



GekaKonus Service and Installation Conditions

I. Scope of the Conditions

1. These general service and installation conditions apply to all our service, maintenance and installation activities and proposals. Also applicable and subordinate thereto are the current versions of the contracting rules for award of public works contracts (Verdingungsordnung für Bauleistungen (VOB)), Section B, for the manufacture and installation of electric cable and trunk systems (to include fibre optic cable systems), the pertinent DIN regulations and VOB, Section C.
2. The privity of contract between us and our customer, the contractor, is subject strictly to the general terms and conditions listed below; no general terms and conditions of the contractor which deviate from ours will be accepted. Our general terms and conditions will also apply even when we are cognizant of any contradictory terms and conditions from the customer or any which deviate from our general terms and conditions when accepting and performing contracts.
3. Our general terms and conditions also apply to any future business.

II. Proposal and Contract Award

1. Our proposals are always subject to confirmation. Cost estimates are non-binding, unless some particular details are defined as binding.
2. A contract will not be effective without our written confirmation thereof.
3. Any documents enclosed with the offer such as diagrams, drawings and technical information are only general descriptions. Unless they are otherwise defined as being binding, they will not define the character of the goods.
4. The constructional and technical prerequisites received from the customer and the information contained in the statement of work will form the basis for our proposals. If these details do not conform with the actual facts and requirements, or if these facts and requirements are omitted, the customer will cover the costs for any new proposal will have to prepare as a result thereof.
5. We reserve the right to make any changes to construction, material and performance, insofar as the scope of performance is not significantly changed as a result thereof and these changes would be just and reasonable for the customer.
6. All drawings and charts, etc. will remain in our possession. Under consideration of our pertinent and existing copyrights for these documents, they may only be disclosed to a third party upon our express and written consent. They have to be returned to us upon request.
7. The contract will be concluded under the proviso that we receive the goods and material we order from our suppliers; this proviso only applies if and when we have concluded a congruent hedging transaction with the supplier and are thus not responsible for any false or missing deliveries. We will inform the customer immediately if and when there is a delay in the delivery or if the delivery could not be made at all. We will also reimburse the customer for any counter-measures the customer has thus undertaken.
8. In the event that those goods required for the installation or service are not available, we reserve the right to cancel the contract. We will inform the customer of the non-availability immediately and reimburse the customer for any counter-measures the customer has thus undertaken.

III. Responsibilities of the Customer

1. It is the sole responsibility of the customer to obtain any official authorisation or permits required install and operate the equipment covered by the order.

2. The customer is required to provide us with an installation plan in due time prior to the commencement of the activities. This plan shall clearly depict the locations of any gas and water pipes and electrical and/or fibre optic cables.
3. The customer is responsible for ensuring that all required pre-installation and pre-commissioning activities have been completed within the timeframe agreed upon and that this information is provided to us.

IV. Scope of Work

1. Our confirmation of contract is the sole document valid for the scope of work. In the event that any official requirements or circumstances not made known to us make it necessary to change or, in particular, expand the scope of work agreed upon, the customer has to inform us in writing immediately.
2. If, during the course of performing the activities, it is revealed that some work required is not contained in the contract or that the performance thereof will have to deviate from the scope of work, we will be entitled to prepare and submit an amendment to our original offer. If an amendment to our original offer is not prepared and submitted, we will be entitled to calculate our work according to the actual work performed and in accordance with the principles for work wage rates per hour. § 15 VOB, Section B will thus apply accordingly.
3. Any and all equipment required for the protection of the subject matter of the contract (in particular electrical and technical modules), to protect the customer against the loss of data (also within the scope of commissioning the subject matter of the contract), for noise suppression and/or for protection against power fluctuations or outages are only inherent to the scope of work if and when this has been expressly concurred. Electrical and technical material is deemed as conforming with the contract if it meets the requirements of the Association of German Electrical Engineers (VDE), or if it bears the VDE or CE label.
4. During the commissioning of our work by the Technical Inspection Agency (TÜV) we will cooperate appropriately and provide any and all certificates or documents required.
5. We will perform all service, maintenance and installation activities during our regular working hours. Any work performed outside this timeframe will be calculated according to the additional charges of our field of industry.

V. Work Timeframes and Delays

1. Work timeframes are only approximate details. They are only binding if we provide confirmation thereof. A timeframe concurred begins with receipt of confirmation of the contract. Clarification of any and all technical or commercial questions by the parties concerned and fulfilment of all obligations by the customer (availability of L/C, securities, payment deposits, provision of the required permits, technical documents, etc.) are the prerequisites for maintaining these timeframes.
2. Each and any change in the order after our confirmation of contract will effect an extension of any dates and deadlines concurred accordingly.
3. The work timeframes will be extended by the same length of times lost as a result of force majeure and interruption of operations, strikes and shutouts as well as any other events which will impede our work performance. We will inform our customer immediately of any hindrances and their expected duration.
4. In the event that our work is delayed, liability will be in accordance with para. IX. The customer is then only entitled to cancel the contract if we do not meet the time extension deadline of a minimum of two weeks which the customer is allowed to set.

VI. Payment Terms

1. Invoices are due for payment immediately and without any deductions. We will accept bills of exchange, cheques and other means of payment only as a means of fulfilment. The customer will bear any withdrawal and discount charges to be paid immediately in cash, unless otherwise concurred.

2. Remuneration will be calculated in accordance with the contractual unit prices and the actual work performed. Service and maintenance activities are to be paid according to our hourly rates and the actual work performed. Payments are to be made after completion of the work and without any deductions.
3. If our contractual obligations include installation and/or commissioning of systems or EDP programmes, a deposit of 30% of the contractual sum will be due for payment upon receipt of our confirmation of contract. We are entitled to request adequate partial payments corresponding to the progress of work made. The due dates for the partial payments will be in accordance to the contractual agreements.
4. Customers in default of payment will be invoiced the statutory default interest. We reserve the express right to assert claims for a higher loss of interest. In this case, the customer is at liberty to provide proof of lower loss.
5. The customer may only exercise lien as a result of counter claims based on the same contractual relationship. During permanent business relationships, each individual contract will count as a separate contract. Charging against our claims is only allowed in the case of legally ascertained claims or ones which we acknowledge.

VII. Security Interests

1. Contractually agreed or statutory provided securities (builders' security mortgages, collateral securities, fulfilment and warranty security, etc.) may only be considered upon special written agreement.
2. We are obligated to affranchise those securities we are entitled to at our choice, insofar as their value exceeds more than 20% of the claims to be secured and not yet paid.
3. Other security interests will not be affected by the aforementioned conditions. This will apply to our claims for a security interest (contract fulfilment security), lien and the claim for acquiescence of the recording of a security mortgage.

VIII. Commissioning

1. The customer is obliged to commission the service and installation activities within one week, starting from receipt of notification that the activities have been completed. Commissioning may only be refused owing to substantial deficiencies.
2. If commissioning is performed by an official authority (e.g. TÜV), the performance of our work will be considered to be contractually fulfilled.
3. Partial work performance will be commissioned without special agreement if the partial work is a completed task within itself, or if the contract cannot be fulfilled when further progress of the work is made or if at all under extreme conditions.
4. A commissioning report is to be prepared and signed by both contractual parties.

IX. Liability for Deficiencies

1. The limitation period for deficiency claims is based on the VOB/B regulations.
2. The customer's deficiency claims may only be disclosed to a third party upon our written consent.
3. The customer has to inform us of any apparent claims in writing immediately, but no later than two weeks. We are entitled to check the alleged deficiencies. If the customer refuses to allow this, we will be exempt from our warranty responsibility.
4. Within the scope of post fulfilment of contractual obligations, we should be afforded an adequate timeframe - in no case less than 14 days. A rectification of defects will be considered abortive after the second unsuccessful attempt if nothing else can be concluded from the point of view of the type of defect or other miscellaneous circumstances.
5. The parties agree that, in rectifying the defects, all parts removed will become our property.
6. In particular, we will not assume liability if and when: the customer's inappropriate or improper use of the equipment, the customer's faulty installation, the customer's improper

storage, natural and standard wear and tear, faulty maintenance, unsuitable equipment and chemical, electrochemical or electrical influences, insofar they are not our responsibility. Guarantee does likewise not apply for those defects which ensue as a result of not adhering to our information and advice or not paying attention to operating and/or service instructions. Further, we will not assume liability for improper improvements or changes/disassembly of the goods by the customer or a third party contracted by the customer. Likewise we will not assume liability for damages on the customer's mobile and non-mobile objects processed by us if the customer did not provide us with the installation plan or did not provide it in due time in accordance with para. 3.2 and/or the installation plan contained incomplete and/or false information. However, we are obliged to make the customer aware of the risks involved with this prior to commencement of the work.

7. The customer will bear the costs for any additional work resulting from unauthorised defects. We will be paid for the time and effort according to the hourly rates concurred.

X. Limitation of Liability

1. We have unlimited liability for compensation if we are to blame for bodily harm, harm to life and health, for damages caused intentionally or due to gross negligence by us or our partners. Insofar as we guarantee a particular quality of the goods, the capability to provide this or another such guarantee, or if claims can be made in accordance with the laws on product liability, we will assume liability for damages intentionally caused. In the case of low-grade negligence of important contractual obligations (so-called cardinal obligations) we will assume liability to the extent of the foreseeable damages pertinent to the contract, which usually does not exceed the purchase price of the goods ordered.
2. Over and above this, we will not assume liability.
3. The regulations listed above will apply to all claims for compensation, regardless of the legal ground and in particular for liability due to non-permissible handling. Further claims from the customer are excluded, particularly claims for damages inflicted on goods not contained in the contract.
4. The statutory rules and regulations for limitation apply.

XI. Court of Jurisdiction/Place of Fulfilment

1. Our headquarters in Karlsruhe is the place of fulfilment for all obligations ensuing from the contract.
3. The court of jurisdiction for legal assertion of the contractual claims from the entrepreneurial supplies and deliveries is likewise our headquarters in Karlsruhe.
4. Only German law will govern for all legal relationships between the parties concerned. Unified laws on purchasing and the UN purchasing law (CISG) may not be applied.

XII. Miscellaneous

1. Any changes, additions and other legal declarations with regard to or in connection with the contractual relationship of the parties concerned are to be made in writing in order to become effective. The requirement for the written form may only be waived by a written declaration.
2. If one of the provisions of this business relationship is null and void or become null and void, it will not affect the other provisions. Void provisions are to be replaced by a provision which will legally best fulfil the economic purpose. In the event that some provisions are inappropriate, the section and contents therein deemed as applicable is to be extracted and maintained if suitable for both parties.