

General terms and conditions of purchase

1 General

1.1 All orders placed by Elma Schmidbauer GmbH ("Elma") are exclusively based on the following general terms and conditions of purchase ("GTCP").

1.2 Individual agreements between the parties shall prevail over these GTCP. Deviations and supplements to these GTCP by the Contractor shall only be effective with the express confirmation of Elma in text form (e.g. by fax, email or in writing); they only apply to the business for which they were concluded on a case-by-case basis.

1.3 If provisions deviating from individual conditions of these GTCP are agreed between Elma and the Contractor, the validity of the other provisions of these GTCP shall not be affected.

1.4 Deviating terms and conditions of delivery or business of the Contractor shall be expressly rejected.

1.5 In all other respects, performance of the order by the Contractor shall be considered as acknowledgment of these GTCP.

2 Compliance

The Elma Supplier Code of Conduct, which can be sent free of charge by Elma on request, is the basis of Elma's business activities and therefore part of any contract concluded.

3 Structure of the GTCP

3.1 The GTCP consist of four sections. Section A contains general regulations for all contracts for services by Elma.

3.2 Section B contains special provisions for contracts relating to the supply of movables to be manufactured or created.

3.3 Section C contains special rules for the provision of services and works.

3.4 Section D contains special regulations that apply exclusively to the provision of works.

3.5 In the event of any conflict, the provisions of sections B to D shall prevail over the provisions of Section A. Section D shall take precedence over Section C in the event of contradictions for works provided.

Section A – General provisions

4 Quotation, order, conclusion of contract

4.1 The Elma order alone shall be decisive for the scope of delivery. Orders are only binding if they have been issued or confirmed by Elma in text form. Cost estimates and the prices listed in the order are binding.

4.2 Orders placed by Elma must be confirmed immediately after receipt, stating all Elma order data in text form.

4.3 In the event of an express waiver of an order confirmation by Elma, the order shall be considered as the conclusion of the contract, unless the Contractor objects immediately after receipt.

5 Delivery time

5.1 The delivery deadlines and dates specified in the order from Elma are binding.

5.2 Deadlines run from the date of the order letter from Elma.

5.3 If goods that are delivered late are accepted without giving notice of any defect, this is only for the purpose of reducing the damage, without waiving any claims.

6 Delayed delivery

6.1 The Contractor is obliged to immediately inform Elma in text form of the reason and expected duration of any delay if circumstances arise or become apparent to it, which indicate that the specified delivery time cannot be adhered to. This also applies to circumstances and events for which the Contractor is not responsible.

6.2 In the event of a delay in performance, Elma is entitled to demand flat-rate compensation for the delay, amounting to 0.25 % of the delivery value per day of delay, but no more than 5 % of the gross delivery value. Further legal claims (withdrawal and compensation instead of performance) are reserved; the lump-sum damages will be counted against claims for damages. The Contractor has the right to prove that the delay caused no or significantly less damage.

6.3 Elma does not agree with any limitations or exclusions of liability of the Contractor in the event of a delay in performance.

7 Force majeure

7.1 "Force majeure" refers to the occurrence of an event or circumstance that prevents a party from fulfilling a contractual obligation, if and to the extent that the party affected by the impediment ("the affected party") proves

(a) that such an obstacle is beyond its reasonable control and

(b) that the effects of the obstacle could not reasonably have been avoided or overcome by the affected party.

An obstacle within the meaning of sub-paragraph (a) is, inter alia, wars, civil wars, riots, acts of terrorism, piracy, currency and trade restrictions, embargoes, sanctions, administrative measures and orders, expropriation, epidemics, pandemics, natural disasters, fire, unless the unaffected party proves otherwise.

7.2 Insofar as Clause 7.1 is fulfilled, the affected party shall be exempt from the contractual obligation and from any liability for its breach from the time when the obstacle causes the inability to perform, and to the extent to which the obstacle prevents the performance, provided that it immediately notifies the other party thereof. If it does not notify the other party immediately, the exemption shall only be effective from the date on which the notification is received by the other party. The other party may suspend performance of its obligations, if applicable, from the date of notification.

7.3 If the effect of the alleged obstacle or event is temporary, Clause 7.2 shall only apply for as long as the asserted obstacle prevents the fulfilment of the contractual obligation by the affected party. The affected party shall notify the other party as soon as the obstacle in question no longer exists.

7.4 The affected party is obliged to remedy the force majeure as far as possible and to minimise its effects as much as possible.

7.5 Notwithstanding the above, Elma is entitled to withdraw from the contract in whole or in part if the force majeure continues for more than four weeks from the agreed delivery date.

8 Invoicing and payment terms

8.1 Elma can only process invoices from the Contractor if they contain the standard information (in particular, order and/or article number as well as commission number, exact description of the service or goods, quantity delivered, dimensions, weight, packaging).

The Contractor is responsible for all consequences resulting from non-compliance with this obligation, unless it can prove that it is not responsible.

8.2 Unless any other special agreements have been made, payment shall be made within two weeks after receipt of the goods and invoices with a discount deduction of 3% of the invoiced amount or within 30 days after receipt of the goods and invoices without deduction. If instalment payments have been agreed, the discount deduction is granted for each individual payment, insofar as this is made within the two-week period.

8.3 A discount deduction is also possible if Elma offsets or makes any legitimate withholdings or retentions.

8.4 Elma does not agree to the agreement of deferred payment and/or interest fees that are higher than the interest legally due.

9 Limitation period

Shortening the warranty periods of these GTCP is expressly prohibited. In all cases, at least the statutory limitation periods shall apply, unless longer periods are agreed below.

10 Extent of liability

Elma does not agree to any limitation of the contractual and non-contractual liability of the Contractor with regard to the standard for determining fault, the extent of liability or the level of liability.

11 Insurance

11.1 The Contractor undertakes to maintain operating and product liability insurance with coverage of at least EUR 5 million per claim (personal injury and/or property damage) until the respective expiry of the limitation period for defects; if Elma is entitled to further damages, this shall remain unaffected.

11.2 At the request of Elma, proof of the insurance policy must be provided.

12 Retention, offsetting, assignment

12.1 The statutory rights of set-off and retention shall be granted to Elma in full.

12.2 The assignment of claims against Elma is only legally effective with the prior approval of Elma in text form.

13 Elma documents, confidentiality

13.1 The documents provided by Elma to the Contractor for the production of the deliverable and the information contained therein shall remain the property of Elma. Elma reserves all copyrights.

13.2 These documents or the information contained therein may not be used, reproduced or made available to third parties for purposes other than for the manufacture of the deliverable without the express prior consent of Elma in text form; the above for as long as and insofar as they are not demonstrably public knowledge.

13.3 Upon completion of the delivery or at Elma's request, the documents must be returned to Elma immediately in full, including all copies.

13.4 The same applies to drawings and documents which the Contractor prepares for Elma according to the information provided by Elma; the contracting parties are already agreed that ownership of these documents shall be transferred to Elma and the documents will be stored by the Contractor for Elma.

13.5 The Contractor shall be liable for all damages incurred by Elma in the event of a breach of any of the above obligations, unless it is not to blame for the breach.

13.6 If the Contractor makes goods, tools or documents accessible to third parties, e.g. subcontractors, with the consent of Elma, the above obligations must also be imposed on them.

14 Choice of law, place of performance, place of jurisdiction

14.1 The applicable law shall be exclusively the law of the Federal Republic of Germany; application of the UN Convention on International Sales of Goods (CISG) shall be excluded.

14.2 The destination stated in the order is the place of performance for all services of the Contractor. The place of performance for payments by Elma is Singen am Hohentwiel.

14.3 Insofar as the Contractor is a businessman within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, or if the Contractor or the contracting subsidiary of the Contractor has its registered office outside the Federal Republic of Germany, the place of jurisdiction for all rights and obligations of the contracting parties arising from transactions of any kind is the registered office of Elma. The same shall apply if the Contractor transfers its domicile or habitual residence

from Germany after conclusion of the contract or if its domicile or habitual residence is not known at the time of the filing of the suit. Elma is also entitled to sue the Contractor at its general place of jurisdiction.

15 Retention of title, ownership rights

The Contractor is entitled to deliver the goods under simple retention of title until they have been paid for. Elma does not agree with any further retention of title provisions, in particular so-called extended reservations of title or reservations by the corporate group.

Section B – Provisions on the supply of movables

16 Characteristics of the delivery item, testing obligation of the Contractor

16.1 The delivered object must have the agreed characteristics, correspond exactly to the information on the order from Elma and must correspond to the state of the art at the time of delivery.

16.2 The Contractor guarantees that its deliveries and services comply with the legal and official regulations valid on the day of delivery, in particular the relevant regulations pertaining to environmental protection, accident prevention and occupational health and safety.

16.3 The Contractor must review any technical documents, drawings or specifications which are part of the order from Elma and shall notify Elma of any discrepancies and request clarification.

16.4 If technical documents, drawings and specifications drawn up by the Contractor are approved by Elma, this does not release the Contractor from its responsibility for the proper performance of the contract.

17 Prices

17.1 All prices are fixed prices without the respective statutory amount of VAT to be calculated separately. This also applies to unit and flat-rate prices.

17.2 In the absence of a deviating agreement in text form, the price includes all costs associated with the delivery of the items, in particular packaging and transport to the agreed place of destination including customs duties, insurance, fees, taxes and other ancillary costs according to DDP(Incoterms 2020), unless a different Incoterms clause has been agreed.

17.3 Elma does not agree with price adjustment or price increase clauses or with the agreement of a list price valid on the day of delivery (daily price clauses).

18 Delivery, transfer of risk, advance, partial and additional services

18.1 Delivery and transfer of risk are in principle subject to the agreed Incoterms clause in accordance with DDP (Incoterms 2020).

18.2 Where no such Incoterms clause has been agreed, delivery shall be made DDP (Incoterms 2020) to the destination specified in the order.

18.3 Advance, partial and additional services are only permitted with the prior written consent of Elma and must be noted in the delivery documents and invoices.

19 Inspection and complaints

19.1 The statutory provisions for the commercial obligation to inspect and make claims apply as follows: The obligation to inspect shall be limited to defects that are evident during the incoming goods inspection by external examination including the delivery documents (e.g. transport damage, wrong and short delivery) or which are visible during quality control by random sampling. In all other respects, it depends on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. The obligation to report defects that are subsequently discovered remains unaffected. Irrespective of the duty to inspect the goods, the complaint by Elma (notice of defects) shall in any case be deemed to be immediate and timely if it is sent within five working days of discovery or, in the case of obvious defects, of delivery.

19.2 Deliveries involving larger quantities of the same parts, in particular smaller parts, will be examined by Elma using the statistical sampling procedure. If the samples reveal defective parts, Elma is entitled to reject the entire delivery without further inspection or to carry out a further inspection at its discretion. The Contractor shall bear all costs of the further inspection.

20 Liability for material defects

20.1 Elma is entitled to the statutory claims for defects in full.

20.2 In any case, Elma is entitled to require the Contractor, at its discretion, to remedy the defect or to demand delivery of a new item, free of defects (subsequent performance). The Contractor shall bear all costs and expenses incurred by this, including installation and removal costs, even if the expenses increase in the event of the subsequent performance because after delivery the purchased item has been

moved to a place other than the destination, such a move does not correspond to the intended use of the item. The right to claim damages, especially the right to damages instead of the performance shall expressly remain reserved.

20.3 Without prejudice to the statutory rights and the above regulations: if the Contractor fails to honour its obligation to subsequent performance within a reasonable period set by Elma, Elma is entitled to remedy the defect and any damages incurred as well as to demand that the Contractor reimburse the expenses necessary for this or demand a commensurate advance payment. If the Contractor's subsequent performance has failed or is unacceptable for Elma (e.g. due to particular urgency, danger to operational safety or imminent disproportionate damage), no deadline date is required; Elma shall inform the Contractor of such circumstances immediately, if possible in advance.

21 Limitation on purchase

21.1 The limitation period is 36 months from the transfer of risk.

21.2 In the case of subsequent performance, the period of limitation according to Clause 21.1 shall begin again from the completion of the repair tasks or delivery of the new item. However, the new limitation period applies only to the repaired or replaced part of a deliverable, if only this – even a dependent – part has been replaced.

22 Intellectual property rights

22.1 The Contractor shall ensure that no third-party rights, in particular patent and other intellectual property rights, are infringed in connection with its delivery.

22.2 If a claim is asserted against Elma by a third party for such infringements, the Contractor is obliged to indemnify Elma from such claims upon the first written request, in accordance with Clauses 22.3 and 22.7 below.

22.3 In the event of third-party claims for damages, the Contractor is entitled to prove that it is not to blame for the infringement of the rights of the third party. Elma is not entitled to enter into any agreements with third parties without the Contractor's consent and in particular to agree on a settlement.

22.4 The Contractor's obligation to indemnify Elma applies to all expenses necessarily arising from or in connection with the third-party claim, unless the Contractor proves that it is not responsible for the breach

of duty underlying the breach of intellectual property rights.

22.5 The assertion of further rights remains reserved.

22.6 Elma does not agree to a limitation of the legal rights to which Elma is entitled in the event of any legal defects.

22.7 The limitation period for these claims is three years, starting with the transfer of risk, unless the five-year warranty period for construction products applies.

Section C – Provision of services and works

23 Scope of services and service delivery

23.1 The scope of the service is determined solely by the order from Elma, unless deviations, changes or additions have been confirmed by Elma in text form.

23.2 The Contractor's cost estimates and the prices listed in the order are binding. The Contractor must submit a new binding quote in text form to Elma before any work incurring additional costs is started.

23.3 The Contractor must provide the service with the utmost care and in compliance with the current science and technology state of the art.

23.4 The Contractor may only use subcontractors for the performance of its services with the prior consent of Elma in text form. Elma should refuse its consent only for the purpose of safeguarding legitimate interests.

23.5 Only the Contractor is authorised to issue instructions to its employees and must ensure that the personnel assigned by him are not integrated into Elma's operations.

23.6 Unless otherwise agreed, the Contractor shall report to Elma on the progress of the works on an ongoing basis.

24 Remuneration

24.1 The remuneration for the providing the service depends on the order.

24.2 If prices are not specified in the quote, in the order confirmation or by written agreement, the Contractor must inform Elma of its prices in text form for confirmation before the order is executed.

24.3 In the context of ongoing business relations, the price charged by the Contractor most recently for these or comparable services shall apply in the absence of an express price agreement.

24.4 Elma does not agree to price adjustment or price increase clauses.

24.5 All prices are without the separately invoiced VAT at the statutory rate applicable in each case. In the absence of a deviating agreement in text form, the price includes all costs associated with the service, in particular travel expenses, call-out charges and material costs.

25 Subsequent modification of the scope of services

25.1 Elma is entitled to demand changes to the contractual services or additional services from the Contractor at any time. The Contractor may object to such a subsequent change, insofar as it finds performing the change request to be unreasonable.

25.2 The Contractor shall submit a new contract offer in text form to Elma within 14 days for these changes and/or additions. An additional remuneration or additional expenses will only be paid or reimbursed after an order and confirmation of these additional services according to Clauses 4.2 and 4.3.

25.3 If agreement cannot be reached, Elma is exceptionally entitled to terminate the contract for the service originally to be provided if Elma cannot reasonably be expected to adhere to the contract without the changes and/or additions.

26 Agreeing deadlines

26.1 The dates and deadlines stated in the order are binding.

26.2 If neither performance deadlines nor a performance date have been agreed, the performance must be provided immediately, unless something to the contrary arises under the circumstances.

27 Invoices

27.1 For each individual service, the remuneration must be assigned to the respective order number.

27.2 If remuneration on a time basis has been agreed, the timesheets countersigned by Elma must be enclosed.

27.3 The Contractor is responsible for all consequences resulting from non-compliance with this obligation, unless it can prove that it is not responsible.

27.4 Payments by Elma shall be made subject to rectification or recovery in the event of any subsequent inaccuracy of the calculation or any objections and subject to the condition of complete and proper performance of the service. Payment does not constitute an acceptance of performance.

28 Cooperation obligations of Elma

28.1 If Elma has to provide services that are required for the service delivery by the Contractor, Elma will provide these according to the description specified in the order or in the quote and the dates specified therein. This applies accordingly to the handover of requested documents and information.

28.2 If information or documents cannot be supplied or cannot be disclosed due to the rights of third parties, this does not constitute insufficient cooperation. In such cases, the Contractor shall not have the right to terminate the contract unless the Contractor cannot be expected to continue to adhere to the contract.

28.3 If Elma does not cooperate sufficiently, the Contractor must immediately send a reminder of this in text form, otherwise Elma will not be in default and the Contractor cannot invoke this insufficient cooperation.

29 Grant and transfer of rights, usage rights

29.1 With the payment of the agreed remuneration for the documents, papers, drafts and ideas developed or designed for Elma by the Contractor, Elma shall acquire all transferable rights, in particular the exclusive, unrestricted, irrevocable and non-cancellable right of use and all other powers for the publication, reproduction and use of these services, including all legal rights (in particular any name and trademark rights). This transfer of rights is unlimited in time, place, purpose and in any other way. It includes the right to copy, edit and transfer and also applies to unknown types of use.

29.2 There are no rights of third parties to the services provided by the Contractor under this Agreement in the form of ideas, drafts and designs that may impair or render impossible their use for the purpose specified in the contract.

29.3 If the Contractor uses third parties as subcontractors for the performance of the contract, it is obliged to provide Elma with the same legal position as described in Section 1 with regard to the services provided by the third parties. The Contractor shall provide Elma with suitable evidence of this upon request. If the Contractor is not in a position to do so in exceptional circumstances, it must inform Elma of this in good time before the respective order is carried out.

29.4 When publishing the works of the Contractor, Elma is not obliged to include a copyright notice for the Contractor, unless agreed otherwise in specific cases.

29.5 When transferring a work, in particular in the case of third-party works, the Contractor shall provide Elma with suitable proof that the author or authors relinquish all right to the mention of their name for the work.

29.6 Elma reserves the right of ownership and copyright for the documents provided to the Contractor for the performance of the service (e.g. illustrations, drawings, models, samples). The documents may be used only to process the order and to perform the requested services; they should not be disclosed to third parties without the prior consent of Elma in text form. At the same time, the Contractor shall be obliged to return any duplicates of the documents made by it; the same shall apply to any documents developed from the documents. Models, etc., prepared according to documents from Elma should only be delivered to Elma.

30 Termination and withdrawal

30.1 Elma's right to ordinary termination shall be unaffected.

30.2 In addition, both parties are entitled to extraordinary termination for good cause. Important reasons for one party to cancel arise in particular if:

- A party ceases to make payments or
- Insolvency proceedings have been refused due to lack of assets or
- If the other party violates contractual obligations and this violation is not ended within a reasonable time at the written request of the Contractor. A warning or setting a deadline is dispensable if the continuation of the contractual relationship appears unreasonable due to the seriousness of the breach of obligations, if success is not to be expected or if immediate termination appears justified, taking into account the interests of both parties. Termination without notice is generally excluded if the breach of contractual obligation is immaterial, so that after consideration of all circumstances, termination without notice does not appear to be appropriate.

30.3 The termination must be declared in text form.

30.4 The previous services must be settled according to the agreed conditions.

30.5 The right of both parties to withdraw from the contract shall remain unaffected where legal requirements apply. If at the same time conditions for the right to extraordinary termination exist, there is a right to vote.

31 Safety precautions

31.1 The Contractor shall comply with the duty to ensure public safety at a work facility. The Contractor shall take all the necessary safety precautions in connection with its performance and shall be responsible for setting up, maintaining and, if necessary, supplementing these in accordance with the provisions of the accident prevention regulations.

31.2 If existing safety precautions such as protective covers, railings, stairs, etc. for the performance of the service are temporarily removed, the Contractor is obliged to install the removed devices professionally and safely after performance of the service. For the duration of the removal, the Contractor shall secure all danger zones by means of appropriate measures at its own expense.

31.3 The Contractor shall be liable for all damages resulting from the violation of the aforementioned duty to ensure public safety on items belonging to Elma. If action is taken against Elma by third parties for personal injury or damage to property resulting from the violation of the aforementioned duty to ensure public safety, the Contractor is obliged to release Elma from liability.

31.4 If the Contractor performs work on the premises of Elma, the occupational safety and health regulations and the safety regulations of Elma apply, the current version can be sent free of charge on request.

32 Workers and subcontractors of the Contractor

32.1 The Contractor undertakes not to hire contract workers pursuant to the AÜG (German law on temporary work) and/or any employees who do not possess a valid work permit and/or a valid social security ID. The Contractor authorises Elma or one of Elma's representatives to carry out relevant checks.

32.2 Transferring services to subcontractors requires the approval of Elma in text form. The commissioned companies must be designated by name each time work is outsourced. If work is outsourced to a foreign sub-contractor, the Contractor must also inform Elma of the number and length of service of the foreign workers employed.

32.3 The Contractor also undertakes to Elma to fulfil its obligations to pay the minimum wage and to pay holiday fund contributions in accordance with the AEntG (German law on posting employees abroad) and the subsequent standard provisions and obligations applicable to the Contractor's operation in accordance with the MiLoG (German Minimum Wage Act). The obligations of the Contractor according to

MiLoG include, in particular, but are not limited to, the obligation to pay remuneration at least in the amount of the minimum wage no later than on the due dates specified in MiLoG, the obligation to record the start, end and duration of the daily working hours and retention of these records.

32.4 The Contractor undertakes to ensure that the subcontractors it commissions also do not hire any contract workers pursuant to the AÜG and/or any employees from third countries who do not possess a valid work permit and/or a valid social security ID, that these subcontractors meet both the requirements of the Minimum Wage Act and also impose these requirements on other subcontractors (so-called sub-subcontractors) to the same extent.

32.5 Elma shall be entitled to demand that the Contractor provide proof of the performance of the obligations according to Clauses 32.1 to 32.4.

32.6 Should the Contractor violate one or more of the obligations according to Clauses 32.1 to 32.5, Elma is authorised, subject to any additional rights, to set a grace period it finds appropriate for the fulfilment of the obligations concerned. If this reasonable deadline elapses fruitlessly, Elma is entitled to terminate the contract without notice and to demand compensation instead of performance.

32.7 Should the Contractor commission subcontractors, it shall release Elma from all claims asserted against Elma due to the violation by this subcontractor of the provisions of the AEntG. The Contractor shall also assume by internal arrangement with Elma the obligations by Elma and the Contractor as joint guarantors arising in accordance with Section 1a AEntG, both solely and to the fullest extent. The same applies to commissioning distributors in accordance with the AÜG. The Contractor further releases Elma from any claims of third parties arising from violations of obligations according to the MiLoG.

33 Special rules for services:

33.1 Elma shall be entitled to the statutory claims in the event of a breach of the principal and ancillary obligations of the Contractor, delay in performance, impossibility, delay and non-performance in full.

33.2 The general limitation period of three years shall apply, calculated from the termination of the service or from the handover of any work results, whichever occurs later.

Section D – Special regulations for work services

34 Scope, obligations of the Contractor

34.1 The Contractor undertakes to manufacture/produce and deliver the work exclusively according to the description and specification defined in the individual contract and according to the instructions given in text form by Elma and to make this available to Elma. Prior to the start of the processing, the Contractor must confirm in text form, at the request of Elma, that it has taken note of all details of the description and the specifications.

34.2 If, upon review of the description and specifications as well as the instructions according to Clause 23.1, there are any uncertainties, or if the Contractor has any doubts about the proposed method of execution, quality of the materials provided by Elma or the services provided by other companies commissioned by Elma, the Contractor is responsible for informing Elma of this in text form and working towards amicable clarification with Elma. Elma shall prepare a protocol of this clarification, which shall be signed by both parties to the contract.

34.3 Clause 34.2 shall apply accordingly if the uncertainties or concerns only arise during the course of the performance of the contract. The Contractor must interrupt the service provision until the uncertainties and/or concerns have been completely removed.

34.4 It is the responsibility of the Contractor to start work only when all the particulars of the description and specifications as well as the instructions from Elma have been clarified. The Contractor can demand that Elma declare its approval – if necessary also partial approval – for performing the work in text form.

34.5 Costs incurred by the Contractor because the necessary clarification of uncertainties has not been effected shall be borne by the Contractor.

35 Change request

35.1 If Elma considers changes to be relevant or necessary after the conclusion of the contract, Elma shall inform the Contractor thereof immediately. In this case, agreement between the two parties on the resulting changes to the content of the contract and implementation of the contract is required.

35.2 If the contractual object is subsequently changed or extended, the Contractor is entitled to demand an adjustment of the payment for the additional costs incurred as a result of the change, if the

Contractor has notified Elma of this as an offer for the modification of the contract prior to the change or extension of the contractual object. A claim by the Contractor for the increased payment shall only arise if the offer for the amendment of the contract is expressly accepted by Elma, whereby Elma undertakes to accept the offer if the Contractor proves that the additional costs notified by him are caused by the subsequent change in the contractual object.

36 Cooperation obligations of Elma

36.1 If Elma has to provide services that are required to perform the work, Elma will provide these according to the description and specification in the agreement and by the deadlines specified therein.

36.2 If Elma does not provide these services in accordance with the agreement, the Contractor can demand appropriate compensation from Elma, the calculation of which is specified in the contract or determined as a lump sum in accordance with the amount.

36.3 The Contractor must deduct from this compensation what it saves on expenses as a result of Elma's delay or what it can gain by deploying its labour force elsewhere. The Contractor must disclose this to Elma. The Contractor can fulfil the obligation to disclose by providing Elma with access to the accounts – by an expert who has a professional obligation to maintain confidentiality.

36.4 In such cases, the Contractor shall not have the right to terminate the contract, unless the Contractor cannot be expected to continue to adhere to the individual contract despite the compensation provided for herein.

37 Material

37.1 If it is the responsibility of the Contractor to obtain the material for performance of the service, it shall do so at its own expense and its own risk. The material used by the Contractor must comply with the contractually defined description and specifications. If the Contractor wishes to use equivalent but different material, this use is only in accordance with the contract if Elma has given its prior approval in text form (Clause 1.4).

37.2 To the extent that Elma has stipulated in the contract certain sources of supply for the procurement of the material, only the use of the material originating from this source shall be in accordance with the contract. In such cases and in the case of a legitimate interest of Elma, the Contractor shall, at Elma's request, be obliged to provide evidence to Elma of its suppliers and the place of origin of the material.

38 Termination

38.1 Up until acceptance, Elma is entitled to terminate the work contract at any time without stating reasons.

38.2 If the individual contract is terminated by Elma, the Contractor is entitled to demand proportional payment for partial performances it has already provided in accordance with the contract and for the preparation of future partial performances in accordance with the contract.

39 Acceptance

39.1 Acceptance shall take place after completion of the work. No partial acceptances will take place.

39.2 Where expressly agreed, a protocol on the acceptance shall be drawn up, which must be signed by both parties.

39.3 If the service is not in accordance with the contract and therefore Elma legitimately refuses acceptance, or if acceptance takes place subject to the rectification of defects to be specified in the protocol, the Contractor shall be required to immediately provide a service in accordance with the contract and to remedy the defects, provide notification of the

estimated duration of the elimination of the defect and provide notification of the elimination of the defect after completion of the subsequent work. If necessary, further acceptance of the work shall take place.

40 Warranty, limitation period

40.1 Elma shall be entitled to the rights due to defects in quality and title subject to the statutory provisions on contracts for work and services without any restriction.

40.2 The period of limitation is 36 months, and for works and planning services on buildings, 72 months from acceptance.

40.3 In the case of subsequent performance, the period of limitation according to Clause 40.2 shall begin again from the completion of the repair tasks. However, the new limitation period only refers to the repaired part of the work, if only this part – including a dependent part – has been repaired.

40.4 The limitation period shall be extended by the period during which the work cannot be used due to a defect or its removal. The suspension of the deadline begins on the day on which this defect is notified to the Contractor and ends when the deliverable can be used again by Elma.

Elma Schmidbauer GmbH
As of 01|2021