

**General conditions for using the Dauphin partner portal**  
**[www.dauphin-service.com](http://www.dauphin-service.com)**

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**Terms & Conditions of the partner portal**

These are the general terms of business of the Dauphin HumanDesign Group GmbH & Co. KG ("Dauphin") for use of the Dauphin partner portal as of 07/2014 ("Terms & Conditions") by customers from the entrepreneurial sector (e.g. traders or agencies, B2B). These customers are hereinafter referred to as "users".

**1. Applicability of the Terms & Conditions**

1.1 The Dauphin HumanDesign Group GmbH & Co. KG ("Dauphin") operates the partner portal [www.dauphin-service.com](http://www.dauphin-service.com).

1.2 Use of the Dauphin partner portal is solely on the basis of these Terms & Conditions.

1.3 The contract shall be concluded when the user registers itself with Dauphin as a user of the partner portal and Dauphin issues the user with the required password (2.) following a review of the application. Dauphin reserves the right to reject applications at any time, without stating the reasons. There is no legal claim to being issued with a password or to using the partner portal.

1.4 Upon registration, the user confirms acceptance of the validity of the Terms & Conditions. Provisions that differ in wording from these Terms & Conditions shall not apply.

1.5 Dauphin may amend the Terms & Conditions without prior notice. Their currency must therefore be regularly checked by the user. Any further use of the partner portal following changes or modifications introduced by Dauphin shall constitute the user's acceptance of the changed or modified Terms & Conditions.

## **2. Access authorisation; password**

2.1 The user's access to the partner portal shall be made using a password issued to the user by Dauphin.

2.2 The user shall keep the password secret. Before giving the password to an employee of the user, the user shall register the employee with Dauphin and ensure that the employee also treats the password as secret by means of a contractual agreement with the employee.

2.3 In the event that the user becomes aware of a misuse of the password, it shall inform Dauphin without undue delay.

## **3. Use of the partner portal; free of charge use**

Use of the partner portal is only permissible by a registered user and only on the basis of these Terms & Conditions. In terms of the above, use of the partner portal is free of charge to the user.

## **4. Usage rights**

4.1 Dauphin shall grant the user - in the form of a simple, non-transferable, non-exclusive and gratuitous licence that is revocable at any time - the right to reproduce the documents available on the partner portal (images, catalogues, flyers, advertisement templates, template letters, tender specifications, operational instructions, press releases, videos, certificates, etc.) in printed media or in digital media and to advertise the products through these ("intended purpose") as part of the user's usual course of business. Storage of images on data mediums is also permissible as part of this intended purpose. The usage right also includes use on own user websites, as well as use in electronic networks, including the internet and intranet, as well as in all forms of digital media and multimedia products.

4.2 Any use of the data that goes beyond the intended purpose or any unauthorised transfer of the data to third parties is strictly prohibited. Under no circumstances does the usage right include a transfer of ownership rights or copyright to the images.

4.3 Before an image is used in printed media, the user shall provide Dauphin with a copy at no request and at no charge.

4.4 A modification of the images and/or all documents is not permissible; this does not include changes to the format and/or number of pixels.

4.5 When the user publishes images, regardless in which form, the user shall clearly and distinctively mark the images with the copyright notice found on the image, and in the case of digitally used images, visibly link the copyright notice to the image data. With respect to a reproduction in printed products or on a screen, the user shall ensure that the creator can be identified at all times. This also applies to all other documents.

4.6 Dauphin shall be entitled to specify the duration and scope of specific access authorisations, as well as the general scope of services that relate to the information and services available through the partner portal.

## **5. Technical equipment**

5.1 All technical equipment required by the user for using the partner portal, in particular the hardware and software, must be procured by the user himself at his own expense and at his own responsibility. The user shall also install and maintain a technically suitable anti-virus software on his computer systems at its own expense and at his own responsibility.

5.2 Dauphin shall set the technical specifications for using the partner portal. Dauphin shall be entitled to modify these technical specifications at any time.

## **6. Availability and content of the partner portal**

6.1 Dauphin shall endeavour to keep the partner portal available to the user at all times. However, this does not constitute an obligation for Dauphin in terms of the availability, completeness or lack of defects of the information, data and documents available on the partner portal.

6.2 Dauphin shall be entitled to modify the content of the partner portal at any time.

6.3 Dauphin shall endeavour to keep up-to-date information or documents on the partner portal. There is however no guarantee for this. Old documents lose their validity.

## **7. Responsibility of user companies for their employees**

7.1 The user shall ensure that its employees - insofar as the user has registered them as further users of the partner portal ("employee users") - use the partner portal on the basis of these Terms & Conditions only and that the user's obligations arising from these Terms & Conditions are adhered to as their own obligations. The user's company shall inform Dauphin without undue delay of any personnel changes to the employee users (e.g. if a employee of the user's company leaves the company).

7.2 The user shall ensure that no unauthorised third party gains knowledge of his access data. In the event of a suspected abuse of the access data, the user shall

change his password for the partner portal without undue delay.

7.3 Irrespective of the internal legal relationship to the respective user, each user who is legitimised through entering their access data shall be entitled to issue legally valid declarations to Dauphin on behalf of the user. Dauphin shall not be obliged to undertake checks that go beyond this.

## **8. Liability; exemption**

8.1 Dauphin shall not be liable for the availability or functionality of the partner portal.

8.2 Dauphin shall not assume any warranty or liability that the information, data and documents available on the partner portal is definitely up-to-date, complete, accurate and/or suitable for the particular purpose. Dauphin reserves the right to make changes or modifications to the information, data and documents available on the partner portal without prior notice. The information, data or documents available on the partner portal do not constitute recommendations or advice.

8.3 Dauphin shall also not assume any warranty or liability that the functions, applications, content, data or other information, data or documents available on the partner portal are continuously available or free from defects, that any disruptions will be rectified without undue delay, or that the partner portal is free from harmful viruses, programming failures or other causes for disruption. The user of the partner portal is therefore responsible for taking suitable precautions, such as using a virus scanner and other security software in order to ensure the necessary security requirements or a faultless exchange of data with the partner portal.

8.4 Dauphin shall not assume any form of liability that arises through the user's use of the partner portal, unless Dauphin has acted with wilful intent or gross negligence. In particular, Dauphin shall not be liable for any damages or disadvantages that arise from using the information, data or documents available on the partner portal.

8.5 Irrespective of the above paragraphs 8.1 to 8.4, any liability of Dauphin - regardless of the reason - for indirect or subsequent damages, for lost profits or disruptions to the user's business shall be excluded.

8.6 The user shall immediately indemnify Dauphin against all third party claims that arise against Dauphin as a result of or in connection with the user's use of the partner portal. This indemnification obligation shall not apply if Dauphin has acted with wilful intent or gross negligence towards the user.

8.7 In the case of links to third party telecommunications media which are beyond the responsibility of Dauphin, Dauphin shall not bear liability for linked unlawful content of third parties except in case where Dauphin is aware of this unlawful content and it is technically feasible and reasonable for Dauphin to prevent access or usage. Dauphin has no influence on media content from other service providers accessed through links or via other means. Dauphin does not appropriate the content of such telecommunications media.

## **9. Duration**

9.1 There is no fixed term for using the partner portal.

9.2 Dauphin is entitled to limit or completely withdraw the usage rights that have been granted to the user at any time. This applies in particular if

- 9.2.1 Dauphin has reasons to assume that a violation of the usage rights (4.) has been committed by the user or one of the user's employees,
- 9.2.2 Dauphin has to make payments to the provider of the partner portal due to excessive use of the partner portal by the user or one of the user's employees,
- 9.2.3 An incorrect user name or password is entered five times in a row,
- 9.2.4 The partner portal is not used by the user for a period of more than 12 months,
- 9.2.5 There are reasonable grounds to suspect that the partner portal is being used by unauthorised or unregistered persons and/or is being improperly used,
- 9.2.6 There is no longer a contractual relationship with Dauphin,
- 9.2.7 Other important reasons justify the blocking or discontinuation of the partner portal.

9.3 Other rights of Dauphin remain unaffected.

## **10. Obligations following end of use**

10.1 Following expiry of the usage right, the user shall return any documents that it has received from Dauphin or in connection with using the partner portal; a user's right of retention shall be excluded.

10.2 The user shall ensure that its or its user employees likewise return any documents to Dauphin. The user shall also update his websites following expiry of the usage right so that any references to Dauphin and/or Dauphin's products are removed.

## **11. Data protection**

11.1 The user is hereby informed that Dauphin will store the user data in a machine-readable format in accordance with Art. 33 of the Federal Data Protection Act (Bundesdatenschutzgesetz) and process it within the framework of the intended purpose of this contract. The data shall be treated as confidential.

11.2 The user expressly consents to Dauphin's permanent storage and usage of the data provided by it as part of the operation of the partner portal throughout the term of the business relationship.

## **12. Copyright and intellectual property rights**

12.1 The content of the partner portal is protected by copyright.

12.2 The user acknowledges that the partner portal and the content available on it constitutes a database which is legally owned by Dauphin in accordance with Art. 4, para. 2 and Art. 87a, para. 1 of the Copyright Act (UrhG). The associated computer programmes are protected in accordance with Art. 69a et seq. of the Copyright Act (UrhG). All content is protected by copyright in accordance with the statutory provisions and is owned exclusively by Dauphin. Existing third party intellectual property rights remain unaffected.

12.3 All right to all other elements of the partner portal, in particular the usage and service protection rights to the content installed by Dauphin, are likewise owned exclusively by Dauphin.

### **13. Place of jurisdiction**

The exclusive place of jurisdiction for all disputes arising from or in connection with the use of the partner portal is Nuremberg.

### **14. Governing law**

The substantive law of the Federal Republic of Germany shall apply. The United Nations Convention on the International Sale of Goods of 11th April 1980 shall not apply.