

1. General

These general terms and conditions (the “**General T&C**”) of Dywidag Sistemas Constructivos, S.A. (“**DYWIDAG**”, “**We**”, “**Us**”, “**Our**” or “**Ourselves**”) form an integral part of the agreement concluded between DYWIDAG and the customer (the “**Parties**”, and the “**Agreement**”). These General T&C are exclusive of any other terms and conditions, and shall be fully applicable to any provision of goods or services by DYWIDAG to the customer unless otherwise expressly agreed in writing by the Parties in the specific terms of the Agreement

2. Offer – Offer documents

- (1) Our offers are non-binding, unless otherwise stated in writing. Any technical data or drawings in Our catalogues, product brochures or other publications are non-binding. Verbal statements, advice or recommendations in respect of Our products and services are only binding if confirmed in writing.
- (2) We retain all Intellectual Property Rights to all drawings, calculations and documents of any kind and nature which We create or contribute to. For these purposes, “Intellectual Property Rights” include all rights recognised by intellectual property regulation which have proprietary or exploitation character for any ends and form of usage. The customer shall not use or exploit without Our prior written consent Our Intellectual Property Rights, and under no circumstances will the customer acquire any of Our Intellectual Property Rights.
- (3) Except otherwise agreed in writing, all information communicated by Us to the customer in preparation of or in relation to Our contractual relationship with the customer shall be considered confidential (“Confidential Information”). The customer undertakes not to convey Confidential Information to third parties, except with Our prior written consent. The customer shall be entitled to disclose the Confidential Information only if: (i) disclosure is required by any court or governmental authority; (ii) it has become part of the public domain (other than in connection with a breach of this section by the customer or its personnel); (iii) it was already rightfully in the customer's possession prior to it being delivered by DYWIDAG, and was not acquired directly or indirectly from Us; (iv) it is rightfully received from third parties without being subject to a duty of confidentiality; or (v) its communication has been consented previously and in writing by Us. The obligations established under this clause shall survive Our contractual relationship with the customer.

3. Prices – Terms of Payment

- (1) Our prices are ex warehouse/works excluding costs for packaging, corrosion protection and freight.
- (2) We may adjust Our prices to compensate for increase of labour or material costs.
- (3) VAT is not included in Our quotes, but will be charged separately on Our invoice.
- (4) Our prices do not include any other taxes or other fees or charges.
- (5) Prices are quoted and payable in Euros.
- (6) Payment is due net (without deduction) within fifteen (15) calendar days after receipt of the invoice by the customer (whether physically or by electronic means), in accordance with Law 3/2004, of 29 December 2004, establishing measures to combat late payment in commercial transactions (“Law 3/2004”).
- (7) In case of late payment, We are entitled to charge interest at 9 percentage points above the applicable base rate of the European Central Bank. In addition to such interest, We will also be entitled to all collection costs referred to in Law 3/2004.
- (8) If more than Euro 1,500 are overdue, We will be entitled to refuse to process any outstanding or additional orders from the customer.
- (9) Delivery dates or other time related commitments we made become nil and void if customer is in default of payment or his deliveries exceed his maximum credit line agreed or reasonably determined by us.
- (10) If customer's financial situation deteriorates, We are entitled to request advance payment or collateral or terminate the Agreement in accordance with the Spanish Civil Code– without prejudice to Our other statutory rights.
- (11) The customer shall not set off any claims from the amounts due to Us, unless its counterclaims have been legally established, are undisputed or recognised by Us and provided that the set-off requirements of article 1196 of the Spanish Civil Code are met.
- (12) We are entitled to offset claims that We or other members of the DYWIDAG Group have against the customer from any claims the customer may have against Us.

4. Delivery

- (1) Except as otherwise stated in writing, delivery of the products will be Ex Works at Our facilities.
- (2) Agreed delivery dates are subject to all product specifications having been clarified timely.
- (3) Our contractual obligations are subject to the timely and correct performance by the customer of its co-operation obligations.
- (4) In case We are prevented from timely performing Our obligations due to unforeseen or exceptional circumstances affecting Our production, suppliers or logistic providers without fault on Our part, including strikes, lockouts and epidemic events, any agreed delivery dates shall be deemed to be extended as reasonably necessary. We will not be liable for any breach of Our obligations if, while performing them, said obligations are suspended, delayed, interrupted or considered impossible or impractical due to unforeseen and/or inevitable circumstances or force majeure. Should the circumstances preventing Us from timely performance persist for more than four weeks from the date when those circumstances first arose, We shall be entitled to terminate, at Our absolute discretion, the relevant outstanding order(s) or the Agreement and refund any advance payments received from the customer. The customer's right to the refund shall be without prejudice to Our right to receive payment from the customer for the proportional part of the price of the goods and/or services delivered up to that date. We shall be entitled to totally or partially set off, at our absolute discretion, any such DYWIDAG's right to receive payments from the customer against the customer's right to the refund.
- (5) Should the customer delay acceptance of the products or default on any other cooperation obligations, We shall be entitled to compensation for all resulting damages and costs. Goods that are not timely picked up by the customer will be stored at the customer's cost and risk. Storage is charged at 0.2% of the total order value per day, up to a maximum of 5% of the total order value. Further claims or rights are reserved.
- (6) Our liability for delay damages is limited to the foreseeable and reasonable damage with a maximum of 5% of the delivery value.

5. Retention of Title

- (1) We retain title to Our products until payment has been received in full.
- (2) After delivery the risk of loss or damage and any other liability regarding the material shall lie with the customer. During the retention period the customer must treat the purchased item with diligence, store them adequately and protect them against deterioration through unfavourable ambient conditions, such as temperature or humidity. The customer shall adequately insure the goods at replacement value against fire and water damage and theft at its expense. The customer must perform any required maintenance and inspections at its expense.
- (3) The customer may sell the products in the regular course of its business. However, it already now assigns to Us all receivables, due from its customers or third parties arising from resale, in the amount of Our final invoice (inc. VAT) claim. Despite their assignment the customer is authorised to collect the receivables from resale. This does not affect Our right of collection. We commit Ourselves not to collect the receivables as long as the customer meets its payment obligations, no insolvency or similar proceedings have been filed and no suspension of payments exists. The customer undertakes to execute any documents and to carry out any acts that are necessary to give effect to the aforementioned assignment.
- (4) We undertake to release the securities due to Us on the customer's request, if the realisable value of Our securities exceeds the secured claims by more than 20%. We retain the right to decide which securities should be released.

6. Warranty

- (1) Subject to Sec. 6 para. 2, We warrant that Our products comply with the agreed specifications in all material aspects and that they are free from defects in material and craftsmanship, and that our services comply with the agreed and customary industry standards.
- (2) **Limitations on product warranties:**
 - a) For material supplies only, the customer acknowledges that the performance and functionality of Our products depend on factors beyond Our control (e.g., soil conditions, proper and professional transportation, storage and installation, ambient conditions like humidity and temperature, etc.). Therefore, the customer's product warranty claims are subject to the customer demonstrating its full

compliance with any installation instruction, trainings, usage and maintenance requirements, method statements, data sheets or recommendations (whether oral or in writing) communicated to the customer by Us and/or any of Our employees, agents, suppliers or subcontractors. We do not guarantee any specific performance or functionality of Our products and we do not guarantee the customer's expected results will be achieved or that the products are fit for the customer's specific purposes in each and every case.

- b) The customer shall inspect the products immediately upon delivery for any defects, damage or non-compliance with the specifications. Unless the customer notifies Us within 3 days after delivery of any default, the products will be considered as irrevocably accepted.
- (3) In case of defects in any of our products, it is in Our discretion to either repair the defect or replace non-conforming products or parts.
- (4) Our warranty comprises the reasonable costs of repair or replacement of the defective products or the repetition of the services defectively provided, including labour and logistics to and from the location of delivery.
- (5) Where applicable, our liability for defects on Our products and services is limited to reasonable and foreseeable damages and costs, with the exception of those defects resulting from fraud (*fraude*) or wilful misconduct (*dolo*) on Our side and any other mandatory liability in accordance with applicable law.
- (6) The period of limitation for warranty claims is 12 months and starts with delivery of the products or completion of Our services.
- (7) When delivery is divided into two or more parts, defects affecting one of the parts do not entail a right to compensation for the non-defective parts.

7. Overall Liability

- (1) We are not liable for damages beyond those covered in Sec. 6 above – regardless of what legal grounds the claim is based on. This applies, in particular, to indirect damages, loss of profit or any other tort claim for compensation for property damage according to the Spanish Civil Code. Except as otherwise provided in a mandatory legal provision or in any express written agreement between the customer and Us that specifically modifies the assurances provided by Us in Sec. 6 above, We expressly disclaim any other liability, warranty or representation, whether express or implied, that are generated by or are related to the provision or failure to provide goods and services.
- (2) Any exclusion of liability for damages provided in these General T&C shall also inure to the benefit of Our employees, workers, assistants, representatives and agents
- (3) Subject to Sec. 7 para. (4) below, DYWIDAG's total aggregate liability arising out of or in connection with performance or contemplated performance of the Agreement, whether for negligence or breach of contract or tort or any case whatsoever, shall in no event exceed one hundred per cent (100%) of the total amount actually paid to DYWIDAG by the customer under the Agreement, after deducting sales and similar taxes and delivery costs.
- (4) Nothing in Sec. 7 para. (3) above excludes or limits DYWIDAG's liability for fraud (*fraude*) or wilful misconduct (*dolo*) on Our side and any other mandatory liability in accordance with applicable law.

8. Export Control Regulations

- (1) Our offers and contractual performance are subject to Spanish, European and International export control regulations (e.g., embargos, sanctions, boycotts, etc.) not being violated at any time by Our performance under the Agreement.
- (2) The customer shall provide Us with all data and documents necessary to determine if any export control restrictions apply.
- (3) We shall not be liable for any delays caused by the investigation of export control regulations or any damages caused by the compliance with applicable restrictions.

9. Installation and Services

If We are instructed with installation, repair, monitoring or other services, the following shall apply in addition:

- (1) Unless a lump sum has been agreed, We charge labour and material in accordance with Our price list, which may be updated from time to time. Time sheets submitted to the customer shall form the basis for the calculation of Our charges, unless the customer rejects the time sheets in writing within 3 days. Any works which the customer instructs us to carry out and which are out of the agreed scope will require Our prior consent.

- (2) Lump sum prices are quoted based on the assumption that the site is safe, easily accessible and has been properly prepared, pre-works have been carried out correctly, necessary commodities such as electricity and water supply are readily available, required equipment is present and intact so that Our personnel can focus on the agreed scope of work. Any extra work necessary because the aforementioned conditions are not met, will be charged according to paragraph (1) above.
- (3) Should acceptance of the works by the customer be delayed for reasons beyond Our control, acceptance shall be deemed to have taken place fourteen (14) days after substantial completion of Our works.

10. Utilisation of products

The customer is solely responsible for the utilisation of the purchased items and for ensuring that such utilisation complies with all applicable provisions, instructions and standards.

11. Data Protection

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 statutory obligations.

Personal data will be processed by Us while the Agreement is in force, after which We will retain the personal data for six years unless a longer term applies for statutory or contractual reasons.

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.

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 corresponding 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.

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.

12. Governing law and jurisdiction

- (1) The Parties irrevocably submit to the courts of Madrid (Spain) for the resolution of any dispute, claim or controversy arising from or relating to the Agreement and these General T&C.
- (2) These General T&C shall be governed and interpreted in accordance with the common laws of Spain (*derecho común español*), the application of any Spanish regional civil laws (*derecho civil foral o especial*) being expressly excluded. The UN Convention on the International Sale of Goods shall not apply.