

General purchasing conditions of baukreativ AG

1. General

1.1. Additional clauses agreed between the parties deviating from the General Purchasing Conditions are considered special conditions and have priority within the framework of the parties' obligations.

1.2. Deviating Terms and Conditions from the contract party of the Client (CL) are hereby rejected for reasons of precaution and have therefore no validity.

2. Conclusion of the contract

2.1. The Contractor (CO) receives an order in which these general purchase conditions are to be applied. By placing an order with the CO the order comes into effect, at the latest 1 calendar day after the order has been placed. An order confirmation which is received later or deviates from the order will be regarded as a new offer and must be accepted by the CL in writing in order to be valid. Under no circumstances shall the CL's silence or inactivity be deemed to be the acceptance or consent to any deviation of the contents of the order confirmation.

2.2. The conclusion of the contract and its content is covered by an undertaking of confidentiality made by the CO. In particular, the CO shall use the CL as a reference in relation to third parties only with written content of the CL.

3. Customer protection

3.1. Shall the Contractor receive an order from the CL he is obliged to charge for and to send the CL exclusively all documents, prices, informations and other transactions related to the order. The Contractor is not allowed to directly approach any customers of the Client as Contractor for his own account. This agreement extends to projects out of Germany. In case of culpable misfeasance contrary to this agreement, a contractual penalty of 5,000 € net shall be paid within 14 calendar days for each individual case. The certification of continuation of the offence is not to be considered. This agreement covers a period of six months after completion of the respective project.

4. Prices

4.1. The agreed prices are fixed and include –in addition to the respective applicable valued added tax in each country- free delivery, including costs of packaging, insurance, customs, consumption and freight, according to the respective national requirements. All documents necessary for the proper execution of the work on the due date are included in the price, as well as tools, machines and other equipment. Should a limit be agreed upon for the single order, this amount may in no case be exceeded, except if the CL has given his written consent to the exceedance.

5. Execution, quality, sub-contractors, rights of third parties

5.1. Delivery should comply with the agreed specifications as well as with state of the art technology and the applicable legal rules of the concerned country, especially regarding technical security, health and safety measures, environment protection and fire regulations.

5.2. Goods are to be packed in order to avoid damages in transit. Packing materials shall be limited to the amount required for this purpose.

5.3. CO is obliged to attend site meetings free of charge.

5.4. CO is obliged to hand over to the CL all required revision documents, plans, drawings and other documents that are relevant for the order in the required form. Preparation, compilation and transmission of these documents are included in the price.

5.5. According to the VOB, Part C DIN 18365 and DIN 18299 floorer CO's are obliged, once floor covering works are finished, to submit a cleaning and maintenance recommendation, in those cases in which materials were delivered from the CO.

5.6. A higher or lower degree of performance will be proved by the CO by means of a written estimation for the concerned positions.

5.7. In general, there will be no monetary compensation for services for which there are no additional offers with written consent. Supplementary services are based upon the principles of the main contract. The CO is hereby obliged to send the CL a written addendum within a maximum of 24 hours after notice.

5.8. THE CO shall not assign third parties the completion of his contractual obligations neither wholly nor partly, without prior explicit written consent of the CL. Should this consent be given the CO remains the liable co-debtor.

5.9. Should the CO deliver services on premises or a building of the CL, he must immediately inform the CL about accidents at work from his representatives and vicarious agents.

5.10. Hereby, the CO assures the CL to be in possession of all records required in all countries in which he works for the CL and to be able to prove it to the CL anytime.

5.11. The CO absolves the CL from any liability based on infraction of any rights of domestic or foreign third parties; this applies to all countries. Nevertheless, third-party warranty claims continue to apply.

5.12. The CO is directly fully liable (consequently also for lost profit) for all the damage he has caused, whatever its nature, and in this regard the CL is to be held completely free of damage liability or incrimination, provided that the CO cannot prove that the CL was at fault.

5.13. The CO assures the CL the compliance with all worker protection legislations. In addition, the CO assures the proper payment of all social security contributions of his collaborators on the due date. In case of breach, the CO shall hold the CL completely free of damage liability or incrimination

5.14. The CL is obliged to take up adequate public liability insurance. This should at least be maintained until expiration of the warranty period.

5.14. Assignment to third parties of a requirement regarding a service provision for the CL shall only take place after prior written consent of the CL.

6. Delay, contractual penalty due to delay, warranty, complaint, other liability

6.1. The CO shall conduct the works according to the dates designated by the CL. These deadlines are individual deadlines as defined by § 5 Abs. 1 VOB/B.

6.2. Should the CO be aware that the agreed dates cannot be adhered to, he must immediately inform the CL in writing, stating the reasons and the expected duration of the delay. The obligation to observe the agreed deadlines shall remain unaffected.

6.3. If the CL recognises that there is a risk of a time limit or deadline being exceeded, he has the right to demand an increase in the number of employees, although no special compensation shall be effected for these services. The CL has the right to order the subtraction of unsuitable staff from the CO.

6.4. Should the CO not meet the granted deadline period or any other deadline specified in the contract as a penalty, the CL has the right to demand a contract penalty amounting to the 0.5 % of the order value for each day of delay, maximum 5% of the gross order value. This is also valid in those cases where individual deadlines were agreed upon. The right to claim further damages shall remain unaffected.

6.5. The CL shall be exempt from the obligation to accept the delivery/service ordered as a whole or in part, and shall be entitled to rescind the contract when the delivery/service is no longer realisable because of the delay on account of an event of Force Majeure or labour disputes from an economical perspective.

6.6. In case of an earlier delivery as agreed, the CL reserves the right to return the delivery at the supplier's costs. Should there be no return in case of an earlier delivery, the CL will store the goods until delivery date at the supplier's risk and expense. In case of an earlier delivery, the CL has the right to make payment only on the due date agreed upon.

6.7. CL will only accept partial deliveries following explicit agreement. By agreed partial deliveries the remaining amount is to be listed.

6.8. In case of a breach of duty from the CO, the CL can remedy the consequences himself or let a third party do it at the costs of the CO, once the appropriate period of grace set by the CL has expired. Should documents be needed for this purpose, which are in possession of the CO, the CO shall immediately hand these over. Should rights of third parties conflict with the remedy, the CO is obliged to discharge the CL for claims against these rights. The same applies when the CL can demand a reimbursement of expenses from CO according to § 637 BGB.

6.9. The CO operates according to the VOB version which is effective at the moment of the contract's conclusion.

6.10. All deficiencies which should appear before or during the period of warranty should be corrected from the CO without incriminating the CL. Correction measures shall begin immediately and end in the shortest possible time, and are to be carried out by the CO outside normal business hours without additional costs. The CO shall provide documented evidence of the appropriate correction measures to the CL through informative image documentation.

6.11. Claims for correction measures from the CL generally lapse five years after inspection and approval. For parts that could not remain in operation during inspection and/or during the correction of a deficiency, the warranty period shall be extended by the period of operational interruption. For repaired or newly delivered parts the warranty period starts once the

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correction has been completed or, when an approval has been agreed, after the inspection and approval.

6.12. The CO shall remit the CL, if requested, an absolute bank guarantee of 5% of the gross amount invoiced. The guarantee shall be issued for an unlimited period.

6.13. The CO possesses valid insurance for his services which covers the risks of fire, burglary and vandalism for the entire construction time.

7. Property, rights of use

7.1. The use of drawings and other documents, operating instructions, manufacturing methods, equipment, models, tools and other manufacturing facilities that are available to the CO for contractual purposes, is limited to the execution of the contract. The transmission to third parties is not permitted. The CO does not acquire further rights to the above mentioned objects. In this context, the objects are to be carefully preserved at the CO's expense. The limitation of liability of the § 690 BGB shall not apply.

7.2. The property and the exclusive rights of use of objects of the CL in the way described in clause 5.4. for which the CL should bear the costs, pass to the CO.

8. Invoicing, payment, contractual penalties

8.1. The CO shall issue a proper invoice within 12 working days after completion of his main obligations. The invoice should contain sales tax number, tax ID number, IBAN and BIC code and be according to the national laws of the place of performance. It should include the price in Euros and designate the amount in foreign currency. Improperly submitted invoices will only be valid from the moment of their correct submission to the CL.

8.2. Should the CO fail to submit a final invoice or a partial final invoice within the period stated in 8.1 after having been granted a period of grace, the CL has the right to do the billing himself or to arrange for a third party to do it. For this purpose, compensation can be demanded. Unless otherwise agreed, the CO shall compensate the CL with 2% of the invoice amount.

8.3. The CL shall pay with 3% discount if payment is made within 18 calendar days after delivery and invoice receipt, or without deduction after a maximum of 60 days, when the invoice contains all annexes contractually agreed and if a certificate of exemption according to §§ 48ff EStG is enclosed for those cases in which it is necessary for tax reasons.

8.4. A payment made from the CL does not imply acceptance of the billing or recognition of a service free of deficiencies.

8.5. Contractual penalty claims can still be addressed after final payment has been made, according to § 341 Abs. 3 BGB. In case the CL chooses to withdraw from the contract, already existing contractual penalty claims shall remain unaffected.

8.6. Claims from the CO arising from this contract may only be assigned to third parties with the written consent of the CL.

8.7. The CL can set-off all claims that the CO holds against him, with all claims that he or any domestic companies engaged with baukreativ AG -with a direct or indirect majority participation- are entitled against the CO.

9. Jobs on hourly basis

9.1. The CL should be notified from the beginning about the execution of hourly paid works. The hours worked and the necessity of separate costs to be compensated for material consumption, as well as the costs of keeping equipment, tools, machinery and plants, freight charges, loading and transportation costs and any special costs are to be submitted in writing on a weekly basis in the form of a list (time sheets), at the latest on Friday at 18 o'clock, at the AG headquarters. Late evidence cannot be considered.

10. Other

10.1. The CL shall send the orders and plan documents to the CO in German or English.

10.2. The CL has the right to withdraw when the client of the CL refuses to accept the CO. In this case, the CO has no right to compensation claims.

10.3. In case of ineffectiveness of individual clauses of this contract, the remaining clauses shall remain binding.

10.4. Court of jurisdiction is the court governing the domicile of the CL. Nevertheless, the CL is entitled to pursue legal action against the CO at any other admissible court of law.

10.5. The CO commits himself to observe the principles of the bk Group concerning ethical purchasing, which are to be given upon request to the CL, and assures its compliance by the subcontractors.

10.6. Solely the laws of the Federal Republic of Germany shall apply.