



DANGO & DIENENTHAL

BETTER VALUES.

U.S. TERMS AND CONDITIONS FOR SALE OF GOODS AND SERVICES

I. GENERAL PROVISIONS (§ 1)

§ 1 DEFINITIONS

The following capitalized terms shall have the meaning ascribed thereto:

- (1) **"Contract"**: The Quotation, Purchase Order, Order Confirmation, or any other written agreement and/or arrangement between D&D and Customer regarding the delivery of the Goods or the provision of the Services, as well as related attachments and technical specifications, including any written amendments and additions (supplements) to such documents and/or these Terms.
- (2) **"Customer"**: The purchaser/recipient of the Goods and Services to be provided by D&D pursuant to the Contract.
- (3) **"D&D"**: DANGO & DIENENTHAL, Inc.
- (4) **"Goods"**: All products offered and delivered by D&D, including machines, individual (component) parts, spare parts, and accessories.
- (5) **"INCOTERMS®"**: INCOTERMS® refers to the international trade terms of the International Chamber of Commerce (ICC), which regulate the obligations, costs, and risks in international goods trade between Customer and contractor. The applicable version is INCOTERMS® 2020 (available online at: <https://iccwbo.org/business-solutions/incoterms-rules/incoterms-2020/>, last accessed on 31.03.2025).
- (6) **"Order"**: The order for the purchase of Goods or Services by Customer from D&D as set forth in the Contract.
- (7) **"Order Confirmation"**: The written confirmation by D&D of the receipt and acceptance of Customer's order, considering any individual agreements mentioned therein and/or these Terms.
- (8) **"Purchase Order"**: The binding declaration and expression of intent by Customer, whether in the form of a purchase order or other written document, to purchase specific Goods or to avail of certain Services pursuant to the Order.
- (9) **"Quotation"**: A proposal made by D&D for the sale and delivery of Goods or provision of Services, and setting forth the essential business/financial terms of such sale and delivery.
- (10) **"Services"**: All services provided by D&D, including service activities such as assembly work, commissioning, maintenance, inspection, and repair, restoration work and retrofitting work, as well as consulting services and engineering services.
- (11) **"Terms"**: The terms and conditions set forth herein.

II. TERMS AND CONDITIONS

The Order, including related Quotation, Purchaser Order, Order Confirmation and other proposals, acknowledgments and acceptances are subject to these Terms. In the event of any conflict between these Terms and terms contained in the Quotation, Purchaser Order, Order Confirmation, or any other agreement or document included in the Contract, these Terms shall prevail. No modification, amendment, revision, waiver or other change to these Terms or the Contract will be binding on D&D unless agreed to in writing by an authorized D&D representative.

III. PRICES AND SPECIFICATIONS

Prices and specifications quoted by D&D in the Quotation are valid for the stated period; provided, however, that D&D may apply material, energy, tariff or other surcharges based on the incurrence by D&D of such surcharges, increases in material or energy costs, or tariffs. Price quotations do not include any federal, state, local or other taxes, and Customer agrees to pay any and all such taxes which D&D may be required by law to pay or collect on account of the manufacture or sale of Goods and performance of any Services under these Terms. All prices quoted are U.S. Dollars unless otherwise specified. All licenses or other approvals required shall be obtained by Customer, at Customer's expense. After these Terms become effective, specification changes requested by Customer will be made only by separate written agreement, in which event the prices quoted in connection with the original specifications will be subject to change. D&D reserves the right, without obtaining Customer's approval, to make changes in the design and specifications of the Goods sold or Services provided hereunder, or of any component part, provided such changes do not affect the performance of the Goods sold or the Services provided.

IV. PAYMENT TERMS

Payment terms are net fourteen (14) calendar days from invoice date or as defined in the schedule of payment terms outlined in D&D's Quotation. D&D has the right, in addition to any other remedies allowed in equity or by law, to assess service charges on overdue accounts in the amount of one and one-half percent (1½%) per month or the maximum interest rate permitted by applicable law, whichever is lower. D&D also has the right at any time to require full or partial payment in advance of shipment, whether based upon payment history or D&D's assessment of Customer's financial condition or other factors. In the event of non-payment, Customer agrees to pay all costs of collection incurred by D&D, including, without limitation, court costs and reasonable attorneys' fees.

Customer shall only be entitled to set off claims against any amounts required to be paid by it under the Contract to the extent that such claims are undisputed or have been finally determined by a competent court. This shall not apply to counterclaims arising from the same contractual relationship and which are reciprocal to D&D's claims. Customer is only entitled to assert a right of retention based on counterclaims arising from the same contractual relationship.

V. PACKAGING AND SHIPPING

Unless otherwise stated in the Quotation, all prices are for delivery ex works (according to the version of INCOTERMS® in effect at the time of the Order). Title and all risk of loss shall be borne by Customer upon delivery by D&D at place of shipment. Delivery dates and deadlines are nonbinding guidelines unless they are explicitly confirmed in writing by D&D. In the event that additional or extension orders require extended delivery time(s), as determined by D&D in its discretion, the originally agreed delivery deadline will be adjusted/extended accordingly, the duration of which will be as agreed to by the parties in writing.

Any claims for loss, damage or delay in transit must be entered and prosecuted by Customer directly with the carrier, who is hereby declared to be the agent of Customer. D&D shall not be liable for any delay in performance of the Contract or delivery of any Goods or Services, or for any damages suffered by Customer by reason of delay, when the delay is caused, directly or indirectly, by fire, flood, accident, riot, acts of God, war, governmental interference, strikes, embargoes, labor difficulties, shortage of labor, fuel, power, materials or supplies, transportation, or any other causes beyond D&D's control. In the event delay is caused by Customer's failure to furnish necessary information with respect to data and details for Customer's specifications, D&D, may extend the date of shipment for a reasonable time. Unless expressly agreed otherwise in a writing signed by an authorized representative of D&D, goods shall be packaged in accordance with standard industrial practices and using packaging selected by D&D, in its discretion. Packaging costs shall be charged to Customer, unless the packaging is expressly including in the pricing set forth in the Quotation; provided, however, that the costs of special packaging that exceeds the scope shall be borne by Customer.



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In the event delay in shipment is caused by Customer or at Customer's request, and the Goods are not shipped within thirty (30) days from the first date they are ready to be shipped, D&D may, in its sole discretion, charge a storage fee of 0.5% of the aggregate price for the delayed shipment of Goods for each 30-day period that such shipment is delayed, prorated based on the actual number of days of delay in shipment. D&D SHALL NOT BE LIABLE FOR ANY LOSS OF USE OR FOR ANY OTHER INDIRECT, CONSEQUENTIAL, INCIDENTAL OR OTHER DAMAGES OR LOSSES DUE TO DELAY IN SCHEDULED SHIPMENT OR DELIVERY.

VI. CANCELLATION OF ORDER

Prior to delivery to place of shipment, an Order may be cancelled by Customer by written notice to D&D sent by certified mail, return receipt requested, or by overnight mail by a nationally recognized carrier, and received by D&D no later than twenty (20) days prior to the date of such cancellation/termination. Upon receipt of such notice, D&D will immediately take the following steps (a) cease the performance of the Contract; (b) refrain from placing new orders with subcontractors or suppliers of D&D with respect to the Order, except for services necessary to protect the Goods, materials or work in process existing as of the date of termination. In the event of cancellation by Customer, D&D shall be entitled to, and Customer shall reimburse D&D for all costs incurred by D&D up to the date of termination, including, but not limited to Services already performed, material costs, as well as finished or partially finished goods produced or procured under the Contract. D&D will provide a reasonably detailed statement of such costs. In addition to reimbursement of the costs set forth in this Section, D&D is entitled to a lump-sum compensation equal to 5% of the portion of performance of the Contract not yet provided/rendered under the Contract as of the date of termination. In addition to the rights and remedies set forth in this Section, D&D may, but is not required to sell or otherwise utilize materials and parts procured under the Contract that can no longer be used after termination, in which event the amounts that Customer is required to reimburse D&D for any such materials or parts so utilized or sold by D&D. Upon request from D&D, Customer agrees to return to D&D all materials, goods, or documents already delivered pursuant to the Contract up through the date of termination.

VII. INSPECTION AND ACCEPTANCE OF GOODS

Customer agrees that it shall inspect the Goods or the completed Services immediately after receipt or completion of the same and promptly (in no event later than ninety (90) days after date of delivery) notify D&D in writing of any non-conformity or defect. The customer further agrees that failure to give such prompt notice or the commercial use of the Goods shall constitute acceptance. Acceptance shall be final and Customer waives the right to revoke acceptance for any reason, whether or not known by Customer at the time of such acceptance. The giving of any such notice by Customer shall automatically cause the provisions of D&D's warranty to apply and govern the rights, obligations and liabilities of the parties with respect to such non-conformity or defect, provided under no circumstances shall rejection give rise to any liability of D&D for incidental or consequential damages or losses of any kind. Customer shall not return the goods sold hereunder unless it first obtains a returned material authorization (RMA) number from D&D. D&D does not guarantee that it will accept returned goods. Customer is responsible for all return shipping costs and risk of loss up to D&D's place of business.

VIII. LIMITED WARRANTY

D&D warrants that the Goods and Services provided by D&D will be free of defects in materials or workmanship for a period of twelve (12) months from the date of shipment of the Goods or upon completion of work Services (the "Warranty Period"). In no event shall D&D's liability for warranty of parts which are not manufactured by D&D be greater than the warranty liability assumed by the supplier or manufacturer of such component parts. In no event shall D&D be responsible for the expense of removing or reinstalling Goods unless D&D was originally obligated to perform the installation of the defective Goods under the Order; provided, however, that if reinstallation of Goods is part of the remedy, Customer may assert claims under this warranty with respect to such reinstalled Goods only until the date of expiration of the original Warranty Period for the replaced defective Goods. If Customer asks D&D to open, examine, or test an item to determine if a problem is covered by warranty, Customer will pay D&D the reasonable cost of opening, examining, and testing the item if D&D determines that the problem is not covered by this warranty. D&D's entire liability and obligation to Customer under this warranty shall be expressly limited to the repair, replacement or crediting, as D&D may choose at its sole discretion, of any defective or non-conforming Goods or Services of which Customer has first given written notice to D&D of such defect or non-conformity in the manner as provided herein. No claim under this warranty shall be valid unless, within thirty (30) days of the date upon which Customer discovered or reasonably should have discovered the defect/non-conformity, Customer furnishes D&D written notice describing in reasonable detail the non-conformity with the above warranties. Absent such timely notice, Customer shall be deemed to have waived any defect or non-conformity which could be determined based upon a reasonable inspection of the Goods and Services.

The foregoing warranties are valid only if the Goods are stored, installed, operated and maintained in accordance with all reasonable instructions of D&D and with standard industry practice. The foregoing warranties will not apply to defects that result from misuse, alteration, abuse, negligence, accident, acts of God, sabotage, improper assembly, installation, application, circuit protection, maintenance, or repair of the product by Customer or others. The warranties also will not apply if, without D&D's consent, the goods are subjected to tests other than those specified by D&D. The warranties shall not apply to equipment or parts thereof which have been altered or repaired outside of D&D's factory, without prior written authorization. Should Customer elect not to implement the full scope of repairs or services recommended by D&D, D&D makes no warranty and assumes no liability for any subsequent failure of such product. This warranty shall not cover any item on which serial numbers have been altered, defaced or removed. Maintenance and wear parts are not covered by this warranty and are the sole maintenance responsibility of Customer. D&D's liability on any claim of any kind arising out of or related to the Goods or Services shall in no case exceed the amounts paid under this Contract for the Goods or Services which give rise to the claim.

EXCEPT FOR THE ABOVE WARRANTIES, D&D MAKES NO WARRANTY OF ANY KIND. THE ABOVE WARRANTIES ARE EXCLUSIVE AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED (INCLUDING ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE) ARE DISCLAIMED. THE ABOVE REMEDIES ARE CUSTOMER'S EXCLUSIVE REMEDY FOR BREACH OF WARRANTY OR FOR ANY OTHER OBLIGATION ARISING BY OPERATION OF LAW OR OTHERWISE WITH RESPECT TO THE ORDER REGARDLESS OF WHETHER A CLAIM IS BASED ON CONTRACT LAW, TORT LAW (INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE) OR OTHER LEGAL THEORY.

IX. REMEDIES FOR BREACH

In the event of the breach by D&D of any of its obligations under the Contract or the breach of the warranty set forth in Section 8 above, the parties agree that D&D's liability for such breach shall be limited exclusive to the remedies set forth in Section 8 and shall in no event exceed the aggregate amount paid by Customer to D&D pursuant to this Contract. IN NO EVENT SHALL D&D, OR ANY SUBSIDIARY OR DIVISION THEREOF BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OR LOSSES RESULTING FROM A BREACH OF THE CONTRACT OR BREACH OF WARRANTY INCLUDING, WITHOUT LIMITATION, LABOR COSTS, LOSS OF USE OF OTHER EQUIPMENT, THIRD PARTY REPAIRS, PERSONAL INJURY, EMOTIONAL OR MENTAL DISTRESS, IMPROPER PERFORMANCE OR WORK, PENALTIES OF ANY KIND, LOSS



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OF SERVICE OF PERSONNEL, OR FAILURE OF GOODS OR SERVICES TO COMPLY WITH ANY FEDERAL, STATE OR LOCAL LAWS.

X. LIMITATION OF ACTIONS

Any action for breach of the Contract must be commenced within one (1) year after the earlier to occur of (a) the date of delivery of the Goods or completion of the Services that are the subject of this Claim, or (b) the date that the cause of action has accrued.

XI. RETENTION OF TITLE; RESERVED GOODS

Delivered Goods remain the property of D&D until full payment of all amounts due under the Contract has been received by D&D, and Ownership shall pass to Customer only upon payment in full of the price(s) and payment and performance by Customer of all of its other obligations hereunder. Customer is obligated to handle the Goods subject to retention of title under this Section (the "Reserved Goods") with the care of a prudent businessperson. Customer shall, at its own expense, insure the Reserved Goods against all customary risks, including theft, loss, and damage, and shall, upon request, provide D&D with proof of such insurance. All insurance claims in this respect are hereby assigned to D&D in advance. Customer is entitled to resell the Reserved Goods in the ordinary course of business; however, this is permitted only under the condition that the claims arising from such resale, corresponding to the value of the Reserved Goods, are assigned to D&D. Customer is not authorized to pledge the Reserved Goods, transfer ownership by way of security, or take any other action that may jeopardize D&D's ownership rights, as long as the Goods have not been paid for in full. If the Goods subject to retention of title are combined, mixed, or processed with other items, D&D shall acquire co-ownership of the resulting new product in proportion to the value of the Goods subject to retention of title relative to the other combined or processed items at the time of combination or processing. The same provisions that apply to the Goods delivered under retention of title shall apply to the new product. Customer is obligated to provide D&D with all necessary information regarding the Reserved Goods, as well as any claims that have been assigned to D&D, upon request at any time.

If a third-party gains access to the Reserved Goods or asserts claims against them, Customer is obligated to inform D&D immediately and provide the necessary documentation. Customer must inform the third party of D&D's retention of title. The customer shall bear all costs associated with defending against such access or claims. In the event of withdrawal from the Contract, D&D shall be entitled, without prejudice to any other rights, to demand the return of the Goods subject to retention of title and to dispose of them at its discretion in order to satisfy outstanding claims against Customer. Customer undertakes to grant D&D or its agents' immediate access to the Goods and to return them upon request.

In the case of deliveries to any state in which the above-mentioned retention of title provisions are not enforceable, Customer hereby grants to D&D a security interest in the Goods until full payment of all amounts due under the Contract has been received by D&D, and Customer agrees to take all necessary actions to grant D&D the such security interest without delay. Customer will, at its own expense, take all necessary steps, such as registration, notification, or other legally required actions, to ensure the validity and enforceability of D&D's security interest in Customer's respective jurisdiction(s).

XII. INTELLECTUAL PROPERTY & CONFIDENTIALITY

No license or other rights under any patents, copyrights or trademarks owned or controlled by D&D or under which D&D is licensed are granted to Customer or implied by the sale of Goods hereunder. Customer shall not identify as genuine products of D&D products purchased hereunder which Customer has treated, modified or altered in any way, nor shall Customer use D&D's trademarks to identify such products; provided, however, that Customer may identify such products as utilizing, containing or having been manufactured from genuine products of D&D as treated, modified or altered by Customer or Customer's representative, upon written prior approval of D&D. All plans, photographs, designs, drawings, blueprints, manuals, specifications and other documents relating to the business of D&D ("Information") shall be and remain the exclusive property of D&D and shall be treated by Customer as confidential information and not disclosed, given, loaned, exhibited, said or transferred to any third party without D&D's prior written approval; provided, however, that these restrictions shall not apply to Information that Customer can demonstrate: (a) at the time of disclosure, is generally known to the public other than as a result of a breach of the Contract by Customer; or (b) is already in Customer's possession at the time of disclosure by from a third party having a right to impart such Information. In no event will D&D and the manufacturing and selling parties be liable for any patent infringement based upon the use of the Goods for a purpose other than for which it is sold by D&D.

If D&D manufactures products based on drawings, specifications, or other instructions provided by Customer, Customer warrants that the manufacture, delivery, and use of the products do not infringe any third-party rights, particularly intellectual property rights such as patents, trademarks, utility models, or copyrights. In this case, Customer agrees to indemnify and hold D&D harmless from all third-party claims arising from such intellectual property infringements and to compensate D&D for any damages and necessary expenses incurred in this regard, including reasonable legal costs.

XIII. SOFTWARE USE

Insofar as software is included in the scope of delivery, Customer is granted a non-exclusive right to use the delivered software. It is provided for use only on the designated Good. Use of the software on more than one system is prohibited. Customer may use the software only to the extent permitted by law, in particular for making backup copies. Any further reproduction, modification, alteration, translation, or other use requires the prior written consent of D&D. Customer agrees not to remove or alter manufacturer information, including copyright notices, without the prior express consent of the supplier. All other rights to the software and documentation, including copies, remain with D&D or the software supplier. The granting of sublicenses is not permitted.

XIV. DEFAULT AND D&D'S REMEDIES

In the event of default by Customer, all unpaid sums and installments owed to D&D, shall, at the D&D's sole option, become immediately due and payable without notice of any kind to Customer. In addition to its right of acceleration, D&D may pursue any and all remedies allowed by law or in equity, including but not limited to any and all remedies available to it under the Ohio Uniform Commercial Code. In addition to the foregoing, and not in limitation thereof, D&D shall have the right to set off any credits or amounts owed to Customer against any amounts owed by Customer to D&D.



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XV. INDEMNIFICATION BY CUSTOMER

Customer hereby agrees to indemnify, release, defend and hold harmless D&D, its directors, officers, employees, agents, representatives, successors, and assigns against any and all suits, actions or proceedings at law or in equity (including the costs, expenses and reasonable attorney's fees incurred in connection with the defense of any such matter) and from any and all claims demands, losses, judgments, damages, costs, expenses or liabilities, to any person whatsoever (including Customer's and D&D's employees or any third party), or damage to any property (including Customer's property) arising out of or in any way connected with the performance or the furnishing of Goods or Services under the Contract. If Customer fails to fulfill any of its obligations under this Section or the Contract, Customer agrees to pay D&D all costs, expenses and attorney's fees incurred by D&D to establish or enforce D&D's rights under this Section or this Contract. The provisions of this Section are in addition to any other rights or obligations set forth in the Contract. The provisions of this Section shall survive termination of the Contract or completion of the Order.

XVI. INSTALLATION

Unless otherwise expressly set forth in the Quotation, Customer shall be solely responsible for the installation and erection of the Goods purchased, and D&D assumes no responsibility for proper installation or support of the Goods when installed and disclaims any express or implied warranties with respect to such installation and support.

XVII. CONSTRUCTION AND SEVERABILITY

The Contract constitutes the entire agreement between the parties regarding the subject matter hereof and shall be construed and enforced in accordance with the laws of the State of Ohio. D&D shall not be bound by any agent's, employee's or dealer's representation or by any other representation, promise or inducement not set forth herein. The invalidity or unenforceability of any provisions of the Contract shall not affect any other provision and the Contract shall be construed in all respects as if such invalid or unenforceable provision were omitted.

XVIII. JURISDICTION

The parties agree that the proper and exclusive forum and venue in all legal actions brought to enforce or construe any provision of the Contract is the US District Court, Ohio Northern District, Akron, Ohio or, if federal jurisdiction is lacking in such legal action, in the state courts of the State of Ohio located in Carroll County, Ohio.

XIX. NO ASSIGNMENT

No rights arising under the Contract may be assigned by Customer unless expressly agreed to in writing by the D&D.

XX. WAIVER

The waiver of any provision of the Contract shall be effective only when made in writing. D&D's failure or delay in enforcing any provision herein shall not be deemed to be a waiver, nor does the waiver or partial exercise of any provision indicate or preclude any future waiver or partial exercise.

XXI. MISCELLANEOUS

Customer represents that: (i) it is solvent and has the financial ability to pay for the Goods and Services purchased hereunder and (ii) it has all requisite right, power and authority to perform its obligations under the Contract.