



General terms and conditions

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The following general contractual terms and conditions apply for our technical concepts, the offers we prepare and all work contracts concluded by us as a contractor.

Status 12/2021

I. Scope

1. Allgemeine Bau-Chemie Gesellschaft m.b.H. which is known as ABC for short provides its deliveries and services exclusively on the basis of the terms and conditions below.
2. On order placement by the client regardless of whether orally or in writing these terms and conditions are considered to be an accepted and integral part of the contract. In the respective current version they also apply for future transactions even if no explicit reference is made to them.
3. Differing terms and conditions and agreements require the explicit written consent of ABC in order to be valid.

II. Offers, cost estimates

1. Initial cost estimates including the simple sketches and schematic diagrams required to explain them are supplied free of charge. If the client requires ABC to prepare exact drafts, plans, drawings, strength plans or other documents however but ABC does not then receive the order then ABC is entitled to claim and to charge an appropriate fee for the amount work.
2. The plans, dimension drawings, drafts, strength calculations and suchlike enclosed with the offers are non-binding unless otherwise agreed in writing.
3. All contractual amendments, additional agreements or ancillary agreements made after contract conclusion – for example on the construction site – take effect only on written confirmation from ABC if these contractual amendments, additional agreements or ancillary agreements grant the client further rights in addition to those allowed in the contract itself.
4. Cost estimates are non-binding if they have not been explicitly agreed in writing as binding. The client hereby explicitly waives the rights to which the same is entitled in accordance with § 1170 a par. 2 ABGB (Austrian civil code). If it is unavoidable to significantly exceed the cost estimate then the client must pay for the additional services in accordance with the unit prices from the cost estimate or the usual prices even if the client has not been advised by ABC that the cost estimate has been exceeded.
5. If specific regulations under public law apply in the location in which ABC has to provide its deliveries and services then the client must notify ABC of these before order placement if they affect the services of ABC. The client is always responsible for the implementation and costs of any official approval processes. With submission of the respective original documents ABC must be informed in detail and in writing of official requirements and of changes prescribed by the authority otherwise ABC neither provides a guarantee for resulting defects nor is liable for damage in connection with the same. Additional costs associated with the fulfilment of official requirements or regulations or changes necessitated by official measures are always at the expense of the client.
6. Specific actual circumstances to be taken into account for performance of the deliveries or services of ABC must equally be declared in writing to ABC by the client on order placement. If this does not happen then ABC shall neither provide a guarantee for defects that are the result of lack of regard for such specific circumstances nor be liable for resulting damage. Additional costs arising because of such actual circumstances will be covered by the client.
7. If orders are placed orally with ABC then the content of the offer from ABC and these terms and conditions apply. If ABC issues an order confirmation then the provisions of the order



confirmation and these terms and conditions apply. The provisions of a previous offer apply only to the extent to which they are unchanged by the order confirmations.

8. Should it emerge in the course of the work or services provided by ABC that additional work or materials are factually and technically required or appropriate for completion of the work or services of ABC then these additional services are considered to have been ordered and these additional services will be provided by ABC as management services at the respective current management rates.

III. Prices and terms of payment

1. The ABC prices for installation are based upon Austrian statutory/standard working hours. If the client is required to work overtime, at night, on Sundays or on public holidays or if overtime is required on grounds for which the client is responsible then ABC is entitled to charge the associated additional costs in addition.
2. Overtime is conditional upon the existence of no technical concerns regarding the progress or quality of the services to be provided. If overtime work caused by the client results in violation of statutory protection provisions then the client shall cover all expenses of ABC associated with the same including any fines.
3. The price information in the cost estimate or offer is based upon current material prices and wages at the time when it is prepared. If these increase subsequently and before completion of the order then ABC is entitled to adjust the prices accordingly.
4. If ABC provides its services as management services then the respective management rates of ABC apply.
5. If not already included in the agreed prices the client must additionally pay the costs of installer travel to and from the site, remuneration for travel time and the standard allowance at the respective current rates.
6. Services provided by ABC outside or in addition to the contractual agreements and specifically as preparatory and supplementary work for contractual services are not included in the prices quoted and will be charged at the management rates. The same applies for waiting times for which the client is responsible.
7. If ABC has offered freight and duty-free delivery and performance then the related costs of the client must be passed on at the request of ABC; after sending and checking the evidence from the client with regard to this ABC shall issue a corresponding credit note or make deductions accordingly from the invoice.
8. Unless otherwise explicitly agreed the prices in the respective legal currency of the Republic of Austria apply strictly net with no discounts or other deductions.
9. In the absence of other written agreement one third of the order amount is payable to ABC on conclusion of the contract, a further third on commencement of the deliveries and services or on notification of readiness for delivery and performance and the final third within 14 days of invoicing.
10. The client may request measurement and quantity calculations in order to check the invoicing of orders for which no flat rate has been agreed.
11. ABC is not obliged to accept bills of exchange; if bills of exchange are accepted then they are received only as payment. All associated expenses, interest and fees will be at the expense of the client.
12. Until full payment of the invoice ABC retains ownership of all materials and other items supplied. In the case of withdrawal from the contract ABC is entitled to assert its retention of title and to retrieve its property without authorisation and even against the will of the client.
13. The withholding of payments on account of actual or alleged guarantee claims or other counterclaims of the client that are not recognised in writing by ABC is not permitted. Offsetting may take place only with the consent of ABC.
14. In the case of default in payment of a transaction between businesses ABC is entitled to charge the statutory interest. In all other cases ABC may demand default interest amounting to 9.2% over the ECB base rate. If even only a partial invoice cannot be paid on time then the client shall forfeit the right to take a discount.



15. If legitimate doubts arise before or during performance of the order with respect to the solvency or willingness of the client to pay, if the same falls into default on payments due or if bills of exchange or cheques are not cashed promptly then ABC may exercise own discretion and demand either cash payment for all services provided to date after presentation of a corresponding invoice and/or securities before further deliveries or further work and ABC may potentially assert an existing retention of title without signifying withdrawal from the contract. ABC is not obliged to provide further deliveries or services under the current contract until this demand is met. If a corresponding request from ABC is not fulfilled within 10 days then ABC is entitled to withdraw from the contract. In addition to full remuneration for deliveries and services provided ABC may moreover demand payment to the same of 80% of the net order amount plus value added tax. Payment for services provided to date must be made in accordance with the agreed prices. ABC is moreover entitled to demand at least 35% of the remaining net order amount after deduction of the services paid. Payment for the services provided up to that time must be made at the agreed prices. For the services no longer performed ABC must be paid for the total financial disadvantage from cancellation of the services and at least 35% of the agreed fee for the services no longer performed.

IV. Change to the services during performance

1. During preparation of the work or performance of the service or delivery if ABC realises that the work or service can or should no longer be provided in the agreed form for technical or other reasons then ABC must inform the client of this. If the client decides to have the work or the service or delivery provided in the form now recognised as necessary then the client is obliged to pay all costs associated with this even if additional costs are involved.
2. However if the client decides in this case not to have the work performed in the form considered necessary by ABC and if the client insists on performance of the work originally offered then ABC has the right to withdraw from the contract. Payment for the services performed to date must be made in accordance with the agreed prices. ABC is moreover entitled to demand payment of at least 35% of the original net order amount remaining after payment for the services provided. If ABC does not exercise this right and provides its services in accordance with the wishes of the client then ABC is exempted from all guarantee and damage compensation claims that would not have arisen if the client had accepted the changes proposed by ABC.

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V. Deadlines / prevention and interruption of services / acceptance

1. Deadline periods accepted by ABC for the deliveries and services of the same begin at the earliest on the date of clarification of all technical and other details of the order. If the client fails to meet the obligations of the same in this respect then ABC is not bound by compliance with the agreed periods and deadlines.
2. If ABC is prevented from proper performance of the services and deliveries undertaken then this shall automatically result in extension of the performance deadline. ABC must be exempted from all resulting claims such as contractual penalties. ABC shall incur no legal disadvantage from omission of notification if the facts and their preventive effect were obvious or known to the client.
3. If the set start of work or work progress is delayed by circumstances for which ABC is not responsible such as missing or defective preliminary work or preliminary services from third parties not commissioned by ABC then the following shall apply.
 - a. The completion dates will be postponed accordingly to a more conducive time of year in consideration of an appropriate time surcharge for resumption of the work and any deferral required. In this case ABC is also entitled to interrupt the work.
 - b. ABC must inform the client accordingly. If ABC fails to provide this information ABC is nonetheless entitled to consideration of the given circumstances and all rights mentioned in this section if the circumstances were obvious or known to the client.





- c. All additional costs associated with the delay will be covered by the client – especially the costs of the staff downtimes at the hourly rates agreed for the order. For its part ABC must do everything that can be reasonably expected of the same to provide the deliveries and services ordered from the same as soon as possible.
 - d. If performance is interrupted for more than three months then the services performed must be billed in accordance with the contractual prices and the costs incurred by ABC in addition for example for holding corresponding capacity or for the purchase of materials must be reimbursed. In this case ABC moreover has the right to withdraw from the contract without extending the deadline. If ABC exercises this right then in addition to the entitlement to payment at the contractual prices for the deliveries and services already provided ABC is also entitled to payment of 80% of the proportion of the net order amount relating to the services and deliveries that ABC was not yet able to provide plus value added tax.
 - e. ABC likewise has the right to withdraw from the contract if continuation or resumption of the delivery and services becomes impossible either permanently or for reasons beyond the control of ABC. In this case payment must be made for services provided to date by ABC. As a profit contribution ABC is moreover entitled to demand at least 35% of the remaining net order amount after payment for the services performed.
 - f. If materials that have already been ordered or delivered by ABC for the order become unusable as the result of a delay by the client then the client must pay the additional material costs.
4. If ABC is responsible for the delay, interruption or impossibility of performance of the service or delivery then any damage compensation of the client cannot exceed 10% of the net order amount. No compensation is provided for loss of profit.
 5. If ABC declares its services completed then the client is obliged to accept the services within 7 days. If the client does not accept within this period then the service from ABC is considered to be accepted.
 6. In all cases the services from ABC are considered to be accepted if the client has begun to use these services. By starting use the client forfeits any right to assert actual or alleged visible defects or impeded cleaning conditions about which no complaint has yet been made.
 7. Force majeure falls under the domain of the client and shall result in application of point V.3. Force majeure also includes unforeseen events over which ABC has no influence (including declaration of force majeure by upstream suppliers of ABC) and which prevent, impede or delay performance of the contract. ABC is exempted from all resulting claims.

VI. Services of the client

1. The client must provide the following preliminary services at the expense and risk of the same:
 - a. Proper establishment of the construction site or the location at which ABC is to provide its deliveries and services, provision of the materials to be made available by the same and of the machinery and connections and protection from any weather conditions and all this before the start of the services and deliveries from ABC.
 - b. Dry and frost-free storage of the materials and equipment which is secure against theft and damage – even during any interruption of the construction work – as well as provision of suitable areas in close proximity to the place of use for the preparation of materials.
 - c. Provision of assistants to the agreed extent. Assistants provided must follow the instructions of ABC. ABC has the right to refuse unsuitable assistants.
 - d. ABC has no liability of any nature for the assistants.
 - e. Provision as well as construction and dismantling of any required scaffolding, lighting and heating, blowtorches and gas burners, water and electrical power including installation of the required connections, of compressed air that is free of oil and water, of suitable acid for acidifying in the case of use of synthetic resin cements and of heating devices for subsequent heat treatment.
 - f. Ventilation for work in enclosed equipment, buildings, containers, pits and channels.



- g. Unloading of all materials and equipment and transport of the same to the storage location and/or to the place of use.
 - h. Evidence of accommodation and catering facilities close to the workplace for workers sent from ABC; if accommodation close to the workplace is not possible then the client must cover the daily travel costs between accommodation and construction site as well as any associated overtime. Additional costs of accommodation and catering that are not taken into account in the prices must be reimbursed by the client.
 - i. Provision of suitable lockable rooms for the workers with lighting, heating, washing facilities and sanitary installations.
 2. If the client does not provide these services then ABC is entitled to have them provided at the expense of the client.
 3. If the client feeds or accommodates staff of ABC without an explicit order from ABC then the client is not entitled to charge anything to ABC in this respect or to deduct it from the remuneration.

VII. Guarantee/liability

1.
 - a. A guarantee is offered exclusively for the deliveries and services provided by ABC and the subcontractors of the same. For the building materials provided by the client the guarantee pertains only to the professional use of materials and not to the materials themselves.
 - b. If ABC must offer a guarantee then ancillary services or materials provided by the client must be provided and delivered new and free of charge. The client is moreover obliged to prepare the rooms, spaces, areas, parts etc. of the same in such a way that the improvement work can be performed unimpeded and at no risk to property or people. This obligation also includes clearing out and putting away movable items as well as the uninstallation and reinstallation of systems, cables etc. It is up to the client to announce dates for improvement work and after consultation to set these such that potentially no operational interruptions occur. ABC is not liable for financial disadvantages arising from operational interruptions as a result of improvement.
 - c. Stress on the deliveries and services that is greater than or different from that communicated on order placement will invalidate any guarantee or liability commitment of ABC. The nature of the future stress on the deliveries and services from ABC must be communicated in writing by the client before conclusion of the contract.
 - d. In the case of repair work the guarantee or liability pertains only to professional technical execution.
 - e. The specific performance of work, systems or assemblies is guaranteed and liability for the same is assumed only if this has been explicitly agreed in writing.
 - f. Even if ABC has provided consultancy or supervision ABC offers no guarantee and accepts no liability for preliminary work of third parties or the client directly unless the guarantee or liability for such preliminary services has been agreed in writing.
 - g. If ABC provides its services on substrates produced by the client or third parties that the client has commissioned then ABC is not obliged to check whether these substrates meet the requirements communicated by ABC.
If defects are visible in the substrate then it is sufficient for ABC to indicate orally to the client that the result of these defects could be that the work of ABC potentially does not meet the agreed quality requirements. In this case ABC is exempt from any guarantee for defects owing to the inadequate quality of the substrate and for any resulting liability.
 - h. The substrates to be coated must comply with the building standards and be stable, firm, non-slip, free of slop, dirt, oil, grease, wax, silicone, water-repellent substances or other bond-disrupting intermediate layers. If the surface finish does not meet these



- criteria then neither a specific bond nor a specific appearance of the coating is guaranteed and no liability is accepted for such.
2. The guarantee and liability are conditional upon correct handling, proper commissioning and appropriate maintenance of the system. In cases of seals or surfaces produced by ABC the maintenance also includes refilling joints and repeat coating if this work is not obviously due to poor materials or errors in execution.
 3.
 - a. The duration of the guarantee is 12 months from the time of handover to the client but in all cases it ends 18 months after provision of the service or delivery by ABC.
 - b. Repair work is not guaranteed.
 4.
 - a. ABC must be notified in writing of identified defects within 3 days otherwise any guarantee entitlement is lost.
 - b. If ABC has a guarantee obligation then the client may demand only improvement. Such improvement claims pertain only to the defective parts of the delivery or service from ABC. The services of ABC are considered to be severable in this respect.
 - c. In the case of defects the client otherwise waives the right to leave (withdraw from) the contract including in accordance with § 1167 ABGB.
 - d. After notification of the defects ABC has the right to inspect the alleged defects immediately and if possible by prior arrangement.
 - e. If correction of the defects guaranteed by ABC is impossible for whatever reason then ABC must inform the client of this immediately. In this case the client may request a price reduction instead of the improvement. It is nonetheless explicitly agreed that the entitlement to a price reduction can never exceed 20% of the net order amount.
 - f. ABC must also make improvements within a reasonable period.
 5. If specific properties are agreed for materials to be used by ABC then the client may make complaints about these materials only until their installation. It is therefore up to the client to take samples of the material and where applicable to check whether the materials are compliant. Any materials about which a complaint has been made must be replaced with contractually compliant materials by ABC. In the case of differences of opinion concerning the presence of certain agreed properties a report by a state examination institution to be appointed by ABC must make the final decision if no agreement can be reached. The costs of the report and the associated process are to be paid by the party that has wrongly alleged the absence or presence or the agreed specified properties.
 6. If ABC fulfils its obligation by making improvements then the guarantee period with respect to the affected part of the deliveries and services from ABC is suspended for the duration of the improvement work. Otherwise these general terms and conditions of delivery and guarantee also apply to improvements.
 7. If ABC employs a subcontractor then individual deviating terms and conditions of guarantee may be invoked in addition to these terms and conditions of guarantee including in respect of the client with regard to the services of the subcontractor as long as ABC has notified the client of the subcontractor company and of the specific deviating terms and conditions of guarantee of the same before placement of the order.
 8. If ABC is obliged to warn the client of inadequate quality of the substrate or of the working conditions, weather conditions or other circumstances significant to the provision of the deliveries and services of ABC then this obligation is met in full if ABC has provided corresponding requirements or indications – including in abstract form – for example in the offer before placement of the order. In these cases ABC is no longer obliged to report the emergence of such circumstances or impediments to the client again during provision of the deliveries and services. In all cases the warning obligation is otherwise limited to circumstances that are identifiable or even visible with no further inspection measures.
 9. Any entitlements above and beyond these terms and conditions of guarantee and guarantee and liability limitations defined in a place other than these provisions and any liability of ABC are explicitly excluded.
If the client is entitled to claim damage compensation from ABC then this is limited to damage



in respect of which ABC is responsible for exceptional breach of duty in the worst possible way surpassing intent or gross negligence unless the client is a consumer. In this case liability is waived only to the extent still permitted in accordance with consumer protection provisions. The level of liability of ABC for damage compensation claims is limited by the gross order amount unless the business and product liability insurance of ABC takes effect for the claim; in this case the insured sum is considered to be the liability limit. Liability for lost use of spaces or items processed by ABC and for loss of profit is excluded in all cases.

10. This also applies for the obligation of ABC to pay compensation in accordance with Austrian product liability law whether for personal injury or damage to property. The client must pass on this disclaimer in all cases i.e. specify it in contracts with its contractual partners for the benefit of ABC. In all cases the client otherwise explicitly waives the right of recourse of the same in accordance with § 12 PHG (Austrian product liability law).
11. ABC must reimburse the costs of defect correction directly by the client only if ABC has consented to this in writing. any guarantee claim of the client and any damage compensation claim is invalidated by changes to the deliveries or services from ABC that are made by the client or for the client by third parties.
12. ABC is not liable in the case of force majeure.

VIII. Place of performance / copyrights

1. Unless otherwise explicitly stated in these terms and conditions the place of performance for all obligations of the client from this contract is Salzburg.
2. Plans, sketches, technical explanations, instructions and descriptions always remain the property of ABC. Any use, reproduction, distribution and publication is permitted only with the explicit consent of ABC.

IX. Place of jurisdiction / law

1. The local jurisdiction of the competent court of the city of Salzburg in Austria is agreed for all disputes that might arise from the business relationship with ABC. ABC is nonetheless free to make a claim against the client in the general place of jurisdiction of the same or in another court with competence in claims of ABC.
2. Austrian law is solely applicable to the exclusion of UN sales law. The application of any DIN (German) or Ö (Austrian) norms or other standardised norms to the contract between ABC and the client is hereby excluded unless the validity of these norms has been explicitly agreed.

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