

# DEHNconcept and DEHN Test Centre\*

## 1. General, Scope

- 1.1 All performances from the DEHNconcept and DEHN Test Centre areas are subject exclusively to these general terms and conditions (hereinafter referred to as "conditions"). We oppose any deviating regulations, in particular contrary terms and conditions of the ordering party, except in cases where we have expressly accepted these terms and conditions in writing. Our conditions apply even if we execute the performance without reservation in the knowledge of contradicting conditions of the ordering party or of conditions which differ from ours.
- 1.2 Our conditions only apply to companies in the context of § 310 para. 1 of the German Civil Code (BGB) and, in the case of current business relationships, they apply for all future transactions with the ordering party.

## 2. Contract terms, order confirmation, over-performance, change and copyright reservation

- 2.1 Unless otherwise expressly designated by us as binding, documents such as images, drawings and dimensions, particularly in print media and online on our website [www.dehn.de](http://www.dehn.de), are not binding and are not part of the contract terms.
- 2.2 Our offers, test periods and test dates rest on estimates of the scope of work based on the applicable details and documents of the ordering party at the time of the creation of the offer. The test periods and test dates are binding only if expressly agreed.
- 2.3 If our order confirmation contains reasonable additions, limitations or other changes with respect to the order, unless the ordering party objects immediately or at the latest within three working days since entry of the order confirmation, the ordering party's consent shall be assumed.
- 2.4 If the originally agreed performance is subject to an unanticipated increase during execution, we shall inform the ordering party in good time and quote for the additional performances required for completion of the order in a supplementary offer. We reserve the right to terminate the original contract in the event of the non-acceptance of the supplementary offer. In this case the performances supplied thus far shall be payable in full by the ordering party in a reasonable proportion to the original offer.
- 2.5 If the ordering party wishes to be present at tests in our test centre we are entitled for safety reasons to appoint extra staff for their care and supervision and to invoice for the additional time.
- 2.6 We reserve the right to make technical changes to the performances to which we have committed, where such changes are in the interests of technical progress or are unavoidable on the basis of other circumstances and are reasonable for the ordering party.

- 2.7 We retain the title and copyright to our lightning protection plans, figures, drawings, calculations, test reports and other documents. Third parties may not be given access to the same without our express permission in writing. We shall not refuse consent without serious grounds.

## 3. Cooperation duties

- 3.1 The ordering party is obliged to provide us with all information required to execute the order, particularly our questionnaire regarding the applicable technology, technical plans and drawings, floor plans, seating plans, emergency exits and rescue plans, part drawings, material lists and test items, in good time and free from error. Furthermore, the ordering party shall disclose all information about any features of the test item which might endanger the safety of the contractor or third parties. If the ordering party becomes aware of any circumstances which were not considered in the testing and under which the test item might present a danger to persons or property, they are obliged to notify us thereof immediately. The same applies if the ordering party receives knowledge that the product does not comply with other applicable legal provisions.
- 3.2 The ordering party shall obtain all third-party approvals and/or consents necessary for the fulfilment of the contract at their own cost and provide proof to us accordingly.
- 3.3 Inasmuch as investigations must be carried out in order to fulfil the contract outside our test centre, the ordering party shall facilitate access to the corresponding locations. Furthermore, the ordering party shall ensure that the items to be investigated are accessible such that unhindered contract fulfilment is possible. The ordering party must particularly take all necessary precautions to protect third party rights.
- 3.4 We can the ordering party impose a reasonable deadline regarding numbers 1 and 2. We may withdraw from the contract in the event of fruitless expiration of said deadline.

## 4. Test report publication rights

The results of the investigations may only be published by the ordering party in full wording and naming us. Partial disclosure or disclosure of extracts shall be cited as such and require our prior express permission.

## 5. Prices, V.A.T.

Prices are excluding V.A.T. V.A.T. is to be paid to us at the prevailing rate of the day the invoice is issued.

## 6. Acceptance

- 6.1 Acceptance cannot be refused on the basis of minor defects.
- 6.2 The work is deemed accepted:  
- If the product is completed and we have notified the ordering party thereof with reference to the acceptance date according

to these conditions and have requested their acceptance and

- 12 working days have passed since completion, or the ordering party has started to use the product and in this case 6 working days have passed since completion and
- the ordering party has neglected acceptance within this period for a reason other than for a defect disclosed to us, which makes the use of the work impossible or seriously affects use of the product.

- 6.3 The rules of § 640 clause 2 BGB (German Civil Code - constructive acceptance) are not affected by nos. 6.1 and 6.2.

- 6.4 If part acceptances are agreed, the above paras. apply accordingly.

## 7. Safekeeping and dispatch of test items

- 7.1 We are entitled to retain test items as specimen copy or sealing specimen. The ordering party is obliged at our request to store such sealing specimen free of charge. We are further entitled to retain the test items until payment of the performances has been made in full. The ordering party is obliged to take back and arrange for the return transport of test items within two weeks at their own cost and on our request. In the event of a delay we can store or dispose of the test item at the cost of the ordering party.
- 7.2 We are obliged, unless relieved by the ordering party or prevented by legal reporting obligations opposed to confidentiality, to observe confidentiality with respect to the test results and other information associated with the test. If the confidentiality towards third parties in this regard is not to be violated by merely looking on it due to the side-by-side processing of orders, a written agreement should be made to this effect when the order is issued. The confidentiality obligation is considered as annulled with respect to subcontractors and certification centres in the context of the issued order. We further reserve the right to issue subcontracts for partial tests at other test centres.

## 8. Payment, arrears, cancellation, refusal of performance, offsetting

- 8.1 Payments shall be made as follows without discount unless otherwise agreed:  
- Works performances: 30% on reception of order confirmation and the rest on acceptance, however no more than 2 weeks after the earliest date in which the work is deemed accepted according to nos. 6.2 and 6.3.  
- In the case of test performances 14 days after receipt of invoice
- 8.2 The costs of the payment transactions are to be borne by the ordering party. Discounts are only deductible if agreed with us and all debts being settled.
- 8.3 In the event of cancellation, limitations or postponements of test orders for which we are not responsible according to § 276 BGB, we shall invoice for all expenses and preparatory performances required to execute the test order.

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- 8.4 If the ordering party falls into payment arrears, interest shall be charged at 9% above the base rate. We reserve the right to prove and assert greater damages resulting from payment arrears. Premature notice of default by reminder is unaffected by the above. If we are committed to advance performances and after the contract conclusion it becomes clear that our claim, particularly for payment, is endangered by lack of capacity on the part of the ordering party we may refuse the performance to which we have committed.
- 8.5 The ordering party cannot offset counterclaims or assert a right of retention against payments due to us unless the ordering party has undisputed or legally enforceable claims against us and if the assertion of a right of retention of the counterclaim of the ordering party is based on the same contract relationship.
- 9. Delivery periods and deadlines**
- 9.1 The start of a delivery period requires the cooperation of the ordering party in the clarification of all technical issues according to no. 3.1.
- 9.2 Delivery periods are extended by a reasonable amount if they cannot be met as a result of mobilisation, war, unrest, strike or lockout or similar circumstances for which we are not responsible. A long-term hindrance in these cases entitles us to withdraw from the -contract with no compensation obligation.
- 10. Liability for material and title defects**
- 10.1 We shall assume liability without restriction in compliance with the statutory regulations, provided that the ordering party asserts claims for damage compensation, which are attributable to wilful intent or gross negligence, including wilful intent and gross negligence on the part of our representatives or vicarious agents.
- 10.2 We shall assume liability without restriction in compliance with the statutory regulations, in case of culpable injury to life, limb or health; this shall also apply to the mandatory liability under the Product Liability Act.
- 10.3 In so far as a defect of the subject of the contract exists for which we are liable, we shall at our discretion either remedy the defect or manufacture a non-defective object of the contract (subsequent performance).
- 10.4 If said subsequent performance should fail or if it is unreasonable for the ordering party, or if we refuse seriously and finally to do so or if we have delayed rectification unreasonably or if other circumstances prevail, which justify immediate withdrawal or compensation, taking account of the interests on both sides, then the ordering party shall be entitled to rectify the defect and invoice for all expenses, reduce the contract price or to withdraw from the contract and/or to demand damage compensation. In the event of only a slight infringement of contract, in particular in the event of only slight defects, the ordering party shall not be entitled to withdrawal.
- 10.5 Insofar as not otherwise specified above, liability shall be excluded.
- 10.6 Statute of limitations for claims for defects - subject to 10.1 and 10.2 - is 12 months from the beginning of the statutory limitation period. The afore-mentioned statute of limitations shall not apply insofar as section 634 paragraph 1 no. 2 BGB (German Civil Code) stipulates longer periods.
- 10.7 Numbers 10.1 to 10.6 shall not affect the rights of the ordering party, if we have fraudulently concealed a defect or have assumed a guarantee for quality.
- 11. Overall liability**
- 11.1 Any further liability for compensation than that provided in number 10 - irrespective of the legal nature of the asserted claim - shall be excluded. This shall in particular apply to damage claims for liabilities resulting from culpa in contrahendo, for other breaches of duty or for tortious claims for damage compensation acc. to § 823 BGB (German Civil Code).
- 11.2 Limitation according to 11.1 shall also apply, insofar as the ordering party claims reimbursement for useless expenditures instead of claiming compensation for damages in place of performance.
- 11.3 As far as the liability for compensation against us is excluded or restricted, this shall also apply with regard to the personal liability for damages of our employees, workers, representatives and vicarious agents.
- 12. Processing and protection of data (ordering party)**
- We shall handle the data of the ordering party relating to the business undertaken with said ordering party in accordance with the German Federal Data Protection Act.
- 13. Applicable law, jurisdiction**
- 13.1 German law shall apply to the mutual obligations under the contract, their conclusion, interpretation and implementation and to all contractual and business relationships resulting therefrom.
- 13.2 The legal venue for supply, payment and all obligations - in as much as the ordering party is a merchant, legal entity of public law or of special fund under public law - is exclusively Nuremberg.
- 14. V.A.T. identification number**
- VAT ID No. DE345981357  
DEHN SE  
Neumarkt