

The following terms and conditions of purchase shall apply additionally to the General Terms and Conditions of Purchase of Mainova (AEB) between the respective contracting affiliate of Mainova (hereinafter referred to as “**Client**”) and the contractor (hereinafter referred to as “**Contractor**”). Mainova group includes Mainova Aktiengesellschaft, NRM Netzdienste Rhein-Main GmbH, Mainova ServiceDienste GmbH and SRM Straßenbeleuchtung Rhein-Main GmbH. The Client and the Contractor are together also referred to as the Contracting Parties.

1. Content of the contract, parts of the contract

- 1.1 The Contractor provides the Client with an architectural or engineering service or other planning service (hereinafter defined as planning service or service) in accordance with the respective assignment in the context of a measure of the Client. As a rule, what is owed is the achievement of a result in compliance with the objectives specified by the Client.
- 1.2 Unless otherwise agreed, in the case of planning services in the form of architectural and engineering services, services are commissioned in accordance with the project phases (Leistungsphase) of the Honorarium Regulation for Architects and Engineers (HOAI) applicable at the time of conclusion of the contract.
- 1.3 The Contractor's offer shall be structured according to project phases. The Client shall be entitled to commission the project phases individually in stages. The Contractor shall have no legal claim to be commissioned with further services beyond the respective scope of services contractually commissioned.
- 1.4 By way of derogation from the provision in section 2.1 of Mainova's General Terms and Conditions of Purchase (AEB), the following parts of the contract shall apply in descending order of priority:
 - a) the purchase order of the Client, together with its annexes (e.g. minutes of negotiations, statement of work, etc.),
 - b) these Supplementary Terms of Contract for Architectural and Engineering Services,
 - c) the General Terms and Conditions of Purchase of Mainova AG in the published version applicable at the time of the conclusion of the contract (www.mainova.de/zentraleinkauf),
 - d) all government permits for the project, as well as applications for approval and provisional permissions,
 - e) the applicable state building code as well as all regulations, laws and ordinances and bylaws applicable to the construction project,
 - f) all standards, technical regulations and provisions of government authorities and testing institutes as well as manufacturer's guidelines and instructions for use relevant to the performance of the service,
 - g) the generally accepted technical standards, the relevant technical regulations and codes of practice including DIN standards and European specifications, as amended,
 - h) the provisions of the German Civil Code (BGB),
 - i) the technical part of the Contractor's offer with its annexes.
- 1.5 Through the inclusion of these contractual terms, the Contractor acknowledges that the provisions contained in these contractual terms become an integral part of the contract and that the Contractor's own terms of contract shall not apply, even if reference is made to them in the Contractor's offer or other documents, and even if they are not expressly rejected again by the Client.

2. General duties of the Contractor

- 2.1 The Contractor shall render performance on the basis of the order in full and in accordance with the Client's specifications as well as in accordance with the principles of economic efficiency. The Contractor shall identify and exploit potential savings while maintaining the specified targets for quantity, quality and deadlines. In addition, the optimisation of long-term operating and maintenance costs shall be taken into account.
- 2.2 The Contractor is the Client's trustee. As such, he does not promote the interests of suppliers, contractors or other third parties with a connection to the project. The Contractor shall inform the Client of any conflicts of interest. This does not constitute any grant of powers of attorney by the Client to the Contractor.

- 2.3 The Contractor shall inform the Client comprehensively about the status of the planning as well as on planning alternatives for the realisation of the objectives underlying the project.

The Contractor shall base its services on the Client's instructions and suggestions and shall coordinate planning documents with the Client. Any acknowledgement, approval or release of services by the Client shall not release the Contractor from its responsibility or liability for the respective service. Within the scope of the agreed services, the Contractor shall also inform (on its own initiative, without being requested to do so, but also upon the Client's corresponding request) the Client without undue delay in text form about all circumstances of importance for the performance of its tasks, in particular about actual or impending deviations in quality, deadlines or costs, and shall submit proposals for solutions to the Client.

- 2.4 The Client reserves the right to commission other providers of planning services. If third parties (e.g. other planners or contractors) provide or review planning services themselves, this shall not release the Contractor from its planning responsibility, which shall also include the review, control and coordination of third-party planning.
- 2.5 The Contractor shall do everything in its power to ensure the timely and cost-efficient performance of its services while maintaining the agreed quality. In this context, all design ambitions must be subordinated to the mandatory cost ceiling (if agreed) and the needs-based design. To achieve these aims, the Contractor undertakes to provide cooperation at all times, and in particular to inform the Client without undue delay in writing if the contractual objectives appear to be jeopardised by other parties involved in the planning, involved experts or government authorities.
- 2.6 The Contractor shall provide the construction companies, authorities and other professionally involved parties with all necessary information and documents in good time so that they are enabled to properly perform their services. The planning shall take into account any necessary review and processing times of third parties.
- 2.7 The Contractor shall provide the Client with information about its performance upon request at any time and without undue delay. The Contractor may not demand special remuneration for this.

3. Remuneration and invoicing

- 3.1 For its services, the Contractor shall receive the remuneration agreed in the purchase order. This remuneration covers all ancillary and overhead costs, expenses and travel costs, unless these are the subject of separate contractual agreements.
- 3.2 If a lump sum is agreed as remuneration, the lump sum shall include all services that are required or expedient for achieving the intended contractual result in accordance with the underlying objectives.
- 3.3 If, in exceptional cases, remuneration has been agreed for the service based on time and effort, the Contractor shall provide proof of the time and effort, broken down by hour and person, together with the respective invoice, stating the relevant activity and where it took place. A countersignature by the Client shall not be considered an acknowledgement with regard to the services contained therein. The Client reserves the right to verify and acknowledge whether the services have actually been performed and whether the service is to be invoiced on a time basis. In particular, section 6.4 of the AEB shall apply.
- 3.4 The Contractor may demand an advance payment from the Client in accordance with the respective contractual agreement.

If an individual payment plan has been contractually agreed between the Contractor and the Client, this shall take precedence and shall exclude any advance payments beyond this.

3.5 The Client's final payment to the Contractor shall fall due after acceptance of the contractual services by the Client, the issuance of the Contractor's auditable final invoice and the expiry of the agreed, reasonable review periods of the Client.

The Contractor's final invoice shall be deemed auditable if it contains a comprehensible list of the services rendered, which can be understood by the Client. The Client may raise justified objections against the audibility of the final invoice within 30 days after its receipt. If a new invoice is issued, these periods shall start again.

3.6 The Contractor may only issue partial final invoices if this has been contractually agreed and if it has fully rendered a corresponding separable part of the performance.

Otherwise, partial final invoices shall be excluded.

3.7 If, after submission of the final invoice, it is established that the Contractor was overpaid by partial or advance payments, the Contractor shall correct the invoice. Overpaid amounts shall immediately fall due for repayment to the Client. The Contractor shall not be entitled to rely on the defence that he is no longer enriched (section 818 III BGB).

3.8 Starting with the receipt of the overpaid amount, the Contractor shall pay interest of 9 percentage points above the base interest rate p.a. on the reimbursable amount, unless it is proven that higher or lower benefits have been derived.

4. Changes to the performance

4.1 Section 650q I in conjunction with section 650b BGB shall apply to amendments to the contract (amendment) and the Client's right to issue instructions with the following modifications.

4.2 An agreement between the Client and the Contractor on a change to the agreed work results or a change which is required to achieve the agreed work result as well as the additional or reduced remuneration to be paid as a result of the change must observe at least text form.

The adjustment of remuneration in the event of amendments to the contract shall be governed by section 650q II, 650 c BGB.

4.3 The Client's request for a change may also concern how services are performed, in particular in terms of scheduling.

4.4 The stepwise further development and revision of the planning within a certain service stage (optimisation of planning), including the formulation of alternatives shall not be remunerated insofar as the planning service is part of the basic services of the respective service phase and as long as the limits of reasonableness are not exceeded for the Contractor. In this context, up to 2 revisions shall be deemed reasonable for the Contractor.

4.5 The Contractor shall submit to the Client an auditable fee offer in text form regarding the additional or reduced remuneration requested as a result of the change request; such offer shall be submitted without undue delay, at the latest, however, within 5 working days after receipt of a change request (unless otherwise agreed). The Contractor shall observe the respective contractual remuneration arrangements in each case.

4.6 Minor changes shall be made without affecting the fee. Different proposals and drafts by the Contractor in terms of design, construction, function or economy during the preparation of the planning and before completion of the respective planning phase shall be deemed part of the normal contractual scope of services of the Contractor, which are covered by the agreed fee and shall therefore not be regarded as a change.

4.7 The costs of preparing the offer shall be borne by the Contractor. This shall also apply if the Client does not accept the Contractor's offer or in whole or in part foregoes the change to the services. However, if planning services are to be provided that go beyond the usual scope of an offer preparation, for example in the form of a feasibility study, such services shall be remunerated on the basis of the hourly rates or via a lump sum. If this offered change service is ordered, the remuneration owed shall be offset against the further remuneration.

4.8 If the Client is threatened with serious detriment (imminent danger) if a change required to achieve the agreed work result is not carried out without undue delay, the Client shall be entitled to order the change before the expiry of the agreement period of 30 days after the Client's request for change has been received by the Contractor.

5. Cooperation between Client, Contractor and other professionally involved parties

5.1 The contracting parties shall agree on services to be provided by other professionally involved parties. They shall cooperate to ensure that all information required by other professionally involved parties is available in good time so that services can be rendered on time. The Contractor shall notify the Client of missing information.

5.2 In the event of disagreement between the Contractor and other technical representatives, the Contractor shall procure the decision of the Client without undue delay.

5.3 Insofar as construction companies or other third parties announce or assert claims against the Client in connection with the Project, the Contractor shall support the Client in the examination of this claim and shall comment on the claim at the Client's request.

5.4 To the extent that this is required, the Contractor shall be obligated to participate in meetings with the Client or with other contracted companies at any time. The participation of the Contractor shall be free of charge for the Client.

6. Representation of the Client by the Contractor

6.1 The Contractor is authorised and obligated to protect the rights and interests of the Client. The Contractor shall inform the Client without undue delay of any circumstances, which may give rise to claims against companies contracted to perform construction work or otherwise. At the Client's request, the Contractor shall support the Client in the preparation and assertion of claims against third parties (in commercial and technical regard). The assertion of such claims shall be the responsibility of the Client.

6.2 The Contractor shall act as the responsible planner vis-à-vis authorities or construction companies in its own name as the Client's trustee. The Contractor shall not act as the Client's representative. It may not make any binding declarations (including, in particular, declarations of acceptance) which have as their object financial obligations, the conclusion or amendment of contracts or the agreement of new prices, unless it is commissioned or authorised to do so in individual cases.

7. Surrender of documents

7.1 The documents created by the Contractor for the performance of the contract shall be surrendered to the Client without further remuneration and shall become the Client's property. The Contractor shall compile the documents according to the Client's instructions. In addition to the printed version, the Contractor shall provide digital documents and editable files (e.g. Auto-CAD, MS-Project, MS-Excel, AVA software, Felix calculations).

7.2 The Contractor may not assert a right to refuse performance or a right of retention in respect of approved construction documents and planning documents.

7.3 Documents provided by the Client shall be returned to the Client without request after fulfilment of the contract.

8. Project manager, staff

8.1 The Contractor shall appoint a project manager and a deputy when submitting the offer, but no later than upon its commissioning. The project manager named by the Contractor shall be the Client's contact person for all areas. The Contractor's project management may not be replaced without the Client's consent.

8.2 The Client shall be entitled to demand the replacement of the project manager or other employees of the Contractor at any time, subject to a reasonable replacement period, if there is an important reason in the person of the relevant person, which makes further cooperation unreasonable.

8.3 The Contractor shall as a rule use employees (in particular for project management, planning and supervision) who have completed construction-related training as graduate engineers or masters in the fields of architecture, civil engineering, mechanical engineering or comparable qualifications. The Contractor undertakes to ensure a staff presence at all times so that comprehensive and competent performance of services and communication with the Client and the parties involved in the project is enabled during the respective service phases. Either the project manager or his deputy must be able to make on-site visits within normal business hours. Holidays and illness shall not be deemed grounds for not providing or delaying the services owed under the contract.

8.4 In key positions (project or technical project management, construction management and supervision), the Contractor shall only use employees with relevant professional experience of at least three years.

9. Acceptance

- 9.1 The Contractor's performance is subject to formal acceptance. This means that the Contractor shall invite to a joint acceptance meeting, subject to a reasonable notice period. A joint written record shall be made of the acceptance.
- 9.2 The Contractor shall have the right to demand partial acceptance in accordance with section 650s BGB, insofar as the requirements for this provision are satisfied.
- 9.3 Notional acceptance (*Abnahmefiktion*) shall be excluded,
- 9.4 Acceptance shall require that the Contractor has performed its contractual services in full. This means in particular that (insofar as this is the subject of the contract):
- All planning services have been rendered;
 - all planning documents have been handed over in accordance with the contract;
 - the work of the construction companies has been accepted or an acceptance has not been performed for reasons for which the Client is answerable and the building/installation has been put into operation;
 - to the extent that defects remain in the performance of the construction companies, defect and open item lists have been drawn up by the Contractor and agreed with the Client;
 - the complete documentation has been handed over to the Client