

General Terms and Conditions

Juli 2012

Dorfner Analysenzentrum & Anlagenplanungsgesellschaft mbH (ANZAPLAN)

§ 1 Area of Application

1. The following General Terms and Conditions apply to all bids, supplies, services and advisory services and other transactions of Dorfner Analysenzentrum und Anlagenplanungsgesellschaft mbH (hereinafter referred to as "ANZAPLAN GmbH") specifically in the areas of research, process development and analysis.

2. Our General Terms and Conditions apply only to entrepreneurs under sect. 310 (1) of the Civil Code.

§ 2 Applicability of the Terms and Conditions

1. The transactions of ANZAPLAN GmbH listed under § 1 are carried out exclusively on the basis of these General Terms and Conditions. They shall also apply to all future business relationships without the need for this to be expressly agreed upon. Other Terms and Conditions, in particular those of the contractual partner shall not be valid, even if ANZAPLAN GmbH does not expressly reject them or if delivery is effected in the knowledge of said conflicting terms without expressing opposition hereto.

2. Deviations from these General Terms and Conditions are only effective if confirmed in writing by ANZAPLAN GmbH. Oral agreements have no standing. Any agreements made on behalf of ANZAPLAN GmbH by its representatives must be confirmed in writing by ANZAPLAN GmbH.

§ 3 Offers and Conclusion of Contract

1. Offers issued by ANZAPLAN GmbH are not binding. Declarations of acceptance and all orders become legally binding only after confirmation in writing or by facsimile by ANZAPLAN GmbH. The same applies to amendments, modifications or subsidiary agreements.

2. Statements and performance specifications are only binding insofar as this is expressly agreed in writing by the parties. Statements in catalogues, leaflets, circular letters, advertising, illustrations and price lists, in particular those regarding weight, dimensions, volumetric capacity and physical attributes are not binding between the parties unless they are subject to an explicit contractual agreement between the parties.

3. ANZAPLAN GmbH can accept an offer which it receives within the next 2 weeks which follow.

§ 4 Subject Matter of the contract

1. Development orders which the contractual partner issues to ANZAPLAN GmbH do not include an obligation on the part of ANZAPLAN GmbH to bring about a certain contracted result. Development orders in this context are in particular orders whereby the contractual partner specifies to ANZAPLAN GmbH a required product standard or product parameter which he requests and for which ANZAPLAN GmbH is to develop a technical operation or process, in order to achieve the desired product standard or product parameter (e.g. processing of a partly finished product).

2. As a result of the fact that ANZAPLAN GmbH's contractual partner only provides raw materials or natural products with a particular intended end result, ANZAPLAN GmbH can neither be held liable for a particular outcome with regard to the product standards or product parameters mentioned under 1. and desired by the other party nor guarantee a particular result.

3. Insofar as ANZAPLAN GmbH undertakes scientific project management at the contractual partner's premises or on his behalf, the activities of ANZAPLAN GmbH will be of an advisory nature only. ANZAPLAN GmbH can neither be held liable for a particular outcome in this regard nor guarantee a certain result.

4. For the Analysis sector, ANZAPLAN GmbH shall - under the contract with the contractual partner - provide a statement of expertise. ANZAPLAN GmbH will carry out activities in the fields of analysis of solids (examination of mineral raw materials, of paper, glass and ceramics as well as all other types of raw materials and basic materials), analysis of water (examination of municipal and industrial waste water, surface, ground and seepage water as well as drinking, mineral and bathing water) and environmental analysis (examination of soil and waste products of one type).

§ 5 Methodology

ANZAPLAN GmbH shall carry out the analyses in accordance with recognised technological principles. The contractual partner has no claim on the analysis specifications or test procedures developed by ANZAPLAN GmbH. Something else only applies should ANZAPLAN GmbH be liable for the instructions or processes as a performance item.

§ 6 Dangerous Samples

If the samples or materials provided to ANZAPLAN GmbH contain special risks or dangers (e.g. explosive, radioactive, carcinogenic or other) the contractual partner must draw attention to the risks and dangers by means of appropriate labelling of the samples and materials and, in addition, making a written note in the order.

§ 7 Dates and Terms

1. The dates and terms stated by ANZAPLAN GmbH shall be non-binding, unless otherwise expressly agreed in writing.

2. Dates for completion of the transaction start from the conclusion of the contract, not, however, before receipt and clarification of all necessary materials and documentation or granting of any official licenses.

2a. Should the contractual partner be in acceptance default or culpably infringe other participatory rights, then ANZAPLAN GmbH is entitled to demand compensation for the damage that has arisen inclusive of any additional expenditure. The right to further-reaching claims remains intact.

2b. Given that the requirements of Paragraph 3 are on hand, the risk of accidental loss or accidental deterioration of the performance passes over to the contractual partner at the time when he is in default in acceptance.

§ 8 Pricing

1. The prices stated in ANZAPLAN GmbH's quotations are only binding for the period during which the quotation retains validity.

2. Any prices quoted by ANZAPLAN GmbH do not include applicable sales, use, excise and similar taxes, if any, and are exclusive of freight, carriage and packaging, insurance and other ancillary costs.

§ 9 Payment

1. Unless otherwise agreed, sales invoices shall be due immediately and payable net (i.e. without discount) within 14 days from the date of invoice. The statutory provisions on consequences of a default in payment apply. Written agreement must be on hand for discounts to be deducted.

2. Payment is deemed to have been made only when ANZAPLAN GmbH has

full access to the funds. Money orders, cheques and promissory notes shall only be accepted subject to payment by the contractual partner of all processing and discounting fees.

3. The contractual partner is only entitled to offset or withhold payment in cases where the counter-claim is not disputed or has been finally assessed by a court. Moreover, he is only entitled to exercise a right of retention given that his counter claim is based on the same contractual relationship. The contractual partner agrees that ANZAPLAN GmbH may offset accounts receivable against accounts payable.

4a. If the contractual partner is in default with an instalment, then ANZAPLAN GmbH is entitled to declare the entire account receivables as being immediately due and payable.

4b. Should the contractual partner make false statements about his financial situation or should his financial circumstances deteriorate following conclusion of contract to the extent that his credit standing - on the basis of objective, banklike aspects - has substantially worsened and realisation of ANZAPLAN GmbH account receivables is very much at risk, then ANZAPLAN GmbH is entitled to declare the rest of the outstanding payment obligations as being immediately due and payable. This also applies to the acceptance of bills of exchange and cheques.

4c. Given the actual deterioration in the credit standing of the contractual partner, then ANZAPLAN GmbH is entitled to withdraw from the contract.

§ 10 Warranty

1. ANZAPLAN GmbH shall be liable for defects for one year after delivery of the goods to the contractual partner. If the parties have agreed to acceptance after inspection/ technical approval, the warranty period starts from completion of this acceptance procedure.

2. Notifications of defects will only be recognised if made in writing to ANZAPLAN GmbH within the warranty period.

3. If the contractual partner gives timely notice of a defect, ANZAPLAN GmbH can at its discretion repair or exchange the defective goods. In the case of a slight breach of contract, in particular slight defects, the contractual partner shall not have the right to withdraw from the contract.

4. All liability for defects is excluded, if the defect was caused by the contractual partner by inappropriate and/or unsuitable treatment of the services or if the latter

were, at least, responsible for the said defect.

§ 11 Industrial Property Rights

1. ANZAPLAN GmbH retains all rights, specifically the title or copyright and other industrial rights to all bids, cost estimates which it has submitted as well as the drawings, drafts, plans, reports, calculations, brochures, catalogues, models, tools and other documents and aids as well as information placed at the disposal of the contracting party. The contracting party may not make these documents and information, either as such or as regards content, industrially or commercially accessible to third parties, disclose them, use them themselves or through third parties or reproduce them without the express consent of ANZAPLAN GmbH. At the request of ANZAPLAN GmbH they must return these documents and information in full to ANZAPLAN GmbH and destroy any copies they may have made or specifically, in the case of electronic storage, destroy these irreparably if no longer required by them in the course of normal business, or if negotiations do not result in the conclusion of a contract.

2. The surrender of the documents and information mentioned in section 1. shall not be considered as an offer or a granting of licences or other beneficial rights in relation to the contracting party. The contracting party is not permitted to market, sell, further develop or change the processes based on the documents and information for its own or third-party purposes without the prior written consent of ANZAPLAN GmbH. The contracting party is prohibited from using the documents and information or parts thereof to apply for patent rights on intangible property, either in Germany or abroad.

3. The contracting party undertakes not to copy, reproduce, re-publish, make available or transmit the documents and information mentioned in section 1. for their own or third-party commercial purposes or to use them for the creation of derivative works or in any other form whatsoever for industrial or commercial purposes without the prior written consent of ANZAPLAN GmbH.

4. The contracting party is only permitted to use the trademarks, brands and other logo or other patent rights with the prior written consent of ANZAPLAN GmbH and only in the interests of ANZAPLAN GmbH.

5. The contracting party shall procure that third-party industrial property rights are not infringed by their supply of materials or instructions in relation to form, measurements, colour, weight or comparable parameters. The contracting party shall indemnify ANZAPLAN GmbH against all claims by third parties, includ-

ing all court costs and other costs which result from an infringement of the aforementioned rights.

§ 12 Liability and limitation of Liability

1. Insofar as nothing else is expressly provided for hereinafter, our liability is excluded.

2. The liability as a result of negligent injury to life, limb or health and the liability under the product liability law remain unaffected hereby.

3. In case of intent or gross negligence on the part of ANZAPLAN GmbH or the agents or vicarious agents of ANZAPLAN GmbH we will be liable in accordance with the legal stipulations; the same applies to culpable infringement of material contractual obligations.

4. Insofar as no intent or gross negligence is given, our liability for damages is limited to the predictable, typically occurring damage. These claims for damages become statute-barred within 12 months after transfer of risk or from acceptance, to the extent that acceptance was previously agreed.

5. ANZAPLAN GmbH does not accept liability for materials, components, goods, freight instructions, processing instructions or similar which have been supplied by the contracting party insofar as otherwise not expressly agreed in writing. ANZAPLAN GmbH is not required to check the aforementioned parts in relation to their compliance with the regulations of the product liability law and/or the Civil Code or other legal covenants. The contracting party shall indemnify ANZAPLAN GmbH in such cases in full against claims by third parties.

§ 13 Data Protection

Within the existing limits of data protection legislation, ANZAPLAN GmbH shall be permitted to store and process personal data pertaining to the contractual partner.

§ 14 Confidentiality Agreement

1. The parties mutually undertake to treat in confidence information and data which they have received in the context of the implementation of the joint project from the respective other party and to only make these available to such persons who are practically involved in the implementation of the joint project. The parties specifically undertake to use the information only for the contemplated purpose and not to disclose or make available the information to any third party without prior written consent of the other party.

2. Any passing on of information to third parties is only admissible if a non-disclosure agreement has been con-

cluded with these persons through which the adherence to the non-disclosure obligations is guaranteed under § 14, to the extent that they are not already sworn to secrecy on the basis of legal covenants.

3. At the request of the other party all supplied documents with information or specimens must be returned or destroyed or, specifically in case of electronic storage, to be destroyed irreparably. No documents containing information shall be duplicated without the prior written consent of the other party. All publications which contain information shall require the prior consent of the other party.

4. The aforementioned agreements relate to all information which is exchanged between the parties during, or prior to the formation of the business relationships in any form whatsoever or which becomes known to the respective other party in any other way.

5. The parties undertake to mutually protect the received information from access by unauthorized third parties with the care with which they protect their own business and industrial secrets.

6. The surrender of the information shall not be considered as an offer or a granting of licences or other beneficial rights to the information in relation to the other party. ANZAPLAN GmbH reserves

the right to register propriety rights to its information. The contracting party may not use information or parts thereof for the registration of patent rights on intangible assets.

7. The aforementioned obligations in sections 1. to 6. are not applicable to information

- a) which was already generally accessible and evident at the time of its notification,
- b) which becomes generally accessible and evident after its notification through publications by third parties or elsewhere by other means than by infringement of this agreement,
- c) which the respective party already legitimately possessed at the time of its notification,
- d) which one party is required to disclose under applicable laws or a legally effective ruling. Also in this case it shall be procured that strictest confidentiality is maintained as circumstances require.

8. ANZAPLAN GmbH shall not accept any guarantee in relation to the disclosed information, especially not in relation to its freedom from errors, completeness or usability. ANZAPLAN GmbH will likewise not guarantee that the use of the confidential information does not infringe third-party patent rights or copyrights, or does not cause any damage to the respective other party or third parties.

§ 15 Governing Law, Place of Jurisdiction, Severability Clause

1. This business relationship and all legal dealings between ANZAPLAN GmbH and the contractual partner shall be governed by the laws of the Federal Republic of Germany without regard to conflict of law principles or the UN Convention on the International Sale of Goods (CISG).

2. For all disputes arising from the agreement where the contractual partner is a company or public legal entity or a public law trust the exclusive jurisdiction shall lie with the court in whose area of jurisdiction ANZAPLAN GmbH has its head office. ANZAPLAN GmbH however has the right at its own discretion to bring action against the contractual partner at his business address.

3. The exclusive place of performance for all claims arising from the agreement as far as allowed by statutory laws shall be 92242 Hirschau, Germany.

4. If any term of these Terms and Conditions or a term of any other agreement should be invalid or become so, this shall not affect the validity of the remaining terms or agreements. In this case, ANZAPLAN GmbH and the contractual partner shall replace the invalid term with a legally valid term whose contents come as close as possible to the economic purpose of the invalid term.

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