, then he also has the legal duty to maintain safety. The Supplier is obliged to reliably safeguard all danger points within the framework of the order and is liable in tort vis à vis third parties. We are responsible for monitoring and controlling compliance with the safety regulations. The Supplier shall indemnify us from any liability within his responsibility.
- (4) The Supplier shall be liable for all damages caused in connection with his performances by violation of environmental protection provisions (such as emission protection laws, used oil and water management laws, waste removal laws and/or related ordinances issued). In this conjunction he shall indemnify us for all possible claims of damages of third parties. Moreover he shall compensate for any damage caused to us.

7. Product Liability

- (1) The Supplier is obliged to indemnify us against claims from a third party regarding product liability if and as far as he is responsible for the product under the principles of product liability law. Further legal claims shall remain unaffected.
- (2) In the case of a product liability the Supplier shall assume all our costs and expenses, also the costs of legal action and those which incur in connection with a recall action which is the result of a defect in full or in part for which the Supplier is responsible. We will inform the Supplier of the nature and extent of the product recall beforehand, as far as this is possible and reasonable, and give him the opportunity to collaborate. Further legal claims shall remain unaffected.
- (3) The same applies in so far as product errors are attributed to the performances of sub-suppliers or subcontractors to the Supplier.
- (4) The Supplier is obliged to maintain sufficient insurance cover for product liability and to provide us with written proof at any time on demand especially by written confirmation of the insurer of the Supplier.

8. Third Party Rights

- (1) The Supplier shall be responsible for ensuring that third party rights are not violated in connection with the Supplier's performance. In particular the Supplier shall ensure that, regarding the goods to be delivered, no legal claims of a third party, either domestic or foreign, that can arise from domestic or foreign patents, utility patents samples, copyrights or other rights are violated.
- (2) If a claim is made against us by a third party on account of his rights having been breached, the Supplier shall be obliged in a case of negligence to exempt us from these claims or to pay damages. The duty to indemnify or liability for damages relates to all costs which we incur in connection with the claims asserted by a third party, for example, legal costs, compensation to a third party etc.

9. Order Documents – Non-disclosure

- (1) We shall retain the intellectual and industrial property rights, in particular the copyrights, to all drawings models, samples and other documents with which we have provided the Supplier. The aforementioned

documents shall be used exclusively for production based on our orders. If it should prove necessary to redraw our drawings, the Supplier will apply our copyright notice. Our documents must be returned after the contract has been concluded. Products that have been manufactured according to documents or specifications drawn up by us or manufactured with our tools may not be used by the Supplier himself nor passed on to a third party.

- (2) The Supplier is obliged to treat as confidential all information he has received from us, both technical and non-technical, in particular drawing, models, samples and other documents and not disclose this to a third party; third parties are also companies affiliated with the Supplier.
- (3) The Supplier is obliged to inform us immediately in writing whether and to what extent state export licenses will be necessary or official requirements have to be fulfilled for the order as a whole or part of it or whether they are subject to US export restrictions.

10. Claims for compensation by the Supplier

- (1) Daldrop + Huber is only liable in cases of intent and gross negligence. Any liability on the part of Daldrop + Huber, on any legal grounds whatsoever, is excluded. The above exclusion of liability shall not apply for warranty claims, injury to life, body or health, claims in accordance with §§1.4 product liability law and slightly negligent infringement of material contractual obligations.
- (2) In cases of slightly negligent infringement of material contractual obligations the liability is restricted however to the compensation of typical damage foreseeable on conclusion of the contract. The same applies for grossly negligent behavior of simple vicarious agents.
- (3) To the extent that our liability is excluded or limited, this also applies to the personal liability of our staff, other employees, representatives and agents.

11. Force Majeure

- (1) In cases of force majeure at the Supplier's premises, which make the performance (in part) not only in the short term impossible, we have a (partial) right to withdraw from the contract. The supplier shall return payments made in so far as no performance has been made by him or can be made by him.

12. Miscellaneous

- (1) In the event that individual provisions of these Terms & Conditions should become invalid, the validity of the remaining provisions shall remain unaffected. Instead of the invalid provision, the provision which comes closest to the economic effect of the invalid provision shall be deemed to be agreed taking into consideration those practices and customs in usual commercial transactions. If such provisions are not available or cannot be determined, then legal provisions take the place of the invalid provision.
- (2) Amendments, collateral agreements and additional provisions of contracts shall require our express written confirmation in order to become effective. This also applies to the cancellation of this written form requirement itself.
- (3) Place of performance and sole court of jurisdiction shall be the court of Stuttgart having jurisdiction *ratione loci* and *ratione materiae*.
- (4) The law of the Federal Republic of Germany applies exclusively with the exclusion of UN purchasing law and the provisions of Private International Law.

Daldrop + Dr. Ing. Huber GmbH + Co. KG

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