



Development- and Engineering Contract

Unless otherwise agreed separately the following is agreed:

1. Object of Agreement

The client charges the contractor to develop, design and to compile single part drawings that are required for the construction of the commissioned project. The contractual individual projects, equipment or machinery are described in separate orders. This contract is thereby a general agreement.

2. Completion of Work

2.1 The client gives precise guidelines (specifications) to the contractor, in particular, required or desired properties of the product to be constructed.

2.2 The Contractor shall create preliminary drafts which takes given guidelines into consideration and coordinates this with the customer. The customer places the release of the preliminary drafts with a legally binding signature on the draft or a copy thereof which is a basis for the engineering work. A copy of this will be left to the contractor's records.

2.3 The contractor designs on the basis of the procedure described in clause 2.2 the agreed product. The customer can request information on the progress of work and presentation of the working status at any time.

2.4 The contractor compiles the construction documents such as single part drawings, assembly drawings, parts lists, circuit diagrams, etc., with taking plant internal guidelines (see 2.1) of the customer into account.

2.4.1 For the job-relevant work standards, production methods, to be considered suppliers and other characteristics of the customer and the required CAD system, including its version number and the must be observed guidelines including style sheets have to be brought to the notice of the contractor, unsolicited and completely in writing or in electronic form, prior to the start of construction. This is the responsibility of the customer. The handling of the documents is contained in clause 9.

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2.4.2 If there is no company standard or should these be incomplete, the DIN standards will apply. In case of other lacking specifications the implementation will be in accordance with accepted engineering standards.

3. Approval

The work performed by the contractor which is free from significant deficiencies shall be immediately received by the client after notice of completion. The client is not entitled to refuse acceptance due to minor defects. Such deficiencies shall be documented and can be eliminated under warranty by the contractor. The acceptance shall be deemed granted if the customer does not notify within 30 days after notice of completion and handover a deficiencies notice with deficiencies found by the client. The contractor points out these consequences to the client in the notification of the completion. An economically meaningful and purposeful use of the work of the contractor is equal to an approval.

4. Warranty

The contractor will accomplish the contractual work only with qualified employees. The engineering is carried out carefully, in order to achieve the required and necessary in a tender and performance specifications defined functional properties. All in the order defined design documents such as calculations of component designs, drawings, CAD files, parts lists and accompanying documentation are carefully checked for accuracy and completeness. Components used, are selected from the viewpoints of quality and availability, and reflect the state of the art. Design principles and calculation methods are state of the art, or go beyond this. However, should design and / or manufacturing drawings or other services of the contractor (including counseling) be faulty, the contractor shall be liable only to the following provisions:

4.1 Faulty design and / or manufacturing drawings are rectified immediately by the contractor free of charge.

4.2 In case of deficiencies the contractor shall be entitled for two attempts of remedy before the customer can demand a reduction.

4.3 The warranty claims of the customer under this agreement shall expire one year after delivery of the drawings and the contractual structure.

4.4 For advices that are not related to an engineering contract the contractor is not liable.

5. Delivery Times

5.1 The contractor assures compliance with the delivery times specified in the contract, in case they are accepted as binding. In case there is a delay in delivery for any reason, then the contractor shall immediately inform the customer and seek a new agreement, which replaces the original contract version.

5.2 In case of change requests by the customer during the project are causing relevant additional work, or the construction documents provided by the customer are not according to the status stipulated in the assignment in order to fulfill required quality standards of the construction, the contractor will inform the customer as quickly as possible about the new completion date. In this case the contractor shall be entitled to adjust the time schedule.

5.3 For damage caused by delay, the contractor shall be liable only
- if he has that caused by gross negligence or willful misconduct, or
- limited to the foreseeable, typically occurring damage, if the delay is due to the culpable breach of a cardinal obligation.

6. Compensation

6.1 The amount of compensation and payment methods are specified in individual orders.

6.2 The contractor will implement all change requests of the client as good as possible. In general all change requests shall be compensated, unless they are insignificant in amount.

6.3 Additional expenses caused by the fact that the construction documents provided by the customer are not according to the status stipulated in the assignment or must be reworked in order to fulfill a quality standard that is required for the construction, the client has to compensate the contractor.

6.4 In the cases of clause 6.2. or clause 6.3. the contractor will inform the customer as quickly as possible about the expected additional work.
In such cases the contractor shall be entitled to adjust the quotation. Separate quotations for additional work and expenses are to be prepared.
The contractor will give a reasonable period of time to the client for a written acceptance of the quotation.

6.5 If not specified in the contracts, travel costs and travel times do not include third parties and will be charged separately.

7. Transfer of Ownership

The ownership of the contractual structure, in particular of all construction documents such as drawings, CAD files, documentation and calculations shall only be transferred if the contract is complete fulfilled by the customer, in particular only by full payment of the provided construction work. In case of additional expenses, the ownership of the contractual engineering remains with the contractor until the parties reached agreement on an appropriate compensation of the increased effort and this agreed compensation was paid in total to the contractor. In this case the customer has subject to the full payment of compensation according to clause 6.1 a temporally and spatially unlimited right of use.

8. Property Rights

8.1 Industrial Property Rights

The customer will be informed in writing about inventions by employees of the contractor during the contractual work and will be offered to the customer. The client shall notify the contractor if he wants to acquire the rights of the invention no later than four weeks prior to expiration of the statutory time limit for a patent application. The customer is in charge for preparation and implementation of property rights applications. With a separate agreement it is possible that the customer authorizes the contractor to prepare and implement the property right application. All costs related to these property rights applications will be borne by the customer. The customer, who will acquire the invention or the property rights application, will take over the rights and obligations for the inventor of the employer, which are according to the law of employee inventions under the provision the employee agrees. If the employee does not consent, the customer of the contractor shall release all rights and obligations.

If the client does not want to acquire the rights of the invention, the contractor shall be entitled to take limited or unlimited claim and register the property rights on own expenses. The rights of the property right then remains with the contractor, who shall, however provide a free, irrevocable, non-transferable right to use to the customer.

8.2 Use of Property Rights by the Contractual Parties

If any of the parties intend to discontinue a property right, which was acquired due to contractual work, it shall be notified in sufficient time the other party in writing. If the other party does not agree to acquire the property right at its own expense within one month after receipt of the notice, the respective right holder is entitled to release the property right by taking the law on employee inventions into account.

9. Competition clause / Confidentiality

9.1 The contractor agrees not to work on similar developments for the competitors of the client during the contractual project work and a in the contract determined period of time after the project.

9.2 The contractor agrees to keep confidential all technical and commercial details of the customer disclosed due to the contractual work. The contractor will unclose contractual developments to third parties neither during development nor after completion. The contractor shall oblige its employees in the same way.

9.3 Due to the fact that the under clause 1. described system is under development by the contractor the complete project is classified as confidential.

9.4 The confidentiality obligation does not apply on information or documents that are or will be obvious without breach of contract or the contractor had received from third parties which are authorized to disclose it to the public. The contractor shall be entitled to nominate the customer after the purchase and with the consent of the customer as a reference customer. The client will not refuse consent without an important reason.

10. Enticement of Employees

The customer guarantees that contractor's employees will not be engaged by the customer within one year after completion of the contractual work. The same applies to the contractor.

11. Cancellation

11.1 The Notice of Termination must be in writing.

11.2 In the cases of cancellation by the customer, the contractor shall be entitled to receive the contractually agreed compensation in spite of the cancellation. However the saved expenses as a result of the cancelation of the contract or/and alternatively acquired use of its employees have to be deducted from the agreed compensation.

11.3 The contractor shall be entitled to cancel the contract if the customer fails his duty to cooperate and support, after the contractor has granted a reasonable period of time to rectify this activity, with the declaration that he will cancel the contract if the activity will not be made until the end of deadline. Clause 11.2 applies mutatis mutandis.

12. Final Clauses

12.1 Is one of the above provisions invalid, then the parties undertake to replace them with a valid provision that comes as closely as possible to the sense of the invalid provision. All other clauses will remain unaffected.

12.2 In case of any disputes arising from contracts between client and contractor, as jurisdiction the contractor's place of business is agreed.

12.3 All changes and additions to this contract must be in written form. This formal requirement can be waived only by written agreement.

Oberboihingen, Jan 31, 2016

Vogel Technik GmbH

