

## 1 Scope of application

- 1.1 These General Terms and Conditions apply solely to the provision of engineering services, services as an accredited test laboratory according to DIN EN ISO/IEC 17025 and other services (referred to hereinafter as “services”) by Gesellschaft für innovative Bautechnologie mbH, Simbacher Straße 8, 94424 Arnstorf, Germany (referred to hereinafter as “Contractor”) and the contractual partner (referred to hereinafter as “Customer”), insofar as these General Terms and Conditions are not amended between the parties by express written agreement.
- 1.2 All conditions or provisions of the Customer which constitute contractual amendments are rejected herewith; they only take effect vis-à-vis the Contractor if the Contractor agrees to these amendments in writing.
- 1.3 These General Terms and Conditions shall only be applicable vis-à-vis entrepreneurs. This includes legal entities and special funds under public law.

## 2 Order and contractual documents

- 2.1 Purely informative communications or information material provided by the Contractor concerning services do not constitute an offer in the legal sense. Offers are non-binding unless they are expressly designated as binding. Offers submitted by the Contractor are valid for a period of three months.
- 2.2 In response to the offer, the Customer can issue an order which is to be passed to the Contractor in written form. The contract between the Contractor and the Customer shall not take effect until the Contractor or his representatives/agents accept the Customer’s order in writing by means of an order confirmation. If the Contractor only wishes to accept the contract subject to alterations, the contract shall not take effect until the Customer agrees to these alterations in writing within the specified period. The Contractor shall specifically draw the Customer’s attention to these alterations.
- 2.3 The description and any specification of service provision corresponds to the order accepted by the Contractor and any alterations accepted by the Customer.
- 2.4 If the contract does not come into effect, all documents provided by us shall be returned within one week without a request being issued.
- 2.5 The contractual documents fundamental to the services provided include the order accepted by the Contractor in writing and the associated documents requested by the Contractor and supplied by the Customer. All documents, specifications and results are to be treated confidentially and may not be made accessible to third parties.
- 2.6 Other materials which are fundamentally required for the services are all statutory public and regulatory provisions, directives and guidelines relevant to the construction project as well as technical regulations and generally recognized rules of engineering and architecture and the current state of the art in the field of engineering.
- 2.7 Contracts, alterations and additions are only effective in written form. The same applies to guarantees, assurances or ancillary agreements, which shall be expressly designated as such. Without the relevant designation, these do not constitute guarantees in the legal sense but merely non-binding product information.

## 3 Services rendered

- 3.1 The scope of services rendered is defined in the order confirmation and the list of services attached to it.
- 3.2 A characteristic feature shall only be deemed to be warranted if it is designated as such and is expressly confirmed as such on the part of the Contractor in writing. Otherwise the description of characteristic features serves only to describe the services rendered.
- 3.3 Services which go beyond the agreed scope of the order are charged according to an hourly rate. In this case the Contractor shall submit a supplementary offer which is to be confirmed in writing by the Customer.
- 3.4 The Contractor may subcontract the rendering of services to third parties, either wholly or in part.
- 3.5 Order amendments may only be agreed on by mutual, written consent between the Contractor and Customer, even before completion of the service. The performance period is automatically extended by the length of time required to render the services.
- 3.6 The Contractor is - as far as can be reasonably expected - entitled to render partial services and to render services before the due date.

- 3.7 If the Contractor supplies any interim results during service provision, the Customer shall verify the accuracy and completeness of the details contained without delay.
- 3.8 The inspection of the project in question according to the order confirmation and the ascertainment of concrete requirements which the Contractor can only undertake on the construction site are carried out by the Contractor only on separate assignment. The remuneration of this separate assignment is not automatically included in the fee.

## 4 Contractor’s obligations

- 4.1 The services provided by the Contractor shall correspond to the general state of the art, the generally recognized rules of technology, the principle of cost effectiveness and the provisions of public law.
- 4.2 If the Contractor receives documents or information from the Customer, in particular also planning services provided by planners contracted by the client, the Contractor shall check their usefulness and in particular whether they are complete.

## 5 Customer’s obligations to cooperate

- 5.1 The Customer shall provide the data required to carry out the order and provide the documents, aids and materials required to execute the order.
- 5.2 The Customer shall obtain in due time all official approvals required to carry out the order. The Customer is responsible for the TÜV inspection and TÜV approval.
- 5.3 The Customer is liable for damages arising from delay caused by any breach of these obligations to cooperate. The performance date is extended as the result of any such delay.

## 6 Fee

- 6.1 The fee is determined by agreement between the Contractor and the Customer. The fees stipulated in the offers constitute fixed prices unless remuneration according to hourly rates has been agreed on. Normal ancillary office costs are included in the fee.
- 6.2 All subsequent deviations in quantities and additional services shall be charged separately.
- 6.3 Prices do not include value added tax, which the customer shall pay to the Contractor in addition.
- 6.4 The Contractor reserves the right to increase the fee to the extent required by price development beyond control (such as exchange rate fluctuations, currency regulations, customs amendments, a significant increase in material or production costs) or due to changes in the service requirements on the part of the Customer or due to statutory requirements relating to the engineering services provided.
- 6.5 Staff waiting periods caused by the Customer shall be remunerated as working hours.

## 7 Conditions of payment

- 7.1 Invoices are issued after completion of each individual service listed in the order confirmation.
- 7.2 The fee is payable immediately on receipt of the invoice. The Customer shall pay the fee within 14 days of the invoice date.
- 7.3 Partial and advance payments may be agreed on.
- 7.4 Payments shall only be made by bank transfer; payment by bill of exchange or cheque are not recognized as fulfilment of the payment obligation.
- 7.5 If the Customer fails to meet his payment obligation on the due date, the Contractor may proceed as follows as he chooses, without waiving any other rights or claims to which he is entitled:
  - terminate the contract or suspend further services to the Customer; and
  - charge interest on the outstanding amount to the Customer without further reminder, the interest amounting to nine percentage points above the respective interest rate of the European Central Bank; and
  - require that further transactions and outstanding partial deliveries are only executed against prepayment or against provision of security.

- 7.6 Allowance of a discount requires express written agreement and is conditional upon there being no other outstanding debts payable to the Contractor by the Customer.
- 7.7 The Customer may only offset undisputed or legally ascertained debts against debts of the Contractor.

## 8 Performance date

- 8.1 The performance date for rendering the services as mutually agreed in writing is non-binding unless anything else to the contrary has been agreed.
- 8.2 Delay of the performance date due to force majeure (a non-foreseeable external event which impacts on operations which is not possible to counter in time with appropriate and reasonable means, such as extreme weather conditions, terror attacks, industrial disputes, political crises, embargoes and events for which the Contractor is not responsible) extends the performance date by the period of delay in rendering the services as a result of such an event, even if said events occur during an existing delay. If force majeure, industrial disputes, events for which the Contractor is not responsible and other said events last for longer than four weeks, the Contractor is entitled to withdraw from the contract.

## 9 Inspection and approval

- 9.1 Approval is carried out in the course of the regular meetings between the parties within the regular service schedule.
- 9.2 Insignificant defects which do not impair the functional efficiency of the service do not entitle the contractual partner to refuse approval. Likewise, delays arising from change requests on the part of the Customer do not justify the capacity of the service to be approved in relation to the requirements of the service as originally agreed on.

## 10 Warranty rights, cancellation

- 10.1 The Contractor does not accept any responsibility for the service rendered being suitable for a particular purpose, unless he is aware of this purpose or he has agreed to it expressly in writing.
- 10.2 The Customer shall report and describe any defects to the Contractor immediately and in writing.
- 10.3 In the case of defects arising from the fact that the service was not adequately performed by the Contractor, the Contractor shall first be given a period of time for retrospective fulfilment.
- 10.4 The Contractor or the Customer may only cancel the contract for exceptional reasons. Services rendered by the Contractor up until the time of cancellation shall be remunerated. Such a reason applies for the Contractor in particular:
- if the Customer has failed to comply with a key instance of cooperation to which he is obliged despite extensions and additional extensions of time, thereby significantly obstructing the Contractor in rendering his services in accordance with the contract,
  - if the service is in breach of the provisions of copyright, competition law or criminal law,
  - if the Customer is in default with a due payment and does not effect outstanding payments in spite of repeated reminders. In the event of a dispute over the justification of an amount of a due payment, cancellation is ruled out if the Customer presents legitimate reasons for withholding payment and pays the part of the remuneration which is legitimate in his view.

## 11 Liability

In the event of a claim for damages, the Contractor is liable for wilful intent and gross negligence. In the case of ordinary negligence, the liability of the Contractor is limited to a fundamental breach of contract and only to foreseeable damages typical of the contract. Contractual obligations are considered fundamental if their fulfilment makes the contract possible in the first place, if their breach jeopardizes attainment of the purpose of the contract and if the contractual partner may normally rely on their fulfilment. The above liability limitations do not apply to claims for damages due to injury to life, body or health or to liability according to the German Product Liability Act.

## 12 Intellectual property rights

The Contractor retains copyright to the services provided and to all documentary evidence compiled and papers submitted, his offer and contractual documents, sketches, designs, structural calculations, construction details and contract components. After full payment of the fee, the service and the associated documents, listed in Clause 1 of this section may be used only for the contractually determined purpose. Reproduction, publication or dissemination of the services or the results of the services and the Contractor's documents as listed in Clause 1 of this section for advertising and other business purposes, even in excerpts, requires the Contractor's written consent.

## 13 Retention of title

- 13.1 Prototypes, documents, accompanying materials, data media or other material provided by the Contractor remain the property of the Contractor until fulfilment of all demands arising from the contract.
- 13.2 Objects, documents, data media, prototypes, CAD models and other items or models supplied for testing or demonstration purposes remain the property of the Contractor. They may only be used by the Customer for purposes beyond those of testing and demonstration on the basis of a separate written agreement with the Contractor.

## 14 Confidentiality

The Contractor and the Customer mutually undertake to maintain secrecy regarding all information, knowledge and documents in connection with the services, not to disclose them to third parties and not to use them for purposes other than the fulfilment of this contract. The confidentiality obligation does not apply if the disclosed information is already generally known to the recipient, was demonstrably known at the time of disclosure and became public knowledge afterwards, or if the recipient acquires the information from authorized third parties.

## 15 Place of performance, disputes, place of jurisdiction

- 15.1 The place of performance is Arnstorf.
- 15.2 The Contractor and the Customer submit for all contractual and extra contractual disputes arising from the contract to the local and international exclusive jurisdiction of the courts having jurisdiction for Landshut (Germany).
- 15.3 The legal relations between the Contractor and Customer are subject to German law; the UN Convention on Contract for International Sale of Goods dated 11.04.1980 (CISG) is excluded.
- 15.4 The language of the contract is German unless another contractual language has been agreed on by both parties or negotiations have been held by both sides in another contractual language at the conclusion of the contract.

## 16 Severability clause

If individual clauses become entirely or partially invalid, the validity of the remaining provisions shall not be affected.

Arnstorf, den 24.11.2016