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General Terms and conditions Moeller Operating Engineering GmbH

A General provisions

Moeller Operating Engineering GmbH (M.O.E.) works as an independent engineering office, certification body, inspection body and test laboratory.

M.O.E. acts impartially and without discrimination.

The general terms and conditions in their respectively latest version shall apply to all services of M.O.E., even if their application is not separately agreed.

B Scope and execution

Type and scope of the services of M.O.E. depend on the agreements made; the regulations applicable at the time of inspection and/or examination have to be applied at all times, subject to express separate agreement.

The client has to create all preconditions in order to facilitate a proper and smooth performance of the services by M.O.E.. To the extent required, M.O.E. is to be granted access and the right to inspect without restrictions.

In order to fulfil the services offered by M.O.E., information (e.g. planning and drawing documents, location information, etc.) is required from the client. The necessary information is requested by M.O.E. and must be provided by the client in reasonable time. M.O.E. is entitled to have partial tasks carried out by third parties in consultation with the client.

C Confidentiality

M.O.E. shall maintain confidentiality with regard to all documents and other information which it receives in connection with the orders placed. Documents and information may only be passed on with the consent of the party authorised to dispose of such documents and information. This shall also apply in case that M.O.E. has to make use of third parties in order to fulfil its tasks.

The obligations of M.O.E. for disclosure of such information under German law, due to governmental order, decree, ordinance or court order shall insofar remain unaffected. If the disclosure or passing on to third parties occurs under German law, the client shall be informed thereof, unless this is prohibited by law.

D Remuneration

The services of M.O.E. are to be remunerated according to the price listed in the offer.

Additional expenses which arise, for example, due to inadequate organization on the part of the client or due to repeated examinations or tests and for which M.O.E. is not responsible, shall be charged separately at the respective valid rates.

If the client provides incorrect or incomplete invoice data at the time of the order and this results in additional expenses on the part of M.O.E. in the form of necessary invoice corrections, a service fee of 30 € per invoice to be corrected shall be charged. M.O.E. must be informed immediately of any changes to the invoice data.

For orders running longer than one month, monthly interim invoices can be issued. Partial services of M.O.E. from an order which are self-contained and usable for the client are to be accepted by the client and paid against a separate invoice. M.O.E. is entitled to demand advance payments if necessary.

Erstellt:	Tobias Busboom	
Freigegeben:	Jochen Möller	

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E Maturity of the invoices

1. The remuneration for all services performed by M.O.E. is due for payment without deduction 14 days after invoicing. In case of default, M.O.E. shall be entitled, subject to further claims, to claim default interest in the amount of 9 % above the base interest rate according to § 288 para. 2 BGB, to withhold reports and other documents and/or to suspend or revoke the validity of reports.

2. The commercial as well as any other right of retention of the client is excluded. The set-off with counterclaims of the client is also excluded, unless the counterclaim is undisputed or legally binding or is based on gross breach of contract by M.O.E.

If the monthly consumer price index for Germany (CPI) determined by the Federal Statistical Office changes by more than 10% during the period from the date of the offer to the completion of the respective work, based on the relevant index value at the time of the offer (basic value), the costs not yet invoiced may be redetermined in proportion to the percentage change. The price adjustment may be made several times. The new base value for the CPI shall then be the month in which the new price was set. Both parties to this contract are entitled to demand an adjustment.

If the prices have to be changed, the respective party shall notify the other party in writing and have this confirmed in writing. If the price change is not confirmed within 4 weeks, the respective party shall be entitled to terminate the contract, subject to further claims. In the event of such termination or partial termination, M.O.E. may charge the costs incurred up to that point plus surcharges for processing and loss of profit.

F Liability

1. The liability of M.O.E. for material defects is limited to supplementary performance within the scope of a contract for work and services. If this fails, the client shall be entitled to a reduction of the remuneration or to rescission of the contract, without prejudice to the right under § 637 BGB. 2.

2. Any claims of the client for material defects shall become statute-barred one year after the acceptance of the services of M.O.E. by the client, unless the defect was fraudulently concealed by M.O.E. or caused intentionally.

3. Otherwise the liability of M.O.E. - as far as it does not concern the violation of an essential contractual obligation - is limited to five times the remuneration for the respective individual service of M.O.E. in the case that an obligation from the contractual relationship with the client is violated negligently. This limitation of liability shall also apply to claims for damages of the client in case of negligent tort on the part of M.O.E. In case of a slightly negligent breach of an essential contractual obligation the liability of M.O.E. is limited to the contract-typical foreseeable damage. As far as M.O.E. is charged with intent or gross negligence, it shall be liable according to the statutory provisions. The same shall apply to any statutory strict liability of M.O.E.

4. Personal liability of the organs or vicarious agents of M.O.E. is excluded, unless they act intentionally or grossly negligent.

5. M.O.E. explicitly points out to the client that he has the possibility to agree on a more extensive liability with M.O.E. However, it is a prerequisite that the client demands a higher liability from M.O.E. and is willing to pay the premium for the additional insurance cover accruing to this extent and that the insurer of M.O.E. agrees.

6. Claims for damages outside the claims under the contract for work and services due to a defect with the exception of such claims arising from unlawful acts and/or according to the Product Liability Act shall become statute-barred one year after acceptance of the respective performance of M.O.E. by the client, unless M.O.E. is charged with intent or fraudulent intent.

7. Instead of the limitation provisions and liability limitations contained in section F above, the statutory provisions shall apply insofar as it is a matter of injury to life, body, health or freedom.

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G Setting of a period of grace by the client

The setting of a deadline for performance on the part of the customer must be reasonable. The reasonableness shall always be based on the agreed delivery time stated in the respective offer.

The setting of a grace period by the client shall only be reasonable if M.O.E. has been given the opportunity to complete the work.

In the case of plant assessments / plant-, unit- or component-certifications, at least all data specified in the offer or required by the relevant guidelines must be submitted to M.O.E. by the client in accordance with the guidelines and conformity with the relevant technical regulations and/or statutory provisions must be established by M.O.E. as part of the assessment activities.

The plant assessments / plant certification is very time-consuming, so that a period of grace set must be at least 4 weeks; whereby this must not shorten the delivery time agreed upon and named in the offer.

For a unit- or component-certificate or for individual certification in the individual verification procedure, the effort involved is correspondingly more extensive, which is why the deadline set for submission must be at least 15 weeks, whereby this must not shorten the agreed delivery time specified in the offer.

H Place of performance – place of jurisdiction – applicable law

1. Place of performance for all obligations arising from or in connection with the order is the registered office of M.O.E., unless otherwise stated in the order.

2. Place of jurisdiction for all disputes arising from and in connection with this contract is the competent court at the registered office of M.O.E.. However, M.O.E. is also entitled to sue the client at any other legal place of jurisdiction.

3. The execution of the order and all claims arising in connection with the order shall be governed by German law.

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