
**General Purchasing Conditions for
Work Contracts**

Marquard Engineering GmbH & Co. KG
46539 Dinslaken
Schöttmannshof 10a

erstellt / Freigabe V. Marquard
Datum 14.12.2020
Rev 4.1

General Purchasing Conditions for Work Contracts

The abbreviated terms used in the conditions stand for

Marquard Engineering
GmbH & Co. KG
or client of
Marquard Engineering
GmbH & Co. KG

Contractor (AN)	the contractor appointed by Marquard Engineering GmbH & Co. KG or a client of Marquard Engineering GmbH & Co. KG to carry out the services and/or deliveries, in the tendering phase also the bidder.
Customer	Client of Marquard Engineering GmbH & Co. KG

List of contents

1	CONTRACT PRINCIPLES	5
1.1	Orders, conditions	5
1.2	Limitation of the order value	5
1.3	Order of priority of the contractual documents.....	5
2	PRICING	5
3	SCOPE	5
3.1	Prices	5
3.2	Personnel costs.....	5
3.3	Residence and work permit.....	5
3.4	Requesting of implementation documents.....	6
3.5	Work flow.....	6
3.6	Building and assembly report	6
3.7	Correct and professional implementation	6
3.8	Complete implementation of the work	6
3.9	Checking of documents before the start of the work	6
3.10	Operational tests and test runs	6
3.11	Additional work beyond work limits	6
4	BUILDING SITE EQUIPMENT	6
5	SAFETY REGULATIONS AND RULES	6
7	MAINTENANCE AND DOWNTIMES	7
7.1	Notification.....	7
7.2	Confirmation of maintenance and downtimes.....	7
8	TEMPORARY LEASING OF EMPLOYEES	7

9	TESTS, TEST CERTIFICATES	7
9.1	Tests.....	7
9.2	Rejection and rectification	7
9.3	Additional costs, repeat tests.....	7
9.4	Test certificates	7
9.5	Completion of the work.....	8
10	ACCEPTANCE AND FULFILMENT LIABILITY	8
10.1	Acceptance	8
10.2	Fulfilment liability.....	8
11	DEADLINES	9
11.1	Work plan and schedule.....	9
11.2	Delays	9
12	LIABILITY AND INSURANCE	9
12.1	Liability	9
12.2	Liability insurance.....	9
12.3	Assembly insurance	9
12.4	Notification of claims	9
13	SETTLEMENT	9
13.1	Settlement basis.....	9
13.2	Public holidays	10
13.3	Travel expenses.....	10
13.4	Luggage conveyance.....	10
13.5	Use of private cars	10
13.6	Journey time.....	10
13.7	Family trips home.....	10
13.7.1	Domestic long-distance employment	10
13.7.2	Employment abroad	10
13.8	Incapacity to work during the period of employment	10
13.8.1	In this country.....	10
13.8.2	Abroad	10
13.9	Deductions, personal and company taxes	11
14	PAYMENTS	11
14.1	Basis of payment.....	11
14.2	Assignment of claims	11
14.3	Offsetting of claims.....	11
15	TERMINATION, SUSPENSION, WITHDRAWAL, INSOLVENCY OR BANKRUPTCY PROCEEDINGS	11
15.1	Termination and suspension	11
15.2	Continuation of the work	11
15.3	Withdrawal	11
15.4	Insolvency or bankruptcy proceedings.....	11
16	CONFIDENTIALITY	12
16.1	Confidentiality obligation	12
16.2	Use of documents	12
16.3	Reproductions.....	12
16.4	Return of documents.....	12
16.5	Publications.....	12
17	THIRD-PARTY RIGHTS, INVENTIONS, IMPROVEMENTS	12
17.1	Third-party rights.....	12
17.2	Inventions, improvements	12

18	DATA PROTECTION CLAUSE	12
19	PLACE OF PERFORMANCE, APPLICABLE LAW, PARTIAL INVALIDITY, JURISDICTION AND BINDING FORCE	13
19.1	Place of performance	13
19.2	Applicable law	13
19.3	Partial invalidity	13
19.4	Jurisdiction	13
19.5	Binding force	13
20.0	VALIDITY PROVISIONS	13

1 Contract principles

1.1 Orders, conditions

Only written orders are binding. In order to acquire legally binding force, verbal agreements must be confirmed in writing by Marquard Engineering. Unless otherwise set out in the order letter and accompanying order-related documents, these "General Delivery and Service Conditions for Work (Delivery) Contracts" exclusively prevail. If applicable, they supplement the official, statutory and customer's conditions and requirements. Differing general or special conditions of the contractor are only binding for Marquard Engineering if Marquard Engineering expressly declares that it is in agreement with them. Neither does acceptance of the delivery signify their approval.

1.2 Limitation of the order value

The order value is a predetermined value limit. If the contractor sees that the order value is being exceeded he must immediately request a follow-up order in writing, stating the reasons. Marquard Engineering is not obliged to make use of the entire order value: settlement then takes place on a pro rata basis of completed deliveries and/or services.

1.3 Order of priority of the contractual documents

The following order of priority applies:

- the order
- the order-specific conditions and documents
- the "General Delivery and Service Conditions for Work (Delivery) Contracts"

2 Pricing

Unless otherwise agreed the order value is a fixed price.

3 Scope

3.1 Prices

Unless otherwise agreed the prices stated in the order include all costs for the services and deliveries described below. The following list is for explanatory purposes only and does not claim to be complete.

3.2 Personnel costs

Personnel costs to be borne by the contractor are salary, wage, incidental wage and overhead costs, work and protective clothing usually worn in the sector, the provision of the usual tools and accessories used in the sector as well as the costs of employee insurance, post, telephone and similar costs such as luggage insurance.

3.3 Residence and work permit

In the case of deliveries and/or services within the Federal Republic of Germany the contractor must only employ non-German personnel (EU citizens are put on the same footing as German citizens) only if they have a valid residence and work permit for the entire duration of employment.

In the case of deliveries and/or services abroad the contractor must only employ personnel with a valid residence and work permit for the country in question for the entire duration of employment.

If necessary the contractor will obtain entry visas as well as residence and work permits for the Federal Republic of Germany or the relevant foreign country and bears all the costs of the insurances, e.g. health insurance, pension insurance etc that have to be taken out in the countries involved.

3.4 Requesting of implementation documents

The contractor must request the implementation documents to be provided by Marquard Engineering so that they can be handed over in good time.

3.5 Work flow

Via the Marquard Engineering site management the contractor must coordinate his work with other companies working on the building site so that they do not hinder each other.

3.6 Building and assembly report

The contractor must draw up a building and assembly report every day.

3.7 Correct and professional implementation

The contractor is responsible for the correct and professional implementation in accordance with the state of the art of the services and/or deliveries set out in the order and order-related documents, including the required tests.
See point 9 with regard to this.

3.8 Complete implementation of the work

The services and/or deliveries must be carried out to the extent that operationally safe use of the installation is guaranteed, even if the services and/or deliveries required for this are not specially listed in the order documents.

3.9 Checking of documents before the start of the work

All measurements in plans and descriptions must be checked by the contractor. In the event of errors Marquard Engineering's site management must be informed before carrying out the services and/or deliveries.

3.10 Operational tests and test runs

Operational tests and test runs must be carried out in consultation with Marquard Engineering.

3.11 Additional work beyond work limits

If agreed, additional work beyond work limits in consultation with Marquard Engineering.

4 Building site equipment

Building site equipment in accordance with the given conditions is made available to the contractor.

5 Safety regulations and rules

When planning and carrying out the services and/or deliveries, the contractor must on his own responsibility observe the statutory regulations of the supervisory authorities, the provisions of the responsible insurance companies as well as the designated technical regulations (standards, guidelines of professional associations) in their relevant valid versions. These include:

- local official regulations relating to health and safety at work, environmental and property protection,
- provisions of the accident insurance company at the company headquarters of the contractor as well as locally valid accident prevention regulations and contractual provisions of insurance companies,
- safety instructions issued by the Marquard Engineering site management as part of the above regulations, contractual provisions and relevant technical regulations. In the case of multiple regulations the strictest requirements apply.

6 Building site regulations

The building site regulations are attached to these conditions and form an integral part thereof.

7 Maintenance and downtimes

7.1 Notification

If maintenance and downtimes occur, the contractor must notify the Marquard Engineering site management immediately.

7.2 Confirmation of maintenance and downtimes

Maintenance and downtimes must be presented to the Marquard Engineering site management on a daily basis in order to confirm material accuracy.

8 Temporary leasing of employees

The services and/or deliveries of the contractor are carried out exclusively on a work (delivery) contract basis. This also applies to any additional and/or supplementary work not covered by the contract value in accordance with point 1.2. If different arrangements are made in exceptional cases the provisions of the law on the regulation of commercial temporary leasing of employees (Law on the temporary leasing of employees - AUG) must be strictly observed and the Marquard Engineering site management must be notified immediately.

9 Tests, test certificates

9.1 Tests

All officially, statutorily and/or contractually stipulated tests must be arranged by the contractor in consultation with Marquard Engineering. In addition, Marquard Engineering is entitled to check services and/or deliveries carried out by the contractor or have them checked by a commissioned test company. If defects come to light, the contractor bears the costs.

9.2 Rejection and rectification

If services and/or deliveries are not in accordance with the statutory and/or official regulations and/or the contractual agreements, Marquard Engineering can reject them in full or in part and demand immediate rectification of the ascertained defects at the cost of the contractor. If the contractor is in default Marquard Engineering can have the defects rectified at the costs of the contractor.

9.3 Additional costs, repeat tests

If additional costs are incurred by the contractor, e.g. through travel and/or longer periods spent by the Marquard Engineering personnel on the building site, the contractor will reimburse these. This also applies to repeat tests.

Notification must take place in enough time for the tests and rectification of any defects still to be possible during the agreed assembly period and/or during the commissioning phase.

9.4 Test certificates

The results of the tests must be recorded in test certificates signed jointly by the contractor, Marquard Engineering and, if required, by the customer. The signing of test certificates by Marquard Engineering or a test company appointed by it, does not release the contractor from his contractual obligations. The relevant test certificates must be issued in the required number and in the appropriate contract language.

9.5 Completion of the work

The completion of the work by the contractor is confirmed in writing by the Marquard Engineering site management once all the deliveries and/or services have been carried out in accordance with the contract and are operating correctly. The contractor must apply for this confirmation.

If the Marquard Engineering site management signs a report or acceptance certificate or similar document, this does not affect the liability of the contractor for any undetected, open or hidden defects, nor the start of the guarantee; the contract alone applies here.

10 Acceptance and fulfilment liability

10.1 Acceptance

Acceptance of the contractor's scope of delivery and/or service takes place at the time of acceptance of the entire installation by Marquard Engineering's client or the end customer.

10.2 Fulfilment liability

The contractor also guarantees that his deliveries and/or services have no defects that impair use or operation and that they exhibit the properties indicated or agreed by the contractor.

The warranty period is one year following successfully completed commissioning of the entire installation for which the contractor's deliveries and/or services are intended, at the most two years after complete implementation of the contractor's deliveries and/or services if commissioning has been delayed for reasons for which Marquard Engineering is responsible.

For work on buildings the warranty period is always at least five years. The warranty period for the entire service and/or delivery is extended by the periods during which the subject matter of the delivery or part of the installation for which the deliveries and/or services were carried out, is out of action due to defects for which the contractor is responsible.

All defects in the contractor's deliveries and/or services occurring during the warranty period will be immediately rectified free of charge by the contractor and at Marquard Engineering's choice through repair at the final destination, through rectification or newly carrying out of the defective service, or through replacement of the defective parts with repaired or new parts at this location, and the contractor will compensate damages due to defects. If necessary the contractor must initially take temporary measures free of charge. The replaced parts are made available to the contractor at the above location. Rectification of defects includes the assumption of all necessary expenses by the contractor. These expenses include, in particular, transport, customs, mileage and labour costs, as well as assembly and dismantling costs. Rectification of defects also includes eliminating the causes of the defect. The contractor also bears all the costs incurred for rectifying the defect and its causes as well as for eliminating the causes. If the contractor is in default with rectifying the fault, Marquard Engineering is entitled to replacement at the expense of the contractor. If only minor defects are involved, in the event of risk to life and limb, endangering of operational safety, and in order to avoid disproportionately greater damages, Marquard Engineering is also entitled to the above replacement right even if the precondition of default is not present.

The provisions of this point also apply to the warranty in the event of repair or replacement. In this case the warranty period for repaired or replacement parts of the installation begins with their commissioning, for repaired or newly carried out services and/or deliveries once they have been completed in full.

Limitation of Marquard Engineering's right of complaint is suspended if after notification of defects the contractor has not rejected Marquard Engineering's claims in writing. The rights of complaint expire within six months of such a rejection, but at the earliest on expiry of the warranty period extended by a possible suspension period.

In the case of redhibition Marquard Engineering is entitled to free use of the contractor's service and/or deliveries until a replacement solution is ready for operation on site, at the most however for two years as of written enforcement of the redhibition demand. As part of taking back his services and/or deliveries the contractor must restore the previous condition.

The contractor exempts Marquard Engineering from all claims made against NV -EnerTech in accordance with the product liability regulations in respect of the contractor's deliveries and/or services.

11 Deadlines

11.1 Work plan and schedule

If agreed, the contractor must submit a work plan and schedule with the implementation deadlines to Marquard Engineering before starting the work.

11.2 Delays

If the contractor realises that the agreed deadlines cannot be met, he must inform Marquard Engineering immediately in writing, giving the reasons and indicating the envisaged duration of the delay.

12 Liability and insurance

12.1 Liability

Unless otherwise agreed the contractor is liable for all damages for which he is responsible in accordance with the statutory regulations. In terms of grounds and amount the liability of the contractor is not limited to the sum covered by the insurance.

12.2 Liability insurance

The contractor must take and maintain appropriate liability insurance, including environmental liability, with a cover sum of at least EUR 1,500,000.00 for personal injury and material damage. In the case of goods with a final destination abroad it must be ensured that this insurance cover is also available for damage occurring abroad. The contractor exempts Marquard Engineering from all claims made against Marquard Engineering for which the contractor is responsible in connection with this deliveries and/or services.

Before starting work the contractor must through his insurance company provide evidence to Marquard Engineering of the existence of liability insurance through the submission of a confirmation valid for the duration of this contract.

12.3 Assembly insurance

If Marquard Engineering's customer or the end customer does not take out assembly insurance, Marquard Engineering as a rule takes out assembly insurance of the construction, assembly and commissioning, the provisions of which are in accordance with the German "General Assembly Insurance Conditions" (AMoB) with the normal industrial clauses. In this case the interests of the contractor in respect of his portion of the services and/or deliveries are included in the insurance with the proviso that the contractor assumes an excess of EUR 5,000.00 per claim.

The contractor can obtain information from Marquard Engineering about the existence and scope of cover of insurance protection in individual cases.

12.4 Notification of claims

All claims must be notified immediately in writing to Marquard Engineering GmbH & Co. KG or the Marquard Engineering site management.

13 Settlement

13.1 Settlement basis

The basis of settlement of the work carried out is constituted by settlement documents confirmed by Marquard Engineering. Marquard Engineering templates must be used to draw up the settlement documents.

13.2 Public holidays

Public holidays are the statutory holidays in the federal state in which the work is being carried out, in the case of services and/or deliveries being carried out abroad, the local statutory holidays in the country in which the work is being carried out.

13.3 Travel expenses

Travel expenses incurred in accordance with the Marquard Engineering directives for the journey, means of transport and class, including at the place of deployment, are refunded against receipts. Travel time between the place of work and accommodation is not considered as working time and is not remunerated by Marquard Engineering.

13.4 Luggage conveyance

The costs of conveying luggage are not reimbursed. Customs and customs clearance charges for personal luggage are the responsibility of the contractor's employee. The costs of carrying work-related luggage agreed with Marquard Engineering (assembly tools, business papers etc) are reimbursed in full against receipts. Marquard Engineering determines the means of transport and route.

13.5 Use of private cars

The use of a private car for the journey is only paid for if permission has been granted by Marquard Engineering. No travel expenses may be paid for passengers. If an employee of the contractor uses a private care without the permission of Marquard Engineering, the travel costs are only paid up to the amount of the means of transport stipulated by Marquard Engineering. Longer journey times are also not paid for in connection with this. If a private car is used with or without the permission of Marquard Engineering, no claims can be made against Marquard Engineering or its insurance company in the event of damage.

13.6 Journey time

The actual journey time is paid for at the normal hourly rate up to a maximum duration of 12 hours/day. This also applies to journeys at night and journeys on Saturdays, Sundays and public holidays.

13.7 Family trips home

13.7.1 Domestic long-distance employment

The provisions of the Federal Building Collective Bargaining Agreement apply. The time of the family trip home must be determined in consultation with the Marquard Engineering site management taking into consideration the operational requirements at the site. The allowance is not paid from the time of arriving at the place of residence to the time of departure from the place of residence to the place of work.

13.7.2 Employment abroad

Marquard Engineering reimburses the costs of a family trip home at the earliest after 6 months of employment at the building site, insofar as a total period for employment of at least 9 months is anticipated.

In all cases the date of the family trip home is determined by the circumstances on the building site and requires the consent of Marquard Engineering's site management.

13.8 Incapacity to work during the period of employment

13.8.1 In this country

The provisions of the Federal Building Collective Bargaining Agreement apply.

13.8.2 Abroad

Medically determined incapacity to work must be notified to the Marquard Engineering site management immediately. The latter will then make the necessary further arrangements.

13.9 Deductions, personal and company taxes

The deductions, personal and company taxes applicable in accordance with local and national laws and regulations are payable by the contractor and/or his employees.

14 Payments

14.1 Basis of payment

Payments are made in accordance with the conditions of the order letter after receipt, verification and approval of the invoices. Acknowledgment of the contractual conformity of the services and/or deliveries is not connected with payment.

14.2 Assignment of claims

The contractor is not entitled to assign claims arising out of this contract to third parties without the written consent of Marquard Engineering.

14.3 Offsetting of claims

The contractor agrees that Marquard Engineering can offset claims against him with claims arising out of services and deliveries against Marquard Engineering GmbH & Co. KG, Dinslaken, even if the due dates differ or if on the one hand cash payment and on the other instalment payment has been agreed. If necessary the balance is offset.

15 Termination, suspension, withdrawal, insolvency or bankruptcy proceedings

15.1 Termination and suspension

Marquard Engineering can at any time or partially

- a) terminate the contract,
- b) suspend it for a certain period
- c) have the suspended contract rescinded again through an appropriate declaration.

In the event of termination Marquard Engineering must pay the actual costs, unless the contractor has given rise to the termination. Evidence of entitlement to the costs claimed by the contractor must be provided. If Marquard Engineering exercises the right to continue the suspended contract the contractual conditions and calculation principles must be assumed. However, any changes in relationship that have occurred in the meantime must be taken into account when redetermining the remuneration, deadline and payment conditions. All other conditions remain unchanged.

15.2 Continuation of the work

If the contractor is responsible for the termination, Marquard Engineering can carry out or have carried out by third parties still unfinished parts of the delivery and/or services at the expense of the contractor. This also applies in the case of insolvency or bankruptcy processing. Other claims and rights of Marquard Engineering remain unaffected.

15.3 Withdrawal

If the service and/or delivery is/are delayed by a state of war, official measures or cases of force majeure, Marquard Engineering is entitled to withdraw from the contract after a period of six months.

15.4 Insolvency or bankruptcy proceedings

If the contractor or one of his creditors applies for insolvency or bankruptcy proceedings against the assets of the contractor, Marquard Engineering can withdraw from the contract without prejudice to other rights and claims. Marquard Engineering is entitled to enter into the contractor's agreements with his suppliers. The same applies if the contractor does not meet interim deadlines and does not make up these arrears within an additional period set by Marquard Engineering.

16 Confidentiality

16.1 Confidentiality obligation

The contractor is committed to confidentiality. Without claiming to be a complete list, the following are subject to confidentiality:

Marquard Engineering, Marquard Engineering customer and/or partner know-how, specifications, drawings, plans, calculations, operating methods and figures, guidelines and contents of contracts. The contractor must also keep in confidence all operational procedures, equipment, installations etc at NV -EnerTech and the Marquard Engineering customer and/or end customer, which he has become familiar in connection with his work for Marquard Engineering, even after completing orders vis-à-vis third parties not involved in fulfilling the contract. The contractor must impose a corresponding written obligation on his vicarious agents.

16.2 Use of documents

The contractor must only use documents issued to him in trust in connection with fulfilling the contract, and must only make them available to third parties within the context of fulfilling the contract for the purposes indicated by Marquard Engineering. The contractor is also responsible for third-party confidentiality and must impose appropriate obligations on them.

16.3 Reproductions

Documents may only be reproduced with the express permission of Marquard Engineering.

16.4 Return of documents

On completion of the contractor's work for Marquard Engineering the documents, including copies thereof, must be returned to Marquard Engineering or destroyed free of charge at the request of Marquard Engineering.

16.5 Publications

Publications in the press, radio, television etc must be approved in writing by Marquard Engineering.

17 Third-party rights, inventions, improvements

17.1 Third-party rights

The contractor guarantees that through the services and/or deliveries or the use thereof, no rights will be infringed and no claims made by third parties against Marquard Engineering due to infringement of such rights. If third-party rights are infringed, Marquard Engineering is entitled to compensation for damages to Marquard Engineering irrespective of his culpability. At the contractor's cost Marquard Engineering is entitled to obtain permission to use the relevant services from the authorised party.

17.2 Inventions, improvements

If the contractor makes inventions or improvements while implementing the contract, Marquard Engineering is entitled to use these free of charge and without restriction. Marquard Engineering's customer is also entitled to the unrestricted and free use of these rights.

18 Data protection clause

In accordance with the Federal Data Protection Law, Marquard Engineering is entitled to process personal data relating to the contractor.

19 Place of performance, applicable law, partial invalidity, jurisdiction and binding force

19.1 Place of performance

The place of performance of the work is the customer's or end customer's works premises, for payment Dinslaken.

19.2 Applicable law

The legislation of the Federal Republic of Germany applies, excluding both conflicting rules as well as the standard law on the international purchasing of movable goods, the standard law on the conclusion of international purchasing contracts relating to movable goods and the United Nations convention on the international purchasing of goods.

19.3 Partial invalidity

If individual provisions of these conditions are invalid, the validity of the other provisions is not affected by this. Invalid provisions must be replaced with valid provisions that come as close as possible to the economic intention.

19.4 Jurisdiction

The place of jurisdiction for all disputes arising out of the contract is Dinslaken. Marquard Engineering is entitled to take action at any legal venue established for the contractor.

19.5 Binding force

In the event of deviations resulting from the translation of these conditions or parts thereof, only the German version has legally binding force.

20.0 Validity provisions

Should one or more of the above provisions be or become legally invalid, the remainder continue to be valid. The contractor must agree to new conditions which come closest to the invalid ones in terms of intent and economic success. Changes to the contract must be made in writing.