

baukreativ AG's General Conditions of Offers for Construction Services (GCOCS)

1. General

1.1. The regulations agreed between the parties in individual contracts have priority over the GCOCS. In case of contradictions between contractual bases with equal priority or within a contractual basis, the specific description of the execution is decisive if doubt exists. A contradiction in the foregoing sense does not exist if a lower priority contractual basis replaces or supplements a previous one.

1.2. As a precaution, the client's terms and conditions which deviate from these GCOCS are hereby rejected and do not become a component of contract. Terms and conditions which deviate from these GCOCS therefore do not apply unless we have expressly recognised such in writing.

2. Period of commitment

The contractor is bound by the aforesaid offer for a period of 8 weeks.

3. Conclusion of contract

3.1. The client is obliged to conscientiously review the description of services, the plans and other contractual documents submitted to it (in particular with regard to dimensions and masses). The client must notify the contractor in writing of any contradictions, ambiguities and/or inaccuracies in specific parts of the contract which refer to the nature and scope of the services to be provided. The respective order enters force when the offer is accepted by the client.

3.2. As a rule, any additional services requested must be released in writing 1 calendar day after submission of the subsequent offer, otherwise delays to time schedules could result. Such are then the responsibility of the client.

4. Reservation of title, rights of use

4.1. The goods delivered by the contractor remain our property until they have been paid for in full.

4.2. All papers, technical documents, production information, cost estimates and other documents associated with the offer remain our property. We grant a simple, non-exclusive and non-transferrable right of use to these documents and papers to the customer. The documents may not be passed onto or made available to third parties unless we have expressly approved such beforehand in writing. If a contract is not concluded, they must be returned to us without delay at our request. If the material is used or passed on without permission, a contractual fine is payable amounting to five times the remuneration, without prejudice to further-going claims to damages. If the amount of remuneration has not been agreed, the rates of remuneration generally used apply.

5. Prices

5.1. The prices agreed do not include value-added tax, which will be charged at the prevailing rate. Goods are delivered carriage free and include the costs of packaging, insurance, excise duties, consumables and freight. They conform to the execution required by the norms of the country in question. All the documents, tools, machinery and equipment required to properly perform the order on time are included in the prices.

5.2. The contractor is registered for tax purposes in different countries in Europe. Value-added tax shall be itemised separately. Value-added tax is charged at the rate applicable in the country in question on the date of acceptance.

5.3. If the client deletes items from the order, the contractor reserves the right to charge overheads calculated in separately.

6. Execution

6.1. The execution and settlement of all construction work are based on the German Construction Tendering and Contract Regulations, Parts B and C (VOB/B and VOB/C) in the version applicable on the date that the contract is concluded.

6.2. Any review documents required are executed in accordance with the directives and content of services stipulated by the contractor.

7. Planning permission

7.1. A review of whether planning permission or approval for a change of use is needed must be ordered separately from the contractor and remunerated accordingly.

7.2. Any static calculations or applications for utility services from public bodies that are required are not part of our services. Such must be ordered separately.

8. Acceptances

8.1. Upon request, the client and the contractor are obliged to perform a formal acceptance within 12 work days from the date on which the converted outlets reopen. If acceptance is not requested, the work is regarded as accepted 12 work days after written notification that the work has been completed.

9. Warranty

Defect claims concerning construction works expire by limitation of time after 4 years. Defect claims concerning other works (the success of which depends upon the production, maintenance or change of an item) and the parts of firing systems touched by fire expire by limitation of time after 2 years. Unless something to the contrary has been agreed for parts of mechanical and electro-technical/electronic systems, for which maintenance has a bearing upon safety and proper functioning, defect claims concerning such parts expire by limitation of time after only two years instead of four years, if the client has decided not to commission the maintenance work from the contractor for the duration of the limitation period; the same applies if a different limitation period is agreed for other services. The limitation period starts to run from the date on which the complete work is accepted; it starts to run for partial acceptance only for self-contained parts of the work.

10. Insurance

10.1. The contractor will not conclude any construction insurance for the property in question beyond its existing indemnity insurance.

11. Invoicing, payment

11.1. A down payment of 35% is due upon issue of order and 50% of the net order sum is due when the construction work starts. These instalments are payable within 14 calendar days from the date of invoice without deductions.

11.2. The final invoice able to be properly reviewed shall be presented along with all appendices at the latest two months after completion of the work. The final invoice shall also include the agreed supplementary performance and any further supplementary services for which the contractor seeks remuneration. The final invoice concerning the services offered is payable within 14 calendar days from the date of invoice without deductions.

11.3. The contractor shall present invoice able to be properly reviewed on the basis of the quantities determined from the planning documents applicable at the date of acceptance. If an additional measurement protocol is desired, this must be ordered and remunerated separately.

12. Certificate of exemption, certification under VAT legislation

12.1. The contractor has a certificate of exemption for deduction of tax for construction services in accordance German income tax legislation (§ 48 b Para.1 P. 1 EstG) and is certified under German VAT law (§ 13b UstG). The current certificates apply. These can be downloaded at www.bk-group.eu/de/agb.

13. Miscellaneous

13.1. If individual provisions in this contract are unworkable, this shall not affect the validity of the remaining provisions. In such a case, the client and the contractor are obliged to replace an unworkable provision or close a loophole with a regulation which the parties would have agreed, had they been aware of the unworkability or of the loophole at the date on which the contract was concluded, in order to achieve the intended purpose of contract.

13.2. The sole place of jurisdiction for all disputes arising from and/or in connection with this contractual relationship and from all supplementary orders is the court responsible for the contractor's headquarters. This only applies if a sole place of jurisdiction does not exist under law and the parties are merchants, legal entities under public law or public law special trusts or if the client relocates its headquarters abroad after the contract has been concluded.

13.3. German law shall prevail exclusively.