



## **General Terms and Conditions For subcontractors and suppliers**

FN 250584 g  
As of 12/2021

### **1. General**

- 1.1. The following general terms and conditions apply to all business relationships between Allgemeine Bau-Chemie GmbH, Fürbergstraße 63, A-5020 Salzburg, as Client on the one hand (hereinafter the Client) and those contracting partners who work as contractors (hereinafter the Contractor), subcontractors and suppliers for it (the Contractor).
- 1.2. These general terms and conditions shall also apply to any future contracts between Client and Contractor.
- 1.3. General terms and conditions or contractual terms of Contractor that contradict these general terms and condition shall not be binding upon Client except where confirmed by him in writing.

### **2. Offer Provisions**

- 2.1. The persons dispatched by the bidder to awarding negotiations shall be deemed authorised to bindingly enter into any agreements in connection with awarding the order, in particular to change the offer and agree on price reductions.
- 2.2. Any agreements or promises made in the awarding negotiation shall take precedence over the content of Contractor's offer.
- 2.3. Contractor represents that he is able and licensed to perform the offered and ordered services. Contractor confirms that he has viewed the contract documents and agrees with all provisions. He represents that he has viewed the construction site before making his offer or agreeing on the price and that he has familiarised himself with the local situation and work conditions. He confirms that he has all means to perform the services or can acquire them in time.

Contractor has fully informed himself about any circumstances of rendering of services and reviewed all items of all execution documents, so that subsequent objections and demands due to lack of information or unclear plan presentation are excluded.

- 2.4. Contractor shall inform Client of any concerns about the execution documents without delay, at the latest when submitting the offer. If Contractor does not provide such warning notes, he shall reimburse for the damage resulting from this.

Contractor shall also be obligated to inspect and review the ground and any previous work performed by Client or any third parties charged by him or otherwise already present in the existing building. If Contractor uses these for his performance or builds on them without having given any warning, Contractor shall be responsible for such previous work having been in proper order.

- 2.5. Contractor shall not receive any compensation for development of the offer and the connected effort, not even if the contract is not concluded in the end.





- 2.6. Contractor confirms that he knows the execution provisions for the main order concluded between Client as contractor and his own client that applies to his part of the work and subjects to these execution provisions.
- 2.7. Contractor commits to reviewing the contract basics and technical specifications, in particular also for completeness of the indicated quantities and sizes. Contractor is obligated to coordinate any ambiguities without delay by asking questions before the order is placed. Claims of Contractor due to inaccurate assessment of quantities and from calculation errors are excluded.
- 2.8. If Contractor does not enter any certificates or materials of his choice in the corresponding lines (bidder gaps) for the respective items of the technical specifications, the certificates and materials listed as examples shall be deemed offered. If the invitation for tender and the technical specifications demand certificates from specific manufacturers or specific types, these shall be deemed agreed. In this case, Contractor shall not have the right to use any deviating materials.

### **3. Contractual Basis**

The contract shall be based on:

- a. The order letter;
- b. stipulations in any awarding negotiation record;
- c. the general terms and conditions of Allgemeine Bau-Chemie GmbH for subcontractors and suppliers (as of 12/2021);
- d. the technical specifications and service description with the general and technical preliminary remarks and enclosures, in particular also from the main order;
- e. the building permit notice;
- f. Contractor's offer;
- g. the relevant technical ÖNORM standards and
- h. the statutory provisions of the ABGB.

The contractual basis documents as named shall apply in this order if there are any contradictions between them.

The contractual standards shall not be part of the contractual basis even if mentioned in the contractual basis documents named.

Modifications of and supplements to the parts of the contract shall only apply if validly confirmed by both parties in writing.

### **4. Scope of the Offer**

- 4.1. All offer prices shall apply to the entire project without any difference between the parts, floors, outline shape, building depths, room sizes and time of execution, including the secondary services, unless the technical specifications stipulate anything different. For technical systems, the offered price shall apply to a delivered, installed, regulated system ready for operation with all associated accessories. For deliveries, the offered prices shall include delivery "free construction site", i.e. the location that is specified by the local building supervision (ÖBA). Client's services covered by the flat rate shall also include the proper documentation, at least in the form required by the builder, so that this can be provided to the builder or user by Client.



- 4.2. The offered prices shall include all services that are part of the contractual service according to commercial use.
- 4.3. The agreed unit prices shall specifically include the following secondary services:
- Performance of any measures required by public-law standards, authorities and utility providers, such as safety provisions, protections, provisions against fire, etc., including any measures resulting from the provisions of the construction work coordination law (Bauarbeitenkoordinationsgesetz);
  - all expenses required to comply with the agreed deadlines, including any expediting measures;
  - all winter construction and protection measures against weather influence, contamination and damage, lighting and heating, as well as continuous removal of any wastes produced by own services and work, as well as discharge of precipitation water, etc. - this shall include clearing of snow;
  - all costs for water and power consumption, including production and any installation of necessary connections;
  - all measures to find and protect any public and private lines running through the subject property, such as water, power, sewage, gas, district heating, mail, cable TV, etc.;
  - ongoing construction site cleaning;
  - any secondary services listed as such in the technical ÖNORM standards;
  - application of the binding horizontal levels on the entire building and specification of the precise heights for other sections, including their permanent maintenance throughout the building time;
  - provision of test certificates, in particular also regarding sound and heat protection, steam diffusion, wind permeability and protection from driving rain, in particular also for purposes of residential promotion;
  - costs for quality and function tests of all kinds;
  - proper disposal of construction residue masses and other wastes including submission of the corresponding evidence;
  - any required construction site setup;
  - collection of the road-traffic law approvals and any necessary usage permits;
  - collection of any necessary approvals for temporary use of the property of neighbours where necessary;
  - cleaning the traffic paths leading to the construction site;
  - production of penetrations and grouting of slits.
- 4.4. Calculation of the assembly costs for technical systems must include all fees and secondary costs as well as the special reimbursement for travelling fees, separating fees, driving costs, etc.
- 4.5. The removal, transport and disposal of the construction debris arising from Contractor's execution, as well as removal of all contaminations, shall be included in the offered price. In case of non-compliance with the weekly cleaning obligation or the cleaning obligation after completion of the work, Client reserves the right to have the construction site cleaned under his own control. The cleaning, loading and transport costs shall then be charged proratedly to the companies involved in the construction and deducted from the final invoiced totals. This shall apply accordingly if safety measures must be taken repeatedly.
- 4.6. Contractor shall take any required measures (including winter construction measures) to produce and protect his services against weather influence (water, snow, frost, storm, theft, damage, etc.) without prompting and compensation.



If execution of the work is prevented by water, snow, sludge or similar in spite of the protective measures, such obstacles must be removed without any separate compensation.

- 4.7. Disadvantages from damage/theft/loss of the services rendered by Contractor shall be assumed by Contractor until transfer.
- 4.8. Any defects and damage that cannot be assigned and that Contractor is not to assume anyway shall be allocated to the craftspeople at the construction site during the relevant period at the ratio of their order totals. The parties shall have the option to render proof that they or their employees cannot have caused the corresponding damage.

## **5. Conclusion of the Contract**

- 5.1. The contract shall be concluded by placement of the order by Client. Modifications of Contractor's offer in the awarding negotiations shall be deemed a changed offer. Contractor shall be bound to this offer for another 8 weeks.  
In order to conclude an order, it shall not be required that the Contractor returns the order letter signed.  
If the order letter contains any provisions and rules deviating from the offer and the negotiation record, these shall be deemed accepted when Contractor takes up his work subsequently.
- 5.2. The construction managers of Client shall not have the right to change the content of the concluded contract or to issue any additional orders. Such modifications shall require the respective express consent of Client's management unless a project manager has expressly been authorised accordingly.

## **6. Execution**

- 6.1. Contractor commits to performing any work professionally and properly according to the plans and information of Client or his authorised persons, the builder and his authorised persons, the state of the art and any authority and legal provisions.
- 6.2. If Contractor has any concerns about previous work, the ground and the provided materials, he shall inform Client or his authorised persons of this, including the reasons, in writing in time, but no later than 14 days before commencement of execution of the order, so that the review of his concerns will not lead to any delay of deadlines; if this is not done, Contractor shall assume full responsibility for execution. Any inspection and monitoring obligations of Contractor beyond this that are included in the technical preliminary remarks shall not be affected.
- 6.3. Every Contractor shall take on-site measurements in time before performing his work, review the plans provided to him, review the previous work of the other craftspeople and do so in time to perform any required changes and improvements to the previous work before the planned commencement of work, so that Contractor can commence his work at the intended time. The same shall apply to productions and deliveries made by Client.  
Any missing plans, specifications and other necessary documents shall be verifiably requested by Contractor in time.
- 6.4. Any execution drawings of Contractor shall be submitted for release in the required number in time. Client must have a remaining review period of 2 weeks.



- 6.5. If it becomes evident that the masses indicated in the individual items, and therefore the order total, will be exceeded, Contractor shall report this in writing without delay and request the verifiably required increase of the order total. If such notification is not given, the max. masses included in the TS shall be paid for the individual items.  
Work additionally required in the scope of execution and ordered in writing by Client must be performed and shall be subject to compensation based on the price determination of the main offer. Additional services shall be rendered by a higher headcount and equipment use in the scope of the agreed completion dates, without any claim to expediting or other additional costs.
- 6.6. Contractor shall be obligated to perform quality tests that are required by the relevant laws, standards common for the location and demanded in authority permits, constraints and provisions, independently and to submit the test results to Client without prompting.  
Client shall have the right to expressly demand any quality tests beyond this for the substances or parts. Contractor shall bear the costs for the quality test.
- 6.7. Coordination services and additional services shall only be accepted and paid for if the order is placed in writing by Client.  
If it turns out during auditing of the final invoice that coordination services or additional services are already included in the contractual scope of services, these shall not be subject to compensation; if they have already been paid for, they shall be deducted from the final total invoiced.
- 6.8. If an order for coordination is placed, Contractor shall be obligated to keep separate daily coordination reports and have them confirmed by Client every day. Entries of coordination services in the construction log shall not replace the coordination reports to be kept separately and shall generally be irrelevant even if the construction log reports have been counter-signed by the construction management. Coordination reports that are not counter-signed are not considered in the settlement; this work shall be deemed not performed.
- 6.9. In case of differences of opinions on whether any additional compensation is due or whether any amounts are due for payment, Contractor shall not have the right to ease or interrupt rendering of his services.
- 6.10. Contractor shall designate a contact and deputy contact at conclusion of the contract. This contact must have the right to represent Contractor on the construction site in connection with this order and must be accessible for Client at all times during the common business hours. If Client tries to reach his contact, he or his deputy must contact Client no later than within one working day. If Contractor violates these obligations, a contractual penalty at € 500.00 is deemed agreed for every individual case.
- 6.11. Client shall have the right to demand that Contractor replace individual employees if these act improperly. Costs of Client for additional expenses for the local construction supervision due to unsuitable personnel of Contractor or insufficient support of the construction site by Contractor shall be at Contractor's expense.
- 6.12. Full or partial forwarding of the order is only permitted with the written consent of Client.
- 6.13. Contractor shall be obligated to technically coordinate with other contractors on the construction site. He therefore shall coordinate and perform his services with the other companies working on the construction site without any claim to additional costs so that the project can be processed smoothly.





- 6.14. Contractor shall record the required slits and cut-outs, penetrations for line routings and information for other assembly aids in the plan, review the information for accuracy and execute them. If Contractor has not completely or not properly performed these tasks and if this requires any subsequent changes or supplements, the costs caused by this shall be at Contractor's expense.
- 6.15. Contractor shall be obligated to deliver, produce, install and remove samples again free of charge at the required scope. This shall be done without any claim to separate compensation. Samples shall be submitted to Client for approval in time before execution.
- 6.16. Scaffoldings of Contractor shall be provided to Client and other companies free of charge while used for Contractor's own work. After completion of his work, Contractor shall be obligated to continue to provide such scaffoldings to Client upon request against reimbursement for costs. Contractor shall inform Client of the intended removal of the scaffolding in writing in time.
- 6.17. Contractor shall have the obligation to participate in construction meetings of the builder or client of Client without any limitation in time and without any separate compensation.
- 6.18. Contractor shall be obligated to maintain daily construction reports and to verifiably submit them to Client at least once per week. Client's consent cannot be derived from any entries of Contractor that Client did not object to.
- 6.19. Contractor shall be obligated to provide Client with all necessary documentation on the existing status, operating instructions, maintenance instructions and other documents in sufficient numbers, also repeatedly upon prompting.

## 7. Prices and Settlement

- 7.1. The following shall apply to flat-rate price contracts:  
The agreed flat rate shall apply to the work produced without defects according to the latest rules of the art and as specified by all available plans in operational and functional condition. The flat rate shall also include all secondary services.  
The flat rate shall also include any modifications, supplements and specifications of the project underlying the invitation for tender and the resulting additional effort for production up to a maximum of 3% of the flat rate. The agreed flat rate shall therefore not change if plan supplementations and specifications require additional services at up to 3%, provided that this is not to be viewed as a basic project change.  
For any services beyond this or any other services, the price for any additional services shall be determined and documented by Contractor based on the price determination for the unit prices underlying the offer; it shall be disclosed to Client in the form of a supplement offer beforehand. Execution of the additional services must not commence before approval of the supplement offer. If Contractor does not observe this, he shall not have any claim to the additional compensation. Services and service changes that were foreseeable for Contractor upon awarding of the order shall not be deemed project changes in this meaning. They shall be included in the flat rate.  
Client shall have the right to cancel the order for execution of individual partial services wholly or in part or to have them performed by any third parties. In this case, the agreed flat rate shall reduce based on the prices named in the offer for such partial services or - if they cannot be determined - appropriately and proratedly.

The following shall apply to unit price contracts:

The unit prices shall apply to the entire building project without any difference between the parts, floors, outline depths, building depths, room heights or time of execution, unless the technical specifications stipulate anything different.



The unit prices shall also cover all required secondary services and supplemental services, so that the entirety of the service items from the technical specifications can result in work corresponding to the rules of the art, the plans and authority constraints in an operational condition.

Additional or reduced amounts for individual service items, service groups or the entire service shall not entitle Contractor to demand recalculation of the unit prices.

Client shall have the right to wholly or partially cancel the execution of individual partial services or to have them performed by any third parties without this leading to any additional compensation claims of Contractor and without this leading to any change to the unit prices.

If any additional services that were not previously foreseeable are required anyway as a consequence of plan changes, authority constraints or due to Client's orders (if they were foreseeable, they shall be covered by the unit prices as secondary services), the prices for the additional services shall be based on the calculation of the originally agreed unit prices. Contractor shall make a supplement offer before performing the services. Before the order is placed in writing, Contractor must not perform any such additional services. If Contractor does not observe this, his claim to the additional compensation shall be lost.

Any reduction granted shall also apply to any modifications, supplements and expansions of the offer.

- 7.2. The offered unit prices shall be fixed prices for up to 12 months after the expected completion date.
- 7.3. The unit prices shall not change upon reduction or increase or loss or addition of individual items. If the order increases, or in case of delays or interruptions of execution, there shall not be any claim to additional compensation due to extended construction coordination (construction site setup, standstill times, etc.) either.
- 7.4. Invoices may only be issued after the services listed in them have been completed except where separately agreed on otherwise. Payments shall only be made upon submission of invoices.
- 7.5. All invoices and their required enclosures shall be sent to Client by mail or handed over personally against confirmation of receipt in triplicate. The audit periods shall only commence when the invoice with all invoice basics, in particular also including any necessary dimension sheets, has been received completely and properly there.
- 7.6. Partial invoices, coordination invoices, supplement invoices and final invoices must include auditable measurement documents. Documents shall be auditable when they are submitted in a comprehensible, well-structured form according to the technical specifications or the order composition.
- 7.7. The auditable final invoice shall include all required documents, such as the plans of the existing status, operating instructions, care provisions, operating manuals, certificates, test logs, etc. in an ordered form with a table of contents.  
Contractor shall document his own services photographically on an ongoing basis. This photo documentation of the construction progress and the services rendered shall be enclosed with the final invoice in a digital form (CD or data stick).
- 7.8. A coverage retention of 10% shall be deducted from the respective submitted partial, coordination and supplemental invoices. It cannot be redeemed by bank guarantee.
- 7.9. Partial invoices shall only be paid for up to 90% of the order total according to the contract for work. Beyond this, partial invoices shall only be settled if proper supplement orders were placed.



- 7.10. All services connected to the building project, including the cooperation and supplemental services, shall be included in the final invoice. The latter shall be listed separately in the final invoice. Subsequent claims are not permitted.
- 7.11. Quality or quantity approval of the service rendered or acceptance as being contractual cannot be derived from acceptance of any partial invoice, coordination invoice and supplemental invoice. Complaints from any partial, coordination and supplemental invoices can be submitted by Client or his authorised persons until the final payment and the corresponding amounts can be deducted.
- 7.12. A liability retention of 5% shall be deducted of the audited final total invoiced. It may be redeemed by bank guarantee.
- 7.13. Contractor's final invoice may be issued to the builder at the earliest after handover of the total building project. Contractor shall be obligated to file the final invoice no later than two months after acceptance by the builder.
- 7.14. If Client's client stipulates any shared costs, e.g. for building insurance or an advertising sign, Contractor shall participate in these costs at a percentage corresponding to his order total.
- 7.15. The corresponding settlement rates for supplies provided by Client or Client's client shall be assumed by Contractor accordingly. Where nothing different is stipulated expressly, Contractor shall not have any claim to provided supplies.

## 8. Payments

- 8.1. The payment period shall commence after the end of the audit period. The prerequisite for commencement of the audit period is that the invoices have been properly received by Client with all documents and enclosures. If these documents are missing, the audit period shall only commence when the documents have been provided subsequently. If the services rendered by Contractor show any defects, Client shall have the right to suspend payment until the defects have been removed – until confirmed removal of defects.
- 8.2. Any payments actually made within the discount period after the end of the audit period shall be subject to a deduction of 3%, no matter if the overall amount invoiced was settled, or only a part of it.
- 8.3. The audit period shall be 30 calendar days for both partial invoices and final invoices. The payment period shall be 30 days net, the discount period shall be 21 days.
- 8.4. Invoices shall be deemed paid by Client on the day the amount is debited from the account.
- 8.5. Due to the works holidays of Client over Christmas, the audit and payment deadline shall be amicably suspended during CW 50 to CW 02. This shall also apply to the two weeks of works holidays in summer.
- 8.6. If Contractor is not kept in the HFU list, Contractor notes that Client shall make use of the release from liability according to § 67a para. 3 ASVG by transfer of 25% of the wages for the work to the service centre.
- 8.7. If any foreigners are employed, Contractor must document the authorisations required according to AuslBG for these employees within one week. If Contractor does not comply with this requirement in





time, Client shall be obligated according to § 26 para. 6 AuslBG to inform the central coordination office for illegal employment of the Bund für Finanzen.

## 9. Securities and Guarantees

- 9.1. Upon Client's request, Contractor shall provide a contract performance guarantee from a domestic bank, amounting to at least 25% of the gross order total, immediately after conclusion of the contract. Until provision of the guarantee, 25% of the gross order total may be retained from the payment requests. If the required guarantee is not provided within 2 weeks of the request, Client shall have the right to withdraw from the contract.
- 9.2. The performance guarantee and liability retention guarantee, as well as any cash liability retention, shall serve to secure any claims of Client of any kind that may result from the contract, non-performance of the contract or any claims of Client due to withdrawal; they particularly also serve to secure claims in the meaning of § 21 and 22 IO.

## 10. Insurances

Contractor shall render proof of sufficient operating liability insurance, including insurance coverage for damage occurring during improvement and damage caused during work on immobile objects, by submitting a policy.

## 11. Deadlines and Contractual Penalties

- 11.1. Contractor shall render his services in the period of the construction schedule compiled by Client. This construction schedule may specify rendering of services in sections as well. The completion date must not delay by more than the period during which Contractor was impaired in case of on-site deadline delays. The resulting new dates shall also be deemed subject to penalty again. The service must be completed without defects on the agreed final date. The partial service must be completed without defects as well on the agreed interim dates.
- 11.2. If the completion dates for performing the contract - but also any individual deadlines - are exceeded, Contractor shall be obligated to pay a contractual penalty. The amount of the contractual penalty shall be 0.5% of the order total per calendar day of delay, but at least € 350.00 per calendar day. The contractual penalty shall fall due without any proof of damage by Client. Assertion of any replacement claims beyond this is reserved for Client even in case of slight negligence. Contractor shall also be liable for default of his suppliers and subcontractors.
- 11.3. If the performance progress does not correspond to the schedule, Contractor shall increase capacity accordingly upon written request. If Contractor does not observe this request, Client may ensure increase of capacity by charging other companies without repeated urging. This measure shall not affect the contractual relationship between Contractor and Client. The costs for third-party services shall be deducted from Contractor's final invoice.
- 11.4. Contractor shall be bound to the contractual conditions even in case of deadline delays not caused by him for up to six months. Beyond this, Client may order shutdown times (times during which no work is performed). The deadlines/periods shall delay/extend by the shutdown times ordered by Client.



- 11.5. Client or his authorised persons and the builder and his authorised persons shall have the right to verify progress of the work or production by way of random samples upon advance registration in Contractor's factory. For this, Contractor shall grant Client or his authorised persons access.
- 11.6. The deadlines or total number of work days specified in the contract shall also include all detrimental weather days.

## 12. Acceptance and Liability

- 12.1. Acceptance shall take place formally, by bilateral execution of a handover record. Acceptance by conclusive action is excluded. Function inspection or agreed test operation shall not be deemed acceptance.
- 12.2. Formal acceptance of Contractor's services shall take place upon his request upon completion of the total building project. A record for final acceptance shall be recorded in which formal handover is confirmed and any remaining defects are recorded. Acceptance without any written confirmation by Client shall be excluded. Start of use shall not be deemed acceptance. Contractor shall be obligated to submit all plans of the existing status, operating instructions, certificates, test logs, maintenance provisions, notices, findings, etc. together with the acceptance. If such documents are missing, acceptance shall not be possible.
- 12.3. Until acceptance of the complete building project or the system by the builder, Contractor shall solely bear the risk and responsibility for the entire work, deliveries and services, as well as for any materials provided by him and/or Client and stored on the construction site.
- 12.4. Contractor shall be liable for any injury and property damage caused by him or his authorised persons to Client, his staff or third parties in execution of the deliveries and services assigned to Contractor.
- 12.5. The warranty period shall commence upon formal acceptance of the overall building project. If any defects are found on formal acceptance, the warranty period for the total section shall only commence at the time at which Contractor has reported the actually completed removal of the defects recorded in the handover record in writing and has actually properly removed them.
- 12.6. Building damage that cannot be assigned, i.e. damage the originator of which cannot be found, no matter if it occurred on services that have been handed over or not yet, shall be reported to Client in writing without delay as soon as Contractor finds them. Contractor shall be obligated to remove any building damage to his section without delay. If Contractor removes any building damage that cannot be assigned without informing Client beforehand, he shall not have any claim to compensation for the removal costs. Settlement of the building damage that cannot be assigned shall take place by retention of 1% of the invoiced total and finally by distributing the total of the building damage among all Contractors at the ratio of the audited final total invoiced for all Contractors. The difference from the preliminary retention shall either be debited additionally or reimbursed. Contractor hereby waives any objections towards Client as to the amount of the removal costs charged to other contractors. If the originator of a building damage is known, Contractor commits to taking care of removal of the damage and assumption of the costs for this directly with the party causing the damage and to hold Client harmless in this respect.

## 13. Warranty



- 13.1. Contractor shall be liable for the technical and proper as well as timely execution of the charged services and deliveries. Contractor shall specifically be liable for his deliveries and services having the commonly assumed properties and the properties warranted in the contract and that they correspond to the respective latest rules of the art and the relevant laws and standards. Contractor shall also provide a warranty for the materials provided by his subsuppliers or third parties without limitation. If the presence of defects leads to any consequential damage, Contractor shall be liable for consequential damage from defects independently of fault. The statutory retention right for the wages for the work in case of defects shall be due to Client without limitations.
- 13.2. If a warranty claim is reported before the end of the warranty period, the period for assertion of the warranty claim in court shall be extended by the period of one year.
- 13.3. The warranty period shall be 3 years and 6 months, unless provided for differently, and 5 years and 6 months for any roofing, insulation and glazing work.
- 13.4. Within the warranty period, all arising defects as well as any damage caused by these defects shall be removed by Contractor free of charge without delay. If Contractor does not meet his obligation to remove defects within the period set by Client or if defects must be removed at once due to urgency, Client shall have the right to remove the defects or the damage at the expense and risks of Contractor directly without further notification of Contractor. Client shall also have the right to request reduction of the price instead of removal of defects.
- 13.5. The liability retention deducted for the duration of the warranty shall be 5% of the gross total settled unless stipulated differently. Client and Contractor may agree that the liability retention be replaced by a bank guarantee. The bank guarantee shall have a term of the duration of the warranty period plus 2 months. The liability retention replaced by the bank guarantee shall be due for payment within 30 days, calculated from the 15th calendar day of the respective month following receipt of the required liability letter. 1
- 13.6. All additional expenses that result for Client because defects are found and removal of defects must be supported shall be reimbursed by Contractor at appropriate hourly rates, but at least € 95.00 per hour net for a technician of Client. This shall also apply to additional expenses in the scope of the local construction supervision.

## 14. Withdrawal from the Contract - Replacement Performance

- 14.1. In addition to the cases stipulated by law or in the contract, Client shall have the right to withdraw if, no matter the reason, the building contract between Client and the builder is dissolved. Client may also withdraw from the contract if
- there is no longer any need for the agreed services,
  - Contractor continues to render services defectively or in violation of the contract, to use building materials subject to complaint by the ÖBA in spite of warning or if specified interim dates are repeatedly not complied with, so that other craftspeople involved in the construction are impaired in the progress of their work,
  - services, documents or evidence are not provided in spite of reminder and setting of a grace period or
  - Contractor is refused as subcontractor by the builder.
- In such cases, Contractor shall only have a claim to compensation for the work already performed at the unit prices indicated in the contract. Any reimbursement claims of Contractor beyond this are amicably excluded.



- 14.2. If Contractor is in default with a partial service in spite of the setting of an appropriate grace period, Client may - notwithstanding his withdrawal right – also declare withdrawal only for the individual partial service for the overall contract.
- 14.3. In case of withdrawal from the contract for reasons for which Contractor is at fault, Contractor is obligated to reimburse Client for any disadvantages suffered due to the withdrawal, in particular additional costs or damage due to default, specifically including any costs or contractual penalties incurred by Client towards the builder due to default of performance of Contractor.
- 14.4. If Contractor does not comply with any obligation from the contract (including removal of defects) in spite of the setting of an appropriate grace period or if he does not do so in time, or if immediate action is required to avoid damage or to comply with interim or final dates, Client shall also have the right to assign the remaining work or deliveries to third parties by way of replacement performance, subject to continuation of the remaining content of the contract.
- 14.5. In any case, the additional costs resulting from replacement performance, specifically any price difference, shall also be at Contractor's expense. Client shall not be obligated to perform any invitation for tender for the replacement performance.

## 15. Subcontractors

- 15.1. Contractor must only use subcontractors and delivery companies that Client has approved in writing. Client shall have the right to refuse subcontractors. No additional costs can be derived from this. When passing on to subcontractors or supplier companies, the order conditions of the contract between Client and Contractor must be transferred to the subcontractor.
- 15.2. Upon the request of Client or his authorised person, the contractual agreements of Contractor and his subcontractors shall be submitted in full and any information requested in this context shall be provided.

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## 16. Employee Protection Provisions / Employment of Foreigners

- 16.1. Contractor shall be obligated to observe the employee protection provisions applicable to his work at any time and subject to his sole responsibility and to take any necessary measures. If Contractor does not observe the employee protection provisions, he shall hold Client entirely harmless if any claims are raised against Client by authorities or third parties due to any violation of the employee protection provisions.
- 16.2. If it is necessary for performance of Contractor's work that any protection measures provided by Client or any other third party be temporarily removed, the local construction management must be informed before performance of the measures. This information obligation shall not release Contractor from observing all measures to protect the employees as well, however. After completion of the work, the originally provided protection measures must be restored at once. Any costs resulting in connection with the removal and restoration of protection measures shall not be subject to compensation, since they are covered by the contractually agreed prices.
- 16.3. Neither Client nor his employees or servants shall be liable for any damage suffered by Contractor, his employees or other persons subject to his sphere on the construction site. Contractor shall also be responsible for all necessary protection measures that are necessary to protect third parties in the construction site area in connection with his work. When using third-party facilities, he shall review



their suitability and safety for the intended purpose subject to his own responsibility. Client shall not assume any liability for this. If Contractor considers contribution of Client to be necessary for the purpose of employee protection, he shall inform him of this in writing without delay.

- 16.4. Client and Contractor agree on mandatory compliance with the provisions of the law on employment of foreigners (Ausländerbeschäftigungsgesetz) and the law of employee lending (Arbeitskräfteüberlassungsgesetz). In particular, Contractor commits to complying with the provisions of § 28 para. 6 of the law on employment of foreigners if subcontracting his order wholly or in part. He further commits to also stipulating the provisions on the law on employment of foreigners and the law on employee lending as mandatory with the third party and to perform ongoing inspections of the workers deployed by his subcontractor regarding compliance with the provisions of the laws named. If Contractor violates the provisions of this agreement, Client shall have the right to dissolve the contract at once without setting any grace period and to claim the resulting damage from Contractor.
- 16.5. Contractor shall provide a passport, registration for social security and a passport photograph for all employees to be deployed before first deployment. If foreign workers (non-EEA nationals) are employed, Contractor shall provide the documents that show that employment in Austria is admissible. Client shall receive copies of the employment permit, secondment approval, EU secondment confirmation or registration confirmation before employment by Contractor commences. Contractor shall provide the originals of these confirmations in his operation for inspection at any time. The respective employed foreigners shall have an execution of the employment permit, secondment permit, EU secondment confirmation or registration confirmation, work permit or exemption certificate on their persons during their deployments on the construction site. In case of employee lending, foreigners who are not nationals of a member state must only be deployed when in possession of an exemption certificate or a work permit.
- 16.6. Contractor commits to transferring all provisions to his subcontractors as well and shall be liable for their behaviour as for his own. 3
- 16.7. Contractor is obligated to submit all documents required by law at any time and without any delay to Client in the original at his request.
- 16.8. Contractor represents that every contractor on the construction site is equipped with the required safety tools and that safety shoes, helmet, etc. are worn.
- 16.9. If any claims are raised against Client due to any statutory or other liability (e.g. compensation claims of employees of Contractor) or if any (administrative) criminal proceedings are initiated against Client in connection with violation of the provisions named, Contractor shall hold Client entirely harmless. This shall also apply to any expenses made in this context for representation by a lawyer or any other suitable measures to defend against liabilities or punishments. Client shall have the right to retain any amounts connected to this from the compensation.

## 17. Documents

- 17.1. Contractor shall not use the plans, service directories, calculations and other technical or commercial contract documents provided to him for any other purpose than to process the order without the written consent of Client or his authorised persons.
- 17.2. Any drafts, plans, documents, sketches or similar provided by Client and produced directly shall remain the property of Client and must not be passed on to any third parties.





- 17.3. Contractor shall submit own declarations and documents at any time upon Client's request as needed by Client in public awarding proceedings for approval of subcontractors. This shall specifically also apply to certified excerpts from company registers, clearance certificates from the tax office and the area health insurance, as well as the license to exercise the charged craft.

## 18. Miscellaneous

- 18.1. If the construction site is subject to any specified working times, these must be complied with by Contractor as well.
- 18.2. Contractor shall take all measures required for the safety of his employees according to the statutory, authority and other accident prevention provisions and employee protection regulations subject to his own responsibility and shall release Client from any claims resulting from neglecting this obligation.
- 18.3. Contractor shall name a sufficiently authorised construction manager and deputy without delay after the order is placed, to represent him (each separately) legally bindingly in all matters of order processing. Contractor commits to replacing such persons only in agreement with Client. Any replacement of the construction manager or his deputy desired by Client for reasons shall be performed by Contractor without delay.
- 18.4. Assignment of areas for storage, accommodation and workshop areas shall take place by Client and may be revoked at any time. In case of revocation, such areas shall be cleared without delay without any claim to compensation.
- 18.5. In any rooms used by him, Contractor shall keep hand-held fire extinguishers in sufficient number at hand.
- 18.6. Client shall not be liable for any materials and devices stored by Contractor on the construction site.
- 18.7. Contractor shall not provide external persons with any documents, photographs or plans regarding the services ordered or publish these in any manner without Client's consent.
- 18.8. Contractor shall comply with all environmental-law provisions, specifically also the AWG and the law on soil pollution restoration (Altlastensanierungsgesetz) and hold Client harmless in this respect. Contractor shall keep the corresponding records according to the waste evidence regulations and render proof accordingly.
- 18.9. Contractor shall not have any claim to unhindered access or parking places. He shall ensure that any vehicles assigned to him cannot impair any other craftspeople and the construction site operation.

## 19. Place of Jurisdiction and Applicable Law

- 19.1. The respective materially competent court for A-5020 Salzburg is agreed on for any disputes of any manner from this contract, as well as its advance and subsequent effects.
- 19.2. The contractual relationship shall be subject to the exclusive application of Austrian law under exclusion of international private law and UN purchasing law.

## 20. Final Provisions



- 20.1. The validity of the general terms and conditions and the contract for work shall not be affected by individual invalid provisions if the purpose of the contract is essentially retained. The invalid or inadmissible provisions shall, instead, be replaced by such admissible provision that comes as close as possible to its economic purpose.
- 20.2. There are no oral side agreements.  
Any modifications of the contract shall only be binding when agreed in writing.

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