

1. General

These general terms and conditions (the "GTP") of Dywidag Systems International B.V. ("DYWIDAG", "We", "Us", "Our" or "Ourselves") form an integral part of the agreement concluded between DYWIDAG and Our contracting party (the "Supplier") in (the preparation and conclusion of) a contract (the "Agreement"). DYWIDAG and the Supplier are referred to as (each individually) the "Party" and (jointly) the "Parties". Where in the GTP reference is made to a requirement of "writing" or "written", this requirement is met in case of correspondence by post or email.

These General T&C are exclusive of any other terms and conditions, and shall be fully applicable to any provision of goods, services and/or work by the Supplier to DYWIDAG unless otherwise expressly agreed in writing by the Parties in the specific terms of the Agreement.

2. Conclusion of Contract

- (1) Our orders are only binding to Us if submitted or confirmed in writing.
- (2) Supplier shall confirm Our order in writing within three (3) business days after receipt. Our order shall be deemed accepted by Supplier unless we receive a written rejection within 3 business days after receipt of Our order by Supplier.
- (3) DYWIDAG reserves the right to modify or withdraw any order submitted within three (3) business days after issuing the order, provided that the Supplier had not already notified DYWIDAG of its acceptance in a written form.
- (4) By accepting Our order, Supplier undertakes to comply with all the terms and conditions contained in the order, including these GTP.
- (5) Unless explicitly determined otherwise in the offer, all offers by the Supplier shall be regarded as irrevocable during a period of at least three months.

3. Prices – Terms of Payment

- (1) We shall pay the purchase price after delivery and receipt of a correct invoice within 21 days with a 3% discount over the gross purchase price or within 60 days without deduction. This term of payment on the invoice does not constitute as a final deadline (in Dutch: fatale termijn) as referred to in article 6:83 under a of the Dutch Civil Code ("DCC").
- (2) The prices shall include all products and services provided by the Supplier as well as all incidental expenses (e.g. appropriate packing, customs duties, import charges, transport costs including any transport and liability insurances, recovery of re-usable packaging by Supplier).
- (3) We shall only be considered in default of payment after receipt of a written reminder, that meets the requirements of article 6:83 sub 1, DCC.
- (4) In the case of an incomplete, incorrect or defective delivery, We are entitled to withhold payment until products have been correctly received, and any incorrect or defective products have been collected or repaired by the Supplier.
- (5) The invoice issued by the Supplier shall comply with all the specifications required by all applicable legislation. In particular, without limitation, it shall always include the invoice number, order number and date, VAT identification number for cross-border deliveries within the EU, place of unloading, number and date of the delivery note and quantity of invoiced goods. Any deliveries from territories outside the EU's customs area must include a copy of the invoice or a pro forma invoice.
- (6) We are entitled to offset Supplier's claims/rights with amounts due to Us or Our affiliates.
- (7) Payments by Us do not constitute acceptance or a waiver of possible claims and will not give reason for expiry or forfeiture of any of Our rights in connection with the delivered goods or services.
- (8) If, after entering into the Agreement and before the Agreement has been fully complied with, the price of cost price determining factors included in the agreed price has decreased by more than 10% in relation to the time of the order, the Supplier must offset this difference in favour of DYWIDAG with the next payment.

4. Delivery times and delays in delivery

- (1) Unless explicitly agreed otherwise, the delivery date provided by in the order is binding for the Supplier and constitutes as a final deadline (in Dutch: fatale termijn) as referred to in article 6:83 under a, DCC. In the event the Supplier can reasonably foresee that the delivery date cannot be met, the Supplier shall notify Us in writing without delay. Partial deliveries or early deliveries may only be made with Our prior written consent.
- (2) In case of a delay in the delivery by the Supplier, We are entitled to claim a contractual penalty for each calendar day of delay in the amount of 0,15% of the value of the outstanding goods or services, up to a maximum of 5%. We retain the right to claim additional loss and/or damages under the DCC.
- (3) Acceptance of the delayed delivery shall not be construed as waiver of any statutory or contractual rights and will not give reason for expiry or forfeiture of any of Our rights in connection with the receivables.

- (4) We are under no obligation to accept delayed or defective deliveries.
- (5) If the delivery is earlier than agreed We can return or store the goods at the Supplier's expense and risk. We can charge 0.2% of the total order value for storage per day, or the actual costs, if higher.

5. Delivery, transfer of risk, delays in acceptance, packing

- (1) Unless agreed otherwise all deliveries shall be made free of charge to the destination named in the order. The Parties expressly agree to "DDP, *named place of destination, according to INCOTERMS® 2020*".
- (2) All goods shall be packaged so as to protect them adequately before, during and after delivery. Each delivery shall be accompanied by a certificate of analysis and/or up-to-date material safety data sheet in accordance with specifications that may be included in Our order or Our Supplier Quality Manual. Supplier will
- (3) provide all documents and labelling of products required to comply with all requirements in the countries of origin, transit or destination.
- (4) Every delivery shall be executed in accordance with DYWIDAG's Supplier Quality Manual, as in effect at the time of submission of each order. The latest version of DYWIDAG's Supplier Quality Manual can be accessed at: <https://t1p.de/0a7j/>
- (5) The risk of accidental loss of or damage to the goods or services passes to Us when the goods or services are delivered to us at the agreed time and place of performance.

6. Duties to inform

Any changes to manufacturing processes, materials or sub-Suppliers, changes in manufacturing locations as well as any changes to testing or quality management require Our prior written consent. Upon Our request, the Supplier must provide all documents and data allowing Us to determine whether such changes affect the quality of Our products.

7. No Retention of Title

Title to the goods shall pass to Us on delivery.

8. Confidentiality and Exclusivity

- (1) We retain title and copyright to all illustrations, drawings, calculations and other documents. They must not be disclosed to any third parties without Our prior written consent and must only be used for production of Our orders. After processing of the last order they must be returned to Us immediately and without prompting. The non-disclosure obligation applies for a period of 5 years after processing the last respective order.
- (2) If Supplier manufactures goods according to DYWIDAG specifications or drawings or processes material provided by DYWIDAG, then Supplier must manufacture such goods for DYWIDAG exclusively and only deliver them to DYWIDAG.

9. Third party assignment

- (1) The Supplier may only assign any order or related task – in full or in part – to a third party such as an upstream (sub-)supplier of components, freelance consultant, etc. ("Subcontractor") (1) with Our prior written consent and (2) provided that the Supplier concludes a contractual agreement with the Subcontractor that does not fall short of the obligations assumed by the Supplier towards DYWIDAG. The Supplier shall remain fully accountable to DYWIDAG for proper performance of the orders and the Supplier shall be liable for all acts and omissions by any Subcontractor.
- (2) The Supplier shall upon DYWIDAG's first request pledge all (future) claims against its Subcontractors in connection with the goods or services that are, or have to be, delivered to DYWIDAG, to DYWIDAG on the grounds of article 3:237 DCC, as a security for the payment by the Supplier of DYWIDAG's claims against the Supplier.

10. Personnel

- (1) The Supplier guarantees that the Agreement will be performed by skilled employees and auxiliary staff that comply with the specific requirements relevant to the Agreement and in any case meet customary professional standards for the relevant industry.
- (2) DYWIDAG is entitled to refuse employees and auxiliary staff access to its grounds and/or buildings and/or demand that the Supplier immediately remove these persons from its business premises if they:
 - a. are, in the opinion of DYWIDAG, apparently unsuitable for their task,
 - b. misbehave in any manner,
 - c. fail to comply with DYWIDAG's operating rules,
 - d. endanger the safety at the premises,
 - e. otherwise act in conflict with an obligation ensuing from the Agreement.The Supplier will arrange immediate and adequate replacement of the removed persons without charging any additional costs to DYWIDAG.
- (3) The Supplier indemnifies DYWIDAG against any claims by the Supplier's employees and auxiliary persons relating to the performance of the Agreement.

11. Warranties and Quality of the Products and Services

- (1) The Supplier guarantees and warrants that the products and services possess the contractually agreed properties, are fit for the intended purpose, are state of the art and comply with all specifications and applicable standards.
- (2) The Supplier undertakes to fully comply with the applicable provisions and quality requirements as set out in DYWIDAG's Supplier Quality Manual, as in effect at the time of submission of each order. The latest version of DYWIDAG's Supplier Quality Manual can be accessed at: <https://t1p.de/0a7jl>
- (3) The Supplier shall grant DYWIDAG or third parties designated by DYWIDAG (such as regulatory authorities) free access to all necessary departments, premises and facilities (especially for production, provision, storage and testing of the goods and services) and inspection of all relevant documents during normal business hours. The Supplier guarantees that any Subcontractors will also comply with this obligation.

12. Liability and complaints

- (1) The Supplier is fully liable for all direct and consequential losses, which may arise as a result of any shortcoming or wrongful act. We reserve all our statutory rights in case of defective material, workmanship, legal defects, delay in delivery and/or other instances of default by the Supplier.
- (2) The Parties agree that DYWIDAG will be only required to inspect goods upon delivery for the purposes of identifying defects that can be detected by random visual checks including the delivery documents (e.g. damage in transit, wrong or incomplete deliveries). DYWIDAG's obligation shall be subject to the inspection being feasible with reasonable effort in the ordinary course of business in each individual case.
- (3) DYWIDAG's complaints for apparent defects detected by the aforementioned random visual checks shall in any case be considered timely if the Supplier receives this notice within 10 calendar days after detection. For the avoidance of doubt, this is without prejudice to any longer complaint period in the DCC.
- (4) The Supplier shall bear all inspection and rectification costs (including any removal and installation costs) even if only some of the goods or services in question are defective.
- (5) If Supplier does not provide a remedy (either by repair or by replacement as determined by DYWIDAG) within a period of 3 days from the date when the defect is notified (which period may be extended, reduced or cancelled at DYWIDAG's sole discretion and in each case), We may, at Our sole discretion, rectify the defect Ourselves and claim compensation for all related costs and/or advance payments from Supplier.

13. Dissolution and termination

- (1) Without prejudice to Our statutory rights of dissolution (*ontbinding*), We shall be entitled to dissolve (*ontbinden*) the Agreement in whole or in part by means of a written statement addressed to the Supplier, without any notice of default being required, without prejudice to Our right to claim loss and/or damages, if
 - a. Delivery does not take place on the agreed date or within the agreed time frame;
 - b. the Supplier fails to fulfil one or more of its obligations under the Agreement, or fails to do so on time, and a delay in the completion of the work or part of it occurs as a result or can reasonably be expected;
 - c. the Supplier's bankruptcy is applied for by the Supplier or a third party, or the Supplier requests a (provisional) suspension of payments, or if the Supplier ceases its business activities;
 - d. the Supplier transfers its business activities to a third party, unless the transferring party can demonstrate that the execution of this Agreement will not be disadvantaged;
 - e. the Supplier is placed under guardianship;
- (2) Without prejudice to the provisions of the previous paragraph and their statutory rights to dissolve the Agreement, DYWIDAG and the Supplier will be entitled to dissolve (*ontbinden*) the Agreement in whole or in part by means of a written statement addressed to the other party, without prejudice to their further right to compensation, if the other party fails to fulfil any obligation under the Agreement and this failure is not remedied within 30 days of the date of a written demand to this effect. If rectification is not possible, the written demand may be omitted.
- (3) In the event of (partial) dissolution (*ontbinding*), We shall be entitled, without prejudice to Our right to compensation for damage and costs, at Our discretion, before completion of the work, to
 - a. return or arrange for the return of the work already delivered to the Supplier at the Contractor's expense and risk and to reclaim the payments that were made in connection with the work/services, insofar this is possible;

- b. deliver the work or have it delivered by third parties, using the part already delivered or executed by the Supplier and the items used by the Supplier for a reasonable fee to be agreed at a later date.
- c. make use of the auxiliary equipment present, such as scaffolding material, hoisting and transport equipment etc., for a reasonable fee to be agreed at a later date.
- (4) We reserve the right to terminate (*opzeggen*) an Agreement prematurely, without prejudice to Our right to dissolution. In this case, the Supplier shall be entitled to payment of the agreed price for the services and/or work that was performed in accordance with the Agreement, as well as the costs reasonably incurred by the Supplier prior to the termination, which cannot be reversed within reason and in so far as payment for these costs is not included in the paid price. The Supplier shall make these costs transparent and shall, at Our request, allow an accountant selected by the parties at joint expense to inspect its records with regard to these costs.

14. Product liability, indemnification and compulsory insurance

- (1) The Supplier shall indemnify DYWIDAG on first demand and in full from all claims asserted against DYWIDAG by third parties related to a defect of quality, title, intellectual property rights such as patents or copyrights, defects in material or workmanship or legal title or any other default of Supplier's product or service and shall reimburse DYWIDAG for all incurred costs, loss or damage in this respect, including reasonable legal fees..
- (2) The indemnity above shall include all costs and expenses incurred by DYWIDAG in connection with claims made by third parties, including any product recalls DYWIDAG may conduct due to any defects in the products provided or any other Supplier defaults. DYWIDAG shall notify Supplier in advance of any recall and coordinate the efficient execution of the recall with Supplier.
- (3) Supplier shall also be liable for any damage incurred by DYWIDAG as a result of reasonable precautions or any other mitigation measures adopted to limit any claims under non-contractual liability which fall under the responsibility of the Supplier (e.g. public advertisements).
- (4) The Supplier undertakes to subscribe, maintain and keep up-to-date with premium payments of, an insurance policy with a reputable insurance company of renowned solvency that covers any damages that may derive from product liability or any other Supplier's default.

15. Export Control laws and customs duties

- (1) Supplier shall inform DYWIDAG in writing of any permit requirements for its goods and services resulting from any applicable European (EU), American (USA) or other export, import, tariff and any trade laws as early as possible prior to delivery, and shall comply at all times with such requirements. The Supplier shall provide, without limitation, the following information and data:
 - the Export Control Classification Number (ECCN) of the US Commerce Control List, provided the goods and services are subject to the US Export Administration Regulations (EAR); the commodity code (HS/CN code);
 - the country of origin (trade agreement / non-preferential origin), explanation of the label of origin D = third country / E = EU / F = EFTA;
 - (long-term) Suppliers' declarations for goods having preferential origin status (EU Suppliers) or certificates of origin (non-EU Suppliers);
 - any other applicable information and data (including information and data required by DYWIDAG) for the export and import as well as the further distribution and reexport of the goods.

The Supplier shall inform DYWIDAG in writing of any changes in the above information and data without delay.

- (2) In case of a breach of paragraph 1, Supplier shall bear all expenses and damages incurred as well as other disadvantages suffered by DYWIDAG as a result (e.g. subsequent claims for foreign import duties, monetary fines).

16. Compliance

- (1) The Supplier and its products shall comply with all applicable national and international laws, regulations and standards, including, but not limited to, EN or DIN standards, product safety regulations, the internationally accepted minimum labour standards, all conventions of the International Labour Organization (ILO) on employment rights, working hours, and health & safety etc.
- (2) Environmental protection plays an important role in DYWIDAG's concept of quality. Supplier shall observe all applicable regulations on environmental protection, introduce and maintain an environmental management system in accordance with DYWIDAG's corporate ecological guidelines and constantly work on the permanent reduction of any negative effects their activities may have on people and the environment.
- (3) Supplier shall neither actively or passively nor directly or indirectly participate in any form of bribery or corruption, human rights violations or

the discrimination of its employees, forced labour or child labour. The Supplier shall not hire any employees below the minimum age of 16 years.

- (4) Supplier shall ensure that all its Subcontractors who are involved in manufacturing the products delivered to DYWIDAG observe all obligations contained in the above paragraphs (1) to (3).
- (5) Supplier warrants that it and its products comply with Regulation (EC) No. 1907/2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (**REACH**). Suppliers based outside the EU shall appoint an only representative (OR) based inside the EU in accordance with Article 8 of the REACH Regulation whose name and address shall be disclosed to DYWIDAG. Supplier shall notify DYWIDAG immediately should the OR change or discontinue its activities.
- (6) Supplier warrants that its products do not contain any substances on the candidate list referred to in Article 59, paragraphs (1) and (10) of the REACH Regulation.
- (7) If the products are subject to the Construction Products Regulation (EU) No. 305/2011 (**CPR**), Supplier shall provide DYWIDAG with all information required for the preparation of declarations of performance and/or the declarations of performance prepared by the Supplier in a suitable and permanent format and apply the CE mark and/or have the CE mark applied on these products in accordance with statutory requirements, including, but not limited to, the CPR and Art. 30 of Regulation (EC) No. 765/2008. With the application of the CE mark, Supplier warrants the construction product's conformity with the declared performance and the compliance with all applicable legal regulations governing the application of CE marks.
- (8) If Supplier violates one of the above provisions, Supplier shall indemnify DYWIDAG and its associated companies as well as its customers against any resulting costs, claims of third parties (including, without limitation, claims for direct or consequential damages) and any other damages or disadvantages (e.g. fines).

17. Non-disclosure and data protection

- (1) In accordance with the applicable data protection regulations, the personal data of the individuals who sign, manage and perform the Agreement (including these General T&C) in the name and on behalf of each of the Parties (and any other data in connection with which the receiving party becomes the data controller) will be processed by the other party to carry out, perform, manage and monitor the Agreement and comply with their statutory duties. The processing of these data is necessary and the basis for doing so are (i) performing and monitoring the contractual relationship between the Parties and (ii) complying with both Parties' statutory obligations.
- (2) Personal data will be processed by each Party while the Agreement is in force, after which the Parties may retain the personal data for six years unless a longer term applies for statutory or contractual reasons.
- (3) Personal data will not be disclosed to third parties except to competent authorities in the exercise of their functions or to third parties when necessary to provide the services. In addition, on some occasions, due to Our company being a global firm, in the management and execution of the Agreement, data processing may be carried out outside the European Union in jurisdictions that do not provide equivalent protection to personal data, in which case We will adopt the proper guarantees and safeguards.
- (4) The data subjects may exercise their rights of access, rectification, erasure, object, data portability, restriction of processing and not to be subjected to automated individual decision-making and any other right recognised by the applicable regulations from time to time, by writing to the respective Data Security/Protection Officer, available via compliance@dywidag-systems.com. The data subjects are hereby informed of their right to file claims and requests relating to their data protection rights with the relevant data protection authority.
- (5) Before either Party discloses to the other Party any personal data of any individual who performs or manages the Agreement or of any third parties, the disclosing Party must previously inform the data subjects of the content of the preceding paragraph and comply with any other mandatory requirements that may apply for the lawful disclosure of the data to the recipient so that the latter does not have to take any additional steps vis-à-vis the data subjects.

18. Spare parts

Supplier must ensure availability of spare parts and consumables for at least 5 years after the last delivery.

19. Miscellaneous

- (1) If DYWIDAG provides free issue materials or equipment to Supplier, these shall remain property of DYWIDAG but shall be at the risk of Supplier while in Supplier's possession or control. Supplier shall maintain all such materials and equipment in good order and condition, shall use the same solely for and strictly in accordance with the Agreement, and otherwise shall

comply with all of DYWIDAG's directions given from time to time in respect of the same. Waste or loss shall be made good at Supplier's expense.

- (2) If any provision of the GTP would be found to be invalid or unenforceable, the other provisions shall remain in force. If any invalid or unenforceable provision would be valid or enforceable if it was modified, the provision shall apply with the minimum modification necessary to make it valid and enforceable.
- (3) Nothing in these GTP will limit DYWIDAG's statutory rights.
- (4) Without prior written permission by DYWIDAG, the Supplier may not and is not able to assign, pledge or transfer to third parties any claims (as referred to in article 3:83 sub 2 DCC) which the Supplier has or will acquire pursuant to the Agreement with DYWIDAG.
- (5) In case of discrepancies between these GTP in the Dutch language and the English language, the Dutch version shall be binding.
- (6) DYWIDAG reserves the right to unilaterally amend or supplement these GTP. The amended or supplemented terms and conditions will come into force 30 (thirty) calendar days after the day on which DYWIDAG has sent this amended version to the Supplier, unless the Supplier has submitted a substantiated objection in writing against the application thereof.

20. Governing law and jurisdiction

- (1) The Parties, waiving their (possible) right to any other jurisdiction, irrevocably submit to the competent court of the Gelderland District Court, location Arnhem in the Netherlands for the resolution of any dispute, claim or controversy arising from or relating to agreements between the Supplier and DYWIDAG, related non-contractual claims and these GTP, including any question with respect to their existence, validity, termination, nullification or effectiveness.
- (2) Agreements between the Supplier and DYWIDAG and related non-contractual claims shall be governed and interpreted in accordance with Dutch law. The application of the UN Convention on the International Sale of Goods (CISG) is excluded.

Contracting

21. Extra work/less work

- (1) Additional or less work shall be carried out, paid for and settled only if the Supplier has informed DYWIDAG in writing in advance and DYWIDAG has expressly approved the additional or less work in writing in advance.
- (2) Changes in cost price factors relating to the Agreement, such as prices of building materials, resources, labour costs, insurances, freight rates, taxes, duties or other government measures that take effect after the date of conclusion of the Agreement, shall be for the Supplier's account.

22. Inspection, approval and delivery of work

- (1) The work will be inspected at the written request of the Supplier, who will inform DYWIDAG of the date on which the work will be completed.
- (2) Inspection will take place as soon as possible after the request referred to in 22.1 has been made to DYWIDAG, but no later than five working days after completion and approval of the work.
- (3) After the work has been inspected, DYWIDAG will inform the Supplier in writing as soon as possible, but no later than five working days after the work has been inspected, as to whether or not the work has been approved. If approval is withheld, DYWIDAG shall state the reasons in writing.
- (4) If the work is put into use before it has been completed, it will thereby not be considered approved and delivered.
- (5) This article shall apply *mutatis mutandis* to the re-inspection of work to be carried out after approval has been withheld.
- (6) This article shall apply *mutatis mutandis* to partial deliveries.
- (7) The legal effect of completion only takes effect after DYWIDAG has explicitly accepted the work.

23. Transfer of risk and ownership of work

- (1) The Supplier bears all risks for the work until the work has been approved by DYWIDAG as referred to in article 22.
- (2) Insofar as the Suppliers employees work at the location of the work, they do so at the Supplier's expense and risk.
- (3) The Supplier undertakes to identify the work or parts of the work, at least insofar as ownership has been transferred, and to keep it identifiable as the property of DYWIDAG.