

# General Business Conditions (AGB) for Temporary Leasing of Employee Contracts (AÜG) NV-EnerTech Consultant und Engineering GmbH (hereinafter referred to as NV-EnerTech)



These conditions form part of all NV-EnerTech offers and contracts in the field of temporary leasing of employees. Differing conditions, in particular contradicting business conditions of customers and additional agreements require the express written consent of NV-EnerTech.

NV-EnerTech assures its customers that it is in possession of the latest version of the required permission of the competent Federal employment agency in accordance with §§ 1 and 2 of the law on the regulation of commercial temporary leasing of employees of 07.08.1972 (Federal Gazette SI 1293).

## 1. Offer and conclusion of contract

NV-EnerTech's offers are always conditional plus VAT. Contracts must be in written form. This applies to supplements and additions to contracts accordingly. No rights vis-à-vis NV-EnerTech can be derived from verbal or telephone agreements, information etc, irrespective of whether they are given after conclusion of a contract or not, except in the event of gross negligence for which NV-EnerTech is responsible.

## 2. Dates and deadlines

2.1 Industrial disputes and other abnormal circumstances such as national measures etc, irrespective of whether they affect the operation of NV-EnerTech or that of the customer, release NV-EnerTech from its obligations for the duration of their effect, and totally if they make it impossible to meet its obligations.

2.2. Compensation claims due to default in the case of temporary leasing of personnel or due to non-fulfilment are excluded, unless they are based on gross culpability for which NV-EnterTech is responsible.

## 3. Right of rejection

3.1 If one of the personnel leased by NV-EnerTech does not meet the contractual requirements, the customer is entitled to reject this person within 4 hours of starting work without have to remunerate these hours.

3.2 NV-EnerTech must be informed immediately of such a rejection. As far as possible, NV-EnerTech will endeavour to provide an immediate replacement. This applies accordingly in the event of absence of personnel leased by NV-EnerTech.

## 4. Employment relationship

4.1 The deployment of personnel leased by NV-EnerTech does not constitute an employment relationship between the personnel leased by NV-EnerTech and the customer; NV-EnerTech remains the employer to all intents and purposes.

4.2. During deployment at the relevant place of work the leased personnel are subject to the directions of the customer. The latter assumes the obligations in accordance with § 618 Federal Code and familiarises the leased personnel in detail with the work to be carried out under his auspices.

He must also instruct the personnel leased to him in the statutory and other regulations applicable at the relevant workplace (in particular the

company-specific accident prevention regulations) and monitor their observance during the period of deployment. This applies in particular to the Law on Working Hour Rights (ArbZG); in the event of any necessary extensions of working hours NV-EnerTech must be approached by the customer in good time beforehand. The customer must make first aid equipment and measures available to the leased personnel and advise them of the operational risk at the workplace before they commence work. In the case of harmful effects of noise or hazardous substances, NV-EnerTech must be informed before the start of work.

4.3 The leased personnel must not be used for the conveyance or collection of money, nor as messengers, drivers or in any other way outside their profession without the express written permission of NV-EnerTech.

## 5. Employment conditions at the lessee's business

If no collective-bargaining agreement applies to the employment relationship, the employment conditions in force for a comparable employee at the lessee's business apply, including remuneration.

## 6. Accidents at work

The customer must immediately inform NV-EnerTech of any accidents at work suffered by the leased personnel and must provide NV-EnerTech with the details in writing as well as report the accident to the Professional Association responsible for the customer.

## 7. Claims and liability

7.1. Any complaints must be directed to NV-EnerTech immediately in writing.

7.2 Compensation claims of any kind against NV-EnerTech or its employees are ruled out, unless it can be proven that NV-EnerTech or its employees were grossly negligent in selecting the personnel made available to the customer. In commercial dealings NV-EnerTech is only liable for its own gross negligence and that of its executive employees: this applies accordingly in commercial dealings in the cases of points 1.2 and 2.2. The amount of NV-EnerTech's liability is in all cases limited to 1.5 million euros per claim for personal injury, material and property damage.

## 8. Limitation

All claims directed against NV-EnerTech and/or its employees lapse after 6 months. The limitation period starts when the claim arises, but at the latest at the time of availability at the customer's of the NV-EnerTech's invoices relating to the disputed work in accordance with point 9.2.

## 9. Remuneration and payment

9.1 Settlement is based on hours work in accordance with the agreed payment rates. In the absence of written agreements to the contrary, the NV-EnerTech payment rates do not include any hardship allowance. The customer must check and countersign the working hour records of the personnel leased by NV-EnerTech on a monthly basis. Through

countersignature the customer confirms that the contents of the working hour record are correct and also acknowledges them as the basis for settlement. This applies accordingly if the customer does not countersign the working hour records submitted to him at the end of each month without immediately notifying NV-EnerTech of this in writing and giving his reasons.

9.2 The customer must make payment, without deductions, to NV-EnerTech immediately on receipt of the invoices, which are generally issued monthly.

9.3 As of the due date for dealers, and as of default for other customers, NV-EnerTech is entitled to charge dealers interest amounting to 4% p.a. above the applicable discount rate of the German Federal Bank, plus any commissions and costs; NV-EnerTech reserves the right to enforce other claims.

9.4 If circumstance arise after concluding the contract which give NV-EnerTech reason to seriously doubt the payment ability or creditworthiness of the customer (e.g. due to payment arrears or default, disputed cheques and bills), or if NV-EnerTech only become aware of them then, NV-EnerTech is entitled to immediately call in all outstanding (including deferred) invoice sums immediately and demand cash payment or guarantees from the customer. If the customer does not meet these demands NV EnerTech can withdraw from the contract and claim immediate payment for the work carried out and compensation for all consequential costs.

## 10. Assignment, retention and offsetting

10.1 The customer is not entitled to transfer rights arising out of contracts with NV-EnerTech to third parties and - as far as can be ruled out - enforce retention rights vis-à-vis NV-EnerTech.

10.2 Offsetting with customer counterclaims is only permitted if these are approved in writing by NV-EnerTech and established as being due or legally valid.

## 11. Termination

Unlimited temporary leasing contracts can be terminated in writing at any time by both parties with a period of notice of two calendar weeks.

## 12. Jurisdiction and applicable law

12.1 In commercial dealings the exclusive place of jurisdiction for both parties in the case of all disputes arising directly or indirectly out of the contractual relationship (including documents, bills, cheques) is Dinslaken District Court.

12.2 The law of the Federal Republic of Germany applies.

## 13. Partial invalidity

If individual provisions of the conditions or the contract are or become invalid, the validity of the remaining provisions is unaffected thereby.

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