

# **General Terms and Conditions of Purchase for Planning, Supervision and Appraisal**

**of E.ON Energie**

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## **1. General**

The present terms will apply exclusively in the present version and always in connection with the currently valid "General Terms and Conditions of Purchase for Purchase Contracts and Contracts for Work and Labour of E.ON Energie", which inter alia also govern the validity and priority of the terms. If this version conflicts with a translation in a foreign language, the German version shall be exclusively binding.

## **2. General Duties of the Contractor**

2.1 The services performed by the Contractor (C) must conform with the latest status of science and technology, as well as to the principles of economic efficiency

2.2 The C will be obligated to perform the work independent of the interests of any third parties (in particular of suppliers).

2.3 The C's planning must be based on the orders and instructions of the Client (CL) and any objections are to be made in writing immediately to the CL; the C's work is to be agreed on with the CL and other experts involved (Item 3) prior to its elaboration. This will not restrict the liability for the accuracy and completeness of the C's work. The C must ascertain in good time whether there are any public law obstacles or other objections impairing the planning.

2.4 Where minor changes are made to the project for reasons for which the CL is not liable, the C will be obligated to revise the documents already prepared without demanding extra remuneration.

Where additional work is requested by the CL, the C must perform it; the remuneration will be agreed on before commencement of the work.

## **3. Cooperation between the Client, Contractor and Other Parties Involved**

3.1 The CL will inform the C in good time of the work to be performed by other parties in the planning and/or property supervision and of the dates/deadlines agreed on with such parties.

3.2 The C will be obligated to provide the other parties involved in good time with the necessary information and documents, allowing them to duly perform their work.

3.3 Where there are any conflicts of opinion between the C and the other parties involved during the planning, the C must immediately inform the CL of this in writing.

#### **4. Safeguarding of the Client's Rights and Duties**

- 4.1 The C is obligated to safeguard the rights and duties of the CL within the scope of the work assigned to him. The C must immediately inform the CL in writing of any circumstances from which claims by the CL could arise against other parties involved. The assertion of such claims will be incumbent on the CL.
- 4.2 The C may not establish any financial duties for the CL. This will apply in particular to the conclusion, amendment of and addenda to contracts.

#### **5. Contractor's Information Duty**

The C must provide information about the work being performed upon request by the CL immediately and without any extra remuneration.

#### **6. Payments**

If after acceptance of the final payment (final installment) it is determined that the payment deviates from the contract or was calculated on the basis of costs that are not chargeable, the settlement is to be corrected. Where fees are to be calculated on the basis of cost assessment, the settlement is also to be corrected if changes of the chargeable costs relevant to the calculation of the remuneration are incurred as a consequence of inspections of the measure. The CL and C are obligated to reimburse each other for the amounts thereby incurred. They cannot claim the defense of loss of enrichment (§ 818 Sect. 3 BGB). In case of over/underpayment, 5 % interest will be charged on the amounts to be reimbursed.

#### **7. Granting of Rights of Use**

- 7.1 Should any such work be created during the performance of the assignment, the CL and the companies in his group will have the right to use this work without restrictions and free of charge. The same will apply where patent and other intellectual property rights arise. Where the C receives licensing fees from such intellectual property rights, the C must concede the CL an adequate share therein. The amount of the CL's share will be agreed on separately.
- 7.2 The CL has the right to publication, specifying the C's name.

#### **8. Statutory Period of Limitation for Defect-Related Claims**

- 8.1 The statutory period of limitation for defect-related claims will commence upon the last service to be rendered in accordance with the present contract.

## **9. Liability Insurance**

- 9.1 The C must provide proof of professional liability insurance and must guarantee that there is adequate insurance coverage to cover damage arising from the contract, but at least coverage of 1,500,000.00 EURO –. In the case of joint venture, there must be insurance coverage for all members.
- 9.2 The C cannot claim any benefits from the CL before he has provided proof of insurance coverage. The CL may make payments dependent on provision of proof of the continuation of insurance coverage.
- 9.3 The C will be obligated to inform the CL immediately in writing if there is no longer coverage to the agreed amount.

## **10. Joint Venture**

- 10.1 Joint venture must appoint a representative who represents all members of the work pool with regard to the CL. Any restrictions of the power of representation arising from the joint venture contract are invalid with regard to the CL.
- 10.2 Every member of the joint venture will be joint and severally liable for the fulfilment of the contractual duties even after dissolution.
- 10.3 Payments will be effected with a debt-releasing effect for the CL exclusively to the representative of the joint venture. This will also apply in the case of dissolution of the joint venture.