



## **GENERAL TERMS AND CONDITIONS OF CONTRACT**

**01 September 2013**

## GENERAL TERMS AND CONDITIONS OF CONTRACT

### 1. COMPANY DETAILS

#### 1.1 *Name, central address and permits of the Company:*<sup>1</sup>

##### **a) Data:**

Name of the company: Dutrade Zrt.

*Within the boundaries of Hungary the Company has several sites and branches.*

*Address of the Company's central administration: 2400 Dunaújváros, Papírgyári út 49.*

*Company registration number: 07-10-001178*

*Tax registration number: 11451479-4-07*

*Group tax registration number: 17780797-5-07*

*EU tax registration number: HU17780797*

*Telephone number: (25) 586-902*

*Facsimile number: (25) 586-900*

*E-mail address: [dutrade@dutrade.hu](mailto:dutrade@dutrade.hu)*

*Website: [www.dutrade.hu](http://www.dutrade.hu)*

##### **b.) Certificates:**

Quality Assurance System certificate according to standard MSZ EN ISO 9001:2009 standard; Deed of Certificate No.: FECR 1709/12, valid up to: 11.12.2015;

Environment Management System certificate according to standard MSZ EN ISO 14001:2005; Deed of Certificate No.: FECK 1710/12, valid up to: 11.12.2015;

Occupational Health and Safety Management System certificate according to standard MSZ 28001:2008 (BS OHSAS 18001:2007); Deed of Certificate No.: FECM 1711/12, valid up to: 11.12.2015.

### 2. GENERAL TERMS AND CONDITIONS OF CONTRACT

- 2.1 Unless otherwise provided in an agreement concluded by and between the Company and the party who requests a price offer, the customer, buyer and any other partner who establishes business relations with the Company (hereinafter **Partner**, and the two parties collectively referred to as **Parties**), the services to be provided by the Company to the Partners<sup>2</sup> as well as

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<sup>1</sup> The Company reserves the right to change the data without altering these terms and conditions. The effective company data are those maintained by the Registrar of Companies having jurisdiction.

<sup>2</sup> The term 'service' is defined in Clause 3.1 hereof.

the rights and obligations of the Parties are<sup>3</sup> regulated in these conditions (hereinafter **GTC**), unless the Parties otherwise agree in writing. Any agreement signed by the Company's representative with content differing from the GTC is valid only and exclusively if the effective company representation and signatory regulations governing signature are fully observed.

The Company shall provide opportunity for the Partner(s) to familiarise themselves with these GTC. In its price offer made by the Company in response to the Partner's request, the Company shall remind the Partner of the opportunity to familiarise itself with the GTC. Furthermore, the Company shall highlight to the Partner that forwarding an order to the Company constitutes acceptance of the GTC.

- 2.2 Unless otherwise agreed by the Parties, these GTC shall be applicable as appropriate, based on the various conditions of performance and depending on the Partner's orders and performances (e.g. payment terms, delivery conditions).
- 2.3 The agreement concluded between the Company and its Partners shall be subject to the effective GTC. The Company's effective GTC is published on the Company's website at any time ([www.dutrade.hu](http://www.dutrade.hu)). These GTC are valid until withdrawn.
- 2.4 The Company shall not regard draft agreements made in conflict with these GTC applicable to the Parties' agreements. The Company's GTC shall be valid and applicable even if despite the Partner's different contractual conditions the Company provides service to the Partner.
- 2.5 Unless otherwise provided, the conditions related to performance are regulated in general by the provisions of INCOTERMS 2000. Parity related to performance: EXW.

### **3. PERFORMANCE**

- 3.1 The services provided by the Company to the Partner (e.g. chopping, splitting) and trade in the products distributed by the Company at any time (hereinafter **Product or Products**) as well as the related services (e.g. the use of loading and unloading equipment, hereinafter collectively referred to as **Services**) shall be subject to these GTC.

#### **3.2 Bid and the binding force of the bid**

- (a) On request from the Partner, the Company shall compile an offer with content according to the request, and send it signed by one of its authorised signatories to the Partners for approval.
- (b) As the price offer made by the Company for the Partner is in each case merely informative, unless the Company makes an express written commitment to this effect, the Company is not bound by its price offer.

#### **3.3 Prices**

- (a) Unless otherwise stated, the prices set by the Company are exclusive of VAT and are quoted for Products issued to the Partner at the Company's site. In accordance with the requirements set out in the order, the Products include the test certificate compliant with the standard entitled "**Metal Products. Types of Test Certificates**" EN 10204. Product sale is performed in compliance with the rules of the effective VAT regulation.

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<sup>3</sup> In view of Clause 2.2 hereof

- (b) The prices in the price list include the costs of tests and verifications required during or after Product manufacturing for the performance of the conditions of quality and size determined in the prevailing standards.
- (c) If in the period between making the order and performance, the costs of raw materials or the supplier prices increase, the Company shall be entitled to modify the prices of the Products by the justified extent. If prices change as regulated in this clause, the Company shall inform the affected Partners of the price increase and its rate in writing without delay. The affected Partner shall be entitled to waive the agreement in writing within 3 working days, as a peremptory deadline, following receipt of the notice. If by the above deadline the affected Partner fails to indicate its intention to waive the agreement, it may no longer waive the contract with the price increase quoted as a reason.

### **3.4 Orders and conclusion of the supply contract**

- (a) Supply contract between the Parties<sup>4</sup> Such a contract can be considered concluded if the Parties have put it down in writing, or if the Company confirms the Partner's order sent in a letter, by fax or other ways in writing.
- (b) Verbal orders are only valid if the Partner confirms it in writing.

### **3.5 Liabilities related to the performance of the order**

- (a) The Company shall perform orders sent by the Partner to the Company in compliance with the GTC and confirmed by the Company by handing the Products over to the Partner or its agent at the Company's site or branch office on the basis of the relevant consignment note, and as far as possible, uploaded to the vehicle of transport. The conditions and terms related to performance, in the absence of any contradictory provisions, shall be generally governed by the provisions of INCOTERMS 2000. The parity of delivery shall be FCA.

The Partner's or its agent faulty performance of its contractual obligations excludes the Company's faulty or late performance, and gives rise to the Partner's breach of contract. If the Partner's and its agent performance is defective, the Company may refuse performance and claim its damage caused by faulty performance.

The Partner and its agent shall ensure that the Products are safely fixed on the vehicle of transport. The Company shall not be accountable for damages arising from wrong or insufficient fixing.

The Company shall hand over the Product ordered by the Partner to the person specified by the Partner in writing. At the latest by the take-over of the Product the Partner shall specify the name of the person authorised to take the Product over (or in the case of a forwarder, the forwarder's company name), and the registration number of the vehicle (by sending an AV ISO).

In the course of delivery and take-over, the Partner and the Company shall jointly check the volume, number of pieces and bulks, damage in packaging and the external features of the Products ordered and handed over to the Partner, and the Parties then sign the consignment letter to certify the performance of delivery and take-over.

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<sup>4</sup> The supply contract is an agreement made by the Parties on the supply of the Products, which is either in conflict with or in supplement to the GTC in the case of a provision made in reference to the latter.

Following the delivery and take-over procedure, the Company does not accept complaints.

- (b) Following the delivery and acceptance procedure and the signature of the consignment note, the risk of damage shall be borne by the Partner.
- (c) The Parties agree that in view of the Product attributes and the technology applied, quantitative tolerance shall be plus/minus 10% of the ordered amount.
- (d) Unless separately otherwise agreed by the Parties, the Company shall be entitled to partial performance of the Partner's order as agreed with the Partner. The Company shall be entitled to refuse the performance of additional partial performance if the Partner fails to fulfil its obligations vis-a-vis the Company or fulfils them inappropriately (including especially but not limited to any of its payment obligations).
- (e) The cash discount, rebate or other (price) reductions provided by the Company to the Partner shall be valid only and exclusively if the Partner has fully and contractually performed all of its obligations vis-a-vis the Company. In the case of a faulty performance or breach of contract by the Partner, it loses all the discounts, reductions and allowances granted by the Company, and the Company shall be entitled to enforce them retrospectively against the Partner.

### **3.6 Obligations related to the performance deadline**

- (a) If the Company does not perform its undertaking simultaneously with placing the order, it shall notify the Partner in writing of its performance. If for reasons within the Partner's competence performance fails to take place within eight days following the performance deadline agreed by the Parties, the Company shall keep the Product in a condition ready for shipping or choose, at its discretion, to transport it at the Partner's cost to a destination specified by the Partner. If the Company keeps the Product in its responsible custody, it shall be entitled to invoice the consideration of the Product, HUF 100 per metric tonne per calendar day as a storage fee, and 1% of the value of the goods per day as a penalty. The Partner shall also pay the Company's damages exceeding the penalty.

### **3.7 Payment obligations**

- (a) Unless the Parties otherwise agree on this matter, based on its order the Partner shall pay by bank transfer, in cash or by bank card, whichever is specified in the confirmation of its order, before take-over of the Products, in the currency determined by the Parties and confirmed in the confirmation.
- (b) In the event the Partner's bank transfer is delayed, the Partner shall pay a default interest to the Company at a rate specified under paragraph 301/A (2) of the Ptk. (Hungarian Civil Code) as well as a debt collection cost amounting to minimum EUR 40, as defined in paragraph 301/A (3) of the Ptk, after the debt collection notice issued by a lawyer has been sent. Performance of this obligation shall not relieve the Partner from any other legal consequences arising from the delay.
- (c) All transaction costs related to the transfer shall be borne by the Partner.
- (d) The due date of invoices shall be 8 days, any departure from which shall be agreed on by the Parties in a separate agreement.

### **3.8 Maintenance of ownership**

- (a) Ownership title to the Product shall be transferred to the Partner upon full payment of the purchase price to the Company, i.e. the Company shall maintain title to the Product until the purchase price is fully paid by the Partner.

Unless otherwise agreed, the Parties consider the purchase price paid when it is credited to the Company's bank account, or when the Company's other receivables provided as coverage for the Product have or a bill of exchange has been successfully enforced by the Company.

## **4. COMPLAINT AND PRODUCT LIABILITY**

### **4.1 Warranty**

- (a) The Company undertakes statutory (standard) warranty for the Product.
- (b) The Company does not assume liability for damages caused by fault in graded substandard products, in view of the observation of effective and mandatorily applicable statutory regulations (primarily to protect consumers).
- (c) The product manufacturer's data are contained in the certificate issued as an attachment to the invoice.
- (d) In terms of product liability assumed for the processed product, the Company shall be considered as the manufacturer.

### **4.2 Complaints and complaint management**

- (a) If the goods fail to meet the chemical, mechanical and other attributes required in the contract, the Partner shall make its warranty claim no later than within thirty days following performance by the Company.

In the case of faults that cannot be detected within 30 days even with the most careful check, warranty may be claimed within 3 months following take-over of the product.

- (b) The Partner's written complaint shall be deemed to have been made to the Company if it is forwarded by fax, in an e/mail message to the address ([reklamacio@dutrade.hu](mailto:reklamacio@dutrade.hu)) or in a letter. The time of receiving the complaint shall be the time when the Company confirms receipt of the e-mail and fax message, or the day when the postal consignment is delivered.

There are no formal restrictions on the form or report, but in each case it shall include the reason for the claim, the accurate quantity concerned, and Dutrade Zrt.'s unique identifier. The Partner shall make appropriate evidence available for the Company (e.g. photographic documentation, a sample, expert opinion).

- (c) Review of the complaint forwarded by the Partner to the Company shall be the Company's responsibility. Within 5 [five] working days following receipt, the Company shall start inquiry of the facts included in the complaint reported in agreement with the provisions of section (b) herein, and inform the Partner of this fact in writing. Following inquiry the Company shall inform the Partner of settlement in writing.

- (d) Quality, finish, size and weight shall be subject to the standards and conditions defined in the confirmation of the order. Final settlement with the weight shall be based on the consignment note issued by the Company.
- (e) The Company shall be entitled to engage agents to inspect the Product concerned with the complaint on the site in order to verify legitimacy of the claim. Without the Company's consent the Partner may not give unilateral instructions regarding the physical conditions or the legal status of the Product before the legitimacy of the warranty claim is ascertained. If the Partner fails to meet this requirement, it shall lose all its rights to warranty.
- (f) During inquiry of the complaint, the Partner shall store the Product in an appropriate place and manner in order to protect it and maintain its condition.
- (g) The stocks affected by complaint may only be used with the Company's written consent.

#### 4.3 ***Limitation and exclusion of liability***

- (a) Limitation of liability

The Company shall do its utmost to comply with the due date of performance but, due to the production technology of raw materials, may modify the set delivery deadline for a reason arising beyond its control.

If the Company fails to perform by the modified deadline, Partner shall be entitled to unilaterally waive from the contract in writing with respect to the non-performed part.

- (b) The Partner is not entitled to demand compensation for its direct losses and lost profit with reference to faulty and/or late performance. Direct loss shall include any and all loss of which Company could not have been aware of even with due care.
- (c) The Partner shall not be entitled to settle its warranty claim by setting it off against the purchase price without the Company's consent. In the case of setting off, the Parties should agree in the amount of reduction. A complaint concerning any item of the delivered Product does not entitle the Partner to withhold the purchase price or reject the receipt and payment of the rest of the items (Product). The Company shall not be held liable in the case of withheld or unpaid purchase price.
- (d) The Company does not assume liability in the following cases:
  - (i) Performance of the requirements not specified in statutory regulations (standards) or in the contract,
  - (ii) Non-proper or irregular use of the Product. The Company shall not be liable in the case of a special use of the Product by Partner which has not been approved in writing by the Company. The Partner shall compare the notification of the Company with the minimum requirements set out in the law (standard), and consult the Company in the case of any discrepancy;
  - (iii) The quality of a Product used, processed by the Partner, or if the condition of the Product is different from the delivered condition, or any the Product not properly stored.

## **5. WITHDRAWAL FROM PERFORMANCE**

- 5.1 The Company is entitled to unilaterally withdraw from the individual supply contract, or depending on the circumstances suspend performance thereof at its own discretion, without complying with unlawful compensation and with the enforcement of its lawful damage claims, upon the occurrence of the following events:
- (a) Force majeure events<sup>5</sup> including but not limited to natural disasters, war, mobilization, blockade, export and import limitations and prohibitions, outages and such other unforeseen events or reasonably unavoidable circumstances that hinder the performance of the contract.  
In the case of force majeure, the Parties shall notify each other without delay.
  - (b) An adverse change in the Partner's liquidity conditions, including but not limited to: insolvency, initiation of bankruptcy or winding up procedures;
  - (c) The Partner fails to notify the Company in writing about a change in its corporate form or corporate data within three days of occurrence;
  - (d) The Partner sets out the means of carriage in a manner other than what is specified in Clause 3.5;
  - (e) The Partner delays receipt by more than eight days, as set out in Clause 3.6.
- 5.2 If the Partner delays receipt by more than 30 [thirty] days, Company may charge 20% failure penalty, calculated on the basis of the gross value of the Product, in the case of the Company's withdrawal from the contract.
- 5.3 If the Partner rejects receipt and payment, all costs and expenditure relating to the given transaction (raw materials, goods, procurement materials, ancillary materials) shall be payable by it.

## **6. ENTIRE CONTRACT AND NOTICES**

- 6.1 A business secret shall mean any fact, information, solution or data related to this Contract the maintenance of whose confidentiality is in the reasonable interest of the Customer and the Customer has taken the necessary steps to keep it confidential.  
The Parties agree that during the term of their business relation they shall cooperate with each other. In the course of cooperation, the points specified by the Company for contacts<sup>6</sup>.
- 6.2 These GTC, the order, the order confirmation, the consignment note and the invoice shall constitute inseparable parts of the Parties' agreement.  
The Partner shall compensate for any direct and indirect damage arising from the breach of a business secret.

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<sup>5</sup> In the case of a force majeure event also the Partner will become entitled to withdraw from the agreement of the Parties.

<sup>6</sup> These data are specified for information only. The Company does not assume responsibility for data changes. The Partner shall be responsible for the appropriate verification of the data.



**7. CONFIDENTIALITY**

*The Parties shall treat all data and information revealed to them in relation to the performance of the agreement between them and, disregarding the cases defined in statutory regulations, they may not disclose them to third parties without the other Party's preliminary written consent.*

**8. PARTIAL INVALIDITY**

*Should any provision of these GTC become invalid, all the other provisions of these GTC shall remain unaffected.*

**9. LEGAL DISPUTES**

*In any eventual dispute arising from their contractual relation, the Parties submit to the exclusive jurisdiction of the Court of Dunaújváros Region and the County Court of Székesfehérvár.*

**10. GOVERNING LAW AND INTERPRETATION**

*All issued left unregulated by these General Terms of Contract shall be governed by the provisions of the Civil Code and other relevant Hungarian statutory regulations.*

*These GTC have been drawn up in Hungarian, English and German. In the event of any discrepancies due to interpretation, the Hungarian version shall prevail.*

**11. ENTRY INTO FORCE**

*These GTC shall be effective as from 01 September 2013.*

Done in Dunaújváros, on this 01 September 2013.

**FOR DUTRADE ZRT.**



Mr Iván Kroó

Director