

## General Terms of Business of Austrian Consulting Engineers/Firms

### 1.) The validity of the General Terms of Business and exceptions thereto

- a) The following General Terms of Business shall apply to all current and future contracts between the Client and the Consulting Engineer/Firm.
- b) Exceptions to these Terms of Business and, in particular, also terms of business laid down by the Client shall only apply if they have been expressly agreed to and confirmed in writing by the Consulting Engineer/Firm.

### 2.) Offers, subsidiary agreements

- a) Unless stated otherwise, offers made by the Consulting Engineer/Firm shall be subject to change with regard to all data stated therein, including the fee. Any change in the fees specified in the Fee Guidelines and Service Profiles published by the Fachverband Technische Büros-Ingenieurbüros (Association of Consulting Engineers) between the time of an offer and the time account is rendered shall entitle the Consulting Engineer/Firm to alter the fee accordingly.
- b) If an order confirmation by the Consulting Engineer/Firm deviates from the order, the deviation shall be deemed to be acceptable to the Client if the Client does not promptly state disagreement in writing.
- c) Agreements shall generally require written form.

### 3.) The placing of orders

- a) The nature and scope of the agreed services shall be as specified by the Contract, the Power of Attorney and these General Terms of Business.
- b) Alterations and additions to the order must be confirmed by the Consulting Engineer/Firm in writing to become part of the contractual relationship in question.
- c) The Consulting Engineer/Firm undertakes to execute the order as placed properly, in conformity with generally accepted engineering standards and in accordance with the principles of economic efficiency.
- d) In the completion of the Contract, the Consulting Engineer/Firm can enlist the services of others who possess the necessary competence and place orders with them on behalf of and for the account of the Client. The Consulting Engineer/Firm shall however be obliged to inform the Client in writing of that intention and to give the Client the possibility of objecting within 10 days to the placing of such an order with a third party.
- e) In the completion of the Contract, the Consulting Engineer/Firm can also enlist the services of others who possess the necessary competence as sub-planners and place orders with them on behalf of and for the account of the Consulting Engineer/Firm.  
The Consulting Engineer/Firm shall however be obliged to inform the Client in writing of its intention to have orders carried out by a sub-planner and to give the Client the possibility of objecting within one week to the placing of such an order with the sub-planner. In the event of objection, the Consulting Engineer/Firm shall execute the order him/her/itself.

### 4.) Warranties and damages

- a) Warranty claims can only be lodged after a notification of deficiencies has been made. Such a notification of deficiencies must be made by registered letter within 14 days of the time the work or part of the work is delivered.
- b) Claims for cancellation of the contract or a reduction in price shall be barred. The Consulting Engineer/Firm shall satisfy claims for the remedying of defects or the subsequent completion of omitted work within a reasonable period of, in general, one third of the period agreed for the execution of the order. Claims for compensation for damage caused by delay cannot be asserted within that period.
- c) The Consulting Engineer/Firm shall render services with the care that can be expected of the Consulting Engineer/Firm as an expert (§1299 ABGB: Austrian general civil code).

### 5.) Revocation of the Contract

- a) Revocation of the Contract shall only be permitted for grave and weighty reasons.

- b) In the event of a delay in performance on the part of the Consulting Engineer/Firm, the Client can only revoke the Contract after a reasonable period of grace to be set by registered letter.
- c) In the event of a delay in part performance or agreed co-performance on the part of the Client that makes it impossible for the Consulting Engineer/Firm to execute the order or significantly hampers the Consulting Engineer/Firm therein, the Consulting Engineer/Firm shall be entitled to revoke the Contract.
- d) In the event of justified revocation of the Contract by the Consulting Engineer/Firm, the Consulting Engineer/Firm shall remain entitled to the entirety of the agreed fee. That shall also be the case in the event of unjustified revocation by the Client. § 1168 ABGB shall be applicable. In the event of justified revocation by the Client, the Client shall pay for services rendered by the Consulting Engineer/Firm.

### 6.) Fee

- a) The Fee Guidelines and Service Profiles published by the Fachverband Technische Büros-Ingenieurbüros (Association of Consulting Engineers) shall constitute the basis for the entitlement of the Consulting Engineer/Firm to a fee. Special arrangements regarding the fee as contained in the Contract or the Power of Attorney shall take precedence over those Fee Guidelines.
- b) Unless otherwise agreed, all fees shall be denominated in Austrian schillings.
- c) The specified fees do not contain sales (value added) tax. That shall be paid by the Client as a separate item.
- d) It shall not for any reason whatsoever be permissible to offset the fee against counterclaims.

### 7.) Place of performance

The place of performance with regard to any office services shall be the principal place of business of the Consulting Engineer/Firm.

### 8.) Maintenance of secrecy

- a) The Consulting Engineer/Firm shall be obliged to secrecy with regard to any information divulged by the Client.
- b) The Consulting Engineer/Firm shall also be obliged to secrecy with regard to the Consulting Engineer's/Firm's planning activities if and for as long as the Client has a legitimate interest in such secrecy. When the order has been executed, the Consulting Engineer/Firm shall be entitled to publish the work that is the subject matter of the Contract either as a whole or in part for advertising purposes unless it has been contractually otherwise agreed.

### 9.) The protection of plans

The Consulting Engineer's/Firm's plans, brochures, reports, technical documentation and similar material are protected by copyright. Such material may not be published either as a whole or in part without the consent of the Consulting Engineer/Firm. The same shall apply to the passing on or repeated use of such material by third parties or by the Client. The Consulting Engineer/Firm shall be entitled to place the Client under an obligation to make known the identity of the Consulting Engineer/Firm (company, trade name) in the event of publications or announcements about the project.

### 10.) The mandatory provisions of the Konsumentenschutzgesetz (consumer protection act) shall apply within its scope.

It shall not be permissible to offset claims with any counterclaims unless they stand in a legal connection to the outstanding fee, have been declared in court or have been allowed by the Consulting Engineer/Firm.

### 11.) Choice of law and legal venue

- a) Austrian law shall apply exclusively to contracts between the Client and the Consulting Engineer/Firm.
- b) The court with jurisdiction over the subject matter at the principal place of business of the Consulting Engineer/Firm shall be agreed to have competence with regard to all disputes under this Contract.

**POWER OF ATTORNEY**

by which I (we)

commission the following member of the *Fachverband Technische Büros-Ingenieurbüros*

(Association of Consulting Engineers): .....

.....

.....

to plan and supervise the following technical project: .....

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and authorize and empower that member of the *Fachverband Technische Büros-Ingenieurbüros* to carry out any negotiations that may be necessary for the completion of the aforesaid technical project with authorities, statutory bodies, utilities companies, occupants of adjacent land, special experts and companies completing the project, to represent me (us) vis-à-vis the aforementioned with legally binding effect, to institute proceedings, to represent me (us) in all official procedures that may be necessary for the completion of the aforesaid technical project, to initiate such procedures, to submit and withdraw applications on my (our) behalf, to lodge appeals and to withdraw such appeals (to waive the right to appeal), and to accept service; finally to place orders with other business concerns in my (our) name, to accept work done, to check invoices, to accept cash and cash equivalents and to give legally valid receipts therefor; in all, to do everything that is considered useful or necessary to the planning, execution or supervision of the above-named technical project.

At the same time, I (we) undertake to pay the fees and expenses of the Attorney hereunder in accordance with the Contract, the most recent version of the Fee Guidelines for Consulting Engineers/Firms and the General Terms of Business of Austrian Consulting Engineers/Firms at the principal place of business of the Attorney hereunder, at which place the corresponding claim can also be asserted in court.

In addition, I (we) confirm that I (we) have received the General Terms of Business of Austrian Consulting Engineers/Firms, which shall constitute an integral part of the Contract concluded with the Contractor and Attorney hereunder.

....., on .....

I (we) accept this Power of Attorney/Order:

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(Client and Grantor of the Power of Attorney)

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(Consulting Engineer/Firm)