

## **GENERAL TERMS AND CONDITIONS OF PURCHASE OF GOODS AND RENDERING SERVICES to ORLEN Upstream Sp. z o.o.**

The present General Terms and Conditions of Purchase of Goods and Rendering Services of ORLEN Upstream Sp. z o.o. (hereinafter referred to as the 'General Conditions'), together with the contract and all enclosures, jointly constitute uniform Agreement (hereinafter referred to as the 'Agreement') between Parties. Any reference to Seller's offers or proposals, either binding or non-binding, does not mean the acceptance of any conditions or reservations included in those documents, if its acceptance has not been clearly expressed in the Agreement. In case of discrepancy between the contract and the General Conditions, provisions of the contract shall be binding for Parties.

### **Definitions:**

<b>'Buyer'</b>	means ORLEN Upstream Sp. z o.o., 01-208 Warsaw, ul. Przyokopowa 31 Str., NIP (tax ID): 522-280-86-91
<b>'Seller'</b>	means entity, with which the Buyer has concluded the Agreement
<b>'Order'</b>	means Buyer's order for Goods or for Goods and Service, with which the General Conditions are enclosed. Acceptance of an Order together with General Conditions by the Seller means conclusion of the Agreement, unless otherwise arises from the Order
<b>'Agreement'</b>	contract between the Seller and the Buyer together with enclosures and General Conditions,
<b>'Goods'</b>	material goods (including necessary equipment, additional materials, documentation and other), sale and delivery of which constitutes the subject of the Agreement,
<b>'Service'</b>	services provided accessorially to sale and delivery of the Goods, in conjunction with the necessity of their montage, installation or preparation for use by the Buyer,
<b>'Parties'</b>	mean the Seller together with the Buyer,
<b>'General Conditions'</b>	mean the contents of the present General Terms and Conditions which are the integral part of the Agreement and which constitute contractual standard within the meaning of the article 384 of the Civil code.

## **Article I: Conditions of conclusion and realisation of the Agreement**

1. The Seller and the Buyer may conclude an Agreement in any procedure, including acceptance by the Seller of an Order sent by the Buyer. Each time the Buyer shall determine in an Order time limit for acceptance of the Order and the consequences of the lapse of that time limit. Unless mandatory rules of law stipulates otherwise, the Order may be accepted by the Seller only through the statement placed directly in writing or via fax.
2. The Seller shall inform the Buyer immediately about any circumstances that may affect delivery of Goods or Goods and Services on time. However preceding information shall not exempt the Seller from the obligations specified in the Agreement. The Seller undertakes to enable the Buyer to verify the stage of progress of realisation of the Agreement by the Seller. Therefore the Seller shall provide the Buyer with the access to appropriate premises, documents and goods. Costs of verification mentioned above shall be borne solely by the Buyer. The Buyer shall inform the Seller about date of such verification 5 days in advance.
3. Not later than 7 days prior to appointed date of consignment, the Seller shall be ought to send to the Buyer arrival note, giving following information: number of the Agreement (Order), the way of consignment and the expected date of consignment, specification of consignment including the number, weight, size and content of packages together with all instructions essential for proper transportation and unloading of Goods.
4. The following documents should be delivered together with the Goods (regardless of documents used for accounts between Parties, sent by the Seller through the post):
  - copy of invoice,
  - specification of consignment including the number, weight, size and content of packages,
  - complete technical documentation essential for proper montage at the place of usage and correct start-up, operation and maintenance, containing i.a. constructional and installation drawings with necessary details concerning mechanical, control-metering and electric aspect, etc.
  - material approvals, certificates of analyses, tests and authorisations required by the legal regulations in the Republic of Poland and European Union.
  - operating instruction of proper storage of goods.
5. The date of delivery is a date of handover of the Goods to the Buyer at a place specified in the Agreement or in the General Conditions and of acknowledgment of that fact by the document confirming factual delivery of Goods.
6. Change of the date of delivery agreed in the Agreement, requires written consent of the Buyer.
7. Unless otherwise stipulated in the Agreement, partial deliveries require written consent of the Buyer. Unless otherwise stipulated in the Agreement, in case of partial deliveries, as a date of the delivery shall be deemed a date of the realisation of the final partial delivery.
8. The Goods shall not be deemed delivered unless all documents essential for realisation of consignment, as well as required documentation and certifications are received by the Buyer.
9. In case of imported Goods, the Seller is liable for admission of Goods to dealing in Polish customs area in accordance with legal regulations in Poland, with reservation of mandatory rules of law.
10. In case of delivery of the Goods from the territory of European Union the Seller is obliged to fulfil all requirements arising from the legal regulations of European Union, in

specific INTERSTAT and VAT, with reservation of mandatory rules of law.

11. The Seller undertakes to perform Agreement with respect for environment protection law within the scope he is obligated to and according to general commitments regarding protection of environment contained in Policy for Integrated Management System of ORLEN Upstream Sp. z o.o.

## **Article II: Contractual penalties and withdrawal from the Agreement**

1. In case of delay of delivery of Goods or Goods and Services for reasons other than Force Majeure stipulated in Article VII of the present General Conditions, the Seller shall be obligated to pay to the Buyer contractual penalties in amount of 0.3% of the value of Goods delivered after agreed date, for each of the first 10 days of delay. For each following day of delay contractual penalty shall be 0.5% of the value of the Goods or respectively Goods and Services for each day. The total amount of contractual penalties for delayed deliveries is limited to the amount of 20% of the value of goods delivered with delay. In case of Goods or Goods and Service delivered with delay, constitute integral part of the subject of the Agreement and its lack prevents Buyer from use of delivered Goods, then basis for the contractual penalties shall be total value of the Agreement.
2. Abovementioned contractual penalties do not exclude right to impose contractual penalties on the Seller under other provisions of the Agreement and right to pursue any damages under any titles by the Buyer from the Seller, with reservation of the item 3 below.
3. In case of damage sustained by the Buyer as a result of non-performance of the Agreement by the Seller exceeds the amount of stipulated contractual penalties, the Buyer is authorised to seek damages under this title pursuant to general provisions of law.

4. If stipulations of this Article find application the Buyer shall have right to reduce price resulting from the Agreement by the amount of contractual penalties. Regardless of a form of settlement - deduction from the invoice or wire transfer – the Buyer shall issue a debit note in amount of contractual penalties.
5. With reservation of the Article VII, in case of non-performance or inability to performance of the Agreement by the Seller, within agreed time limit, the Buyer shall have right to withdraw from the Agreement not giving additional time to the Seller for performance of his obligations and, in case the subject of obligation shall be purchase of things designated only as to their kind, to purchase, at cost of the Seller, the same volume of things of the same kind or to demand from the Seller payment of their value - in both cases retaining right to claim damages for Seller's delay. In such case the Buyer at its discretion shall conclude suitable contract with a third party. The Seller hereby undertakes to release the Buyer from liability for performance of abovementioned obligation in favour of the third party, within the scope of so called purchase at cost of the debtor. The Seller shall be obligated to make abovementioned payment against VAT invoice issued by a third party or by the Buyer.

## **Article III: Payment**

1. Unless otherwise stipulated in the Agreement then:
  - price in the Agreement is a fixed price,
  - due payment should be realised as a transfer to a bank account indicated on the invoice, within the 30 days since date of acceptance of a handover protocol (mentioned in a article VI) and receiving by the Buyer, properly issued VAT invoice, depending on which of the above happened later,

- the date of debiting the bank account of the Buyer shall be deemed the payment date,
- If delivery of the Goods or the Goods and Service shall not be performed to the full extent in the meaning of the Article I, the Buyer shall have right to postpone payment until performance of the subject of the Agreement to the full extent by the Seller. However it does not limit Buyer's right to enforce stipulations of Article II.

#### **Article IV: Tax and VAT invoice**

1. Apart from statutory requirements a correct invoice should contain following information:
  - quantity of Goods (kind of Service) with net and gross unit prices of each item. Each item from the Agreement (from Order) should be specified on the invoice in the same way as in the Agreement (Order),
  - name / description of Goods (Goods and Service) or reference to a relevant items of specification constituting enclosure to the VAT invoice,
  - number of the Buyer's Agreement (Order),
  - terms and date of payment according to the Agreement (Order).
2. The Seller is obligated to issue VAT invoices in accordance with provisions of law and to archive copies of VAT invoices confirming performance of a transaction, being basis for the Buyer to decrease due VAT by the amount of VAT charged at moment of purchase of Goods (Goods and Service), during period arising from legal provisions in force. In case of failure to perform the above requirement or if VAT invoice issued by the Seller or a copy of VAT invoice archived by the Seller is found incorrect, the Seller shall be obligated to make up for the Buyer's loss, resulting from imposition of a tax obligation including sanctions

and interests, imposed on the Buyer buy a tax office or Revenue in amounts determined in a decision of tax office or the Revenue.

#### **Article V: Infringement of a patent and other right of the third party**

1. Te Seller declares there exist no valid patents or other industrial property rights, copyrights and neighbouring rights, know-how of a third parties that may be infringed by the Buyer as a consequence of usage or disposal of purchased Goods.
2. If the above declaration prove to be untruth the Seller hereby undertakes to release the Buyer from liability in case of any allegations or objections of a third parties against the Buyer, regarding infringement of abovementioned rights and to pay any potential cost (including costs of legal services) and damages awarded by a court against the Buyer, under condition that Buyer shall immediately notify the Seller about allegations of such kind and resulting claims and that Seller shall be able and shall have right to explain those allegations and objections at its own cost and to defend or to control defence against potential claims of a third party.

#### **Article VI: Receipt of a delivery**

1. The Goods should be examined by the Buyer immediately after receipt. Receipt of Goods shall be on the ground of a handover protocol. The Seller has right to participate in such handover at its own cost, upon prior notification of the Buyer about its intent, not later than on the day of consignment. The day of consignment shall be deemed the day defined as a day of consignment in an Order.
2. The Seller is liable for completeness of content of delivered Goods in accordance with specification of consignment and with invoice enclosed with Goods. In case of lack

of any of the items, they shall be delivered by the Seller under rule DDP 'Buyer's warehouse or other location designated by the Buyer', according to INCOTERMS 2000. The Seller undertakes to bear all cost of delivery of abovementioned items.

3. Not laying claims on account of defectiveness of Goods in a handover protocol shall not limit possibility of further claims, if defects appeared after handover and signing the handover protocol.

- right to privacy and family life,
- right to freedom of opinion and expression,
- right to freedom of assembly and association,
- right to own property;
- assign these obligations to its suppliers/contractors.

2. In case of non-fulfilment of the foregoing obligations, Customer shall be entitled to rescind the contract with immediate effect. In addition, the supplier/contractor shall be obliged to pay per infringement a contractual penalty of 5% of the contract price but Euro 20,000 at a minimum which shall be used by Customer for a humanitarian purpose beyond the enterprise of the Customer. By payment of the contractual penalty Customer shall not be hampered to claim any damage exceeding the contractual penalty.

### Article VII: Code of Conduct

1. Contractor is aware that Customer is committed to a Code of Conduct that is based on the UN Global Compact. Contractor declares to also commit to the values set out therein. In relation to Customer the following applies:

In particular, Contractor is obliged to:

- refuse to offer, pay or accept bribes (bribes are payments and other benefits made to effect wrongful acts or failures to act);
- pay remunerations exclusively for legitimate services;
- permit gifts, hospitality and similar payments only within the limits of generally accepted business practice;
- demonstrably relate commissions and payments to third parties to legitimate business expenses, linked to the services rendered and to account for them openly;
- to ensure in relation to its employees:
  - equality and non-discrimination when hiring and during the employment
  - adequate living wages
  - right to association and collective bargaining
- avoid and not to accept child labour or forced labour (see definition F.) in manufacturing its products and delivering of its services;
- respect human rights in its scope of activities, especially:

3. Customer is at all times entitled to verify the compliance with these obligations. Supplier/contractor shall be entitled to nominate with binding effect experts of internationally recognized organisations focussed on human rights and child labour (e.g. Amnesty International, UNICEF) for the execution of the verification. This includes access to all relevant information as well as to all persons, locations and documentation concerned. The auditors shall be obliged to confidentiality. If the supplier/contractor refuses or prevents such verifications, Customer shall be entitled to rescind the contract with immediate effect.

4. Customer shall only be entitled to rescind the contract according to B. or C. or to impose a penalty after the supplier/contractor has failed to follow a written invitation to discuss the results of the evaluation within a reasonable time (one month after the invitation at most) or if such discussions failed to achieve adequate measures and dates for improvement. Further, Customer shall only be entitled to rescind the contract or to

impose a penalty if agreed measures were not executed timely or were not executed at all.

5. If supplier/contractor refuses discussions or agreement on measures according to D. Customer shall be entitled to execute the contractual consequences according to B. and C. directly. In case Customer exercises the right to rescind the contract, Customer shall merely pay adequate compensation for deliveries or services useful in its discretion.
6. Definitions Child labour is:
  - Any work performed by persons under the age of 12 years;
  - Work performed by persons from 12-15 years which does not constitute light work. Light work is work that is not harmful to health or development and does not prejudice attendance at school or other educational institutions.

Work done in schools for educational purposes as well as work of persons of at least 14 years in apprenticeship programs is not prohibited. Work, school and transport must not exceed 10 hours per day, in total.

Prohibited is hazardous work performed by persons under the age of 18 years. Hazardous work is work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

The types of hazardous work are determined by national law, taking into account the following factors:

- exposure to physical, psychological or sexual abuse,
- physical surroundings: work underground, under water, at dangerous heights, in confined spaces
- unhealthy environment: e.g. hazardous substances, agents or processes, temperatures, noise levels, vibrations harmful to health,
- particularly difficult conditions: long hours, during night, manual handling and transport of heavy loads, unreasonable confinement to premises of employer,
- use of dangerous instruments: machinery, equipment, tools.

Prohibited are further:

- Forced or compulsory labour, including forced recruitment for use in armed conflict.
  - All forms of slavery or practices similar to slavery, such as the sale and trafficking of children.
  - Use for prostitution or for the production of pornography or for pornographic performances.
  - use in illicit activities, e.g. trafficking of drugs.
  - forced or compulsory labour is any work or service extracted from any person under the menace of penalty and for which the said person has not offered her/himself voluntarily. For the purposes of this code of conduct, this term includes slavery and practices similar to slavery, such as debt bondage and serfdom.
7. Customer is aware of its specific duties and responsibilities, in particular respecting cultures of the different host countries. Customer's advertisements, commercials and publications in general and as well in particular related to sponsor activities must not offend or violate religious or cultural feelings of the people living in the surrounding community and wider society where Customer operates. Related to products delivered or services rendered to Customer Contractor is also obligated to act accordingly.
  8. Supplier/contractor shall be obliged to abide by all laws and regulations concerning the protection of the environment. In case of non-compliance sections B. to E. shall apply accordingly.

#### **Article VIII: Force Majeure**

1. The Parties shall not be liable for partial or full non-performance of their obligations under Agreement, caused by the Force Majeure.
2. The Force Majeure shall be understood as any event that could not be foreseen at the moment of conclusion of the Agreement and can not be prevented, being beyond the

control of each of the Parties, in specific: war, domestic riots, flood, fire, earthquake and other natural disasters.

3. The Party that is not able to perform its obligations due to the Force Majeure is obligated to notify about this fact the other Party immediately, however not later than within 7 days since occurrence of such events and to prove it reliably. When the effect of Force Majeure stops the other Party should be notified about it immediately. Omission of the above requirement results in loss of right to invoke existence of Force Majeure.

### **Article IX: Guaranties**

1. The Seller guarantee that Goods delivered under the Agreement shall be in compliance with specification, drawings and any other requirements of the Agreement and new, unused, of good quality, appropriate and suitable for usage defined in Agreement, properly designed, of proper workmanship and manufactured from a proper material, free of faults and defects and that satisfactorily shall meet technological requirements described in the Agreement.
2. The Seller guarantee that Goods shall be manufactured, placed and installed in compliance with legal provisions binding in the Republic of Poland, including, work safety regulations (BHP) and fire regulations as well as Polish Norms and regulations regarding technical inspection (UDT/PED) and other norms binding within territory of European Union.
3. Unless otherwise stipulated in the Agreement, the guarantee shall cover period of 24 months since date of signing by the Parties of the handover protocol regarding delivered Goods or in case of delivery of Goods and Service – since start-up/installation of Goods. The guarantee includes faults of Goods caused by any reason.
4. The Buyer shall lodge a complaint immediately after ascertainment of defect of Goods. Within 2 days since receipt of information about defects, the Seller is obligated to notify the Buyer about taken measures or measures that are going to be taken and time needed to eliminate defects.
5. According to stipulations of this Article VIII, the Seller at its own cost, including cost of de-installation and reinstallation, travelling and accommodation expenses of Seller's specialists, is obligated to repair and/or replace Goods or its damaged parts immediately. Immediately the Parties shall agree whether to repair or to replace Goods or its damaged parts, taking into consideration any significant circumstances. Replaced items or items that are going to be replaced by the Seller shall be put at its disposal Ex Works 'Buyer's warehouse or other location designated by the Buyer' (INCOTERMS 2000). New items shall be delivered under rule DDP 'Buyer's warehouse or other location designated by the Buyer (INCOTERMS 2000).
6. If ,before actions taken by the Seller in order to repair or carry out replacement, inspection by the Seller is necessary, the Seller is obligated to carry out such inspection at its own cost, as fast as possible, however it should be finished within 3 working days (excluding Saturdays) since receipt of complaint and after notification of the Buyer.
7. If the Buyer's complaint regarding quality of the Goods shall not be acknowledged by the Seller, then results of analysis of the Goods, carried out by independent laboratory chosen together by both Parties shall be final and binding for the Parties. If within 30 days since Buyer's motion in writing to choose the laboratory in accordance with the procedure mentioned in sentence above, the Parties shall not make a choice, then the Buyer independently shall have right to indicate laboratory

competent to carry out such analysis. The Buyer shall bear cost of such analysis only if its complaint was found unjustified.

8. Moreover the Buyer shall have right to repair and replace parts on his own or through other entity at Seller's cost, if repairs are minor or necessary to avoid further damages or have to be carried out immediately for other important reason. The condition for use of stipulation in a foregoing sentence is prior notification of the Seller.
9. If the Seller, being notified about occurrence of a defect, shall not undertake immediate measures in order to eliminate it within the time limit designated by the Buyer, then the Buyer shall have right to undertake any necessary measures to repair damage at Seller's cost and risk. However it shall not release the Seller from its contractual obligations.
10. Seller's guarantee for a Goods or part of it repaired or replaced according to this Article VIII shall be extended for next 24 months since the date of repair/replacement.
11. Guarantee does not exclude Buyer's rights under warranty for physical or legal defects of Goods or Goods and Service.

#### **Article X: Services**

Agreement for supply of Goods may also include Services that in specific are rendered by the Seller within area of the Buyer's plant. Unless otherwise stipulated in the Agreement then:

1. Value of the Services is included in price stipulated in the Agreement.
2. Any additional costs regarded to the Services rendered by the Seller such as costs of accommodation, travelling, insurance of the Seller's personnel etc. shall be borne by the Seller.
3. The handover protocol shall be the confirmation of performance

of the Service by the Seller. The provisions of Article VI shall apply accordingly.

4. The Seller is obligated to provide the personnel having qualifications to perform Services properly and on time.
5. If realisation of Services requires cooperation of the Seller's and the Buyer's personnel, the Seller shall be liable for correctness of directions and instructions given by its personnel. More important instructions should be delivered by the Seller's personnel in writing.
6. The Seller shall be fully liable for damages and losses resulting from actions of the personnel rendering Services as well as for those arising from misleading instructions and directions delivered by the Seller's personnel.
7. The Seller ensures that Services rendered by it are performed properly and in accordance with the Agreement. If, within 24 months since performance of the Service, there shall be found any faults or other inconsistencies of the Service with the Agreement then Seller shall be obligated to eliminate them immediately at its own cost. For the faults of a Service rendered in order to achieve specific result, the Seller shall be liable under warranty as same as person accepting order in a contract of specific work.
8. The Seller is obligated to fully insure its employees for a period of rendering Service at Buyer's plants. On the Buyer's demand the Seller shall present to the Buyer relevant insurance policy. With reservation of mandatory rules of law the Seller shall borne risk and any potential consequences and claims regarded with:
  - accidents of the Seller's personnel occurred during performance of the Service,



- damages and losses caused by the Seller's personnel, suffered by the third parties,
  - damage or destruction of tools and other equipment belonging to or in possession of the Seller or its personnel.
9. The Seller's personnel is obligated to comply with regulations applicable at Buyer's plants
  10. Within a scope not regulated by the present Article, to the Services shall apply stipulations of the present General Conditions regarding delivery of Goods.

Court of Arbitration at the National Chamber of Commerce in Warsaw.

3. Unless mandatory rules of law stipulates otherwise, under pain of nullity any terms amendments and supplements to the Agreement shall be valid only if confirmed by both Parties in writing.

### **Article XI: Liability**

The Seller undertakes to release the Buyer from obligation to pay to third parties for any personal injuries or damages in natural environment, caused by the Goods or in conjunction with usage of the Goods, being result of defectiveness of Goods or performed Services.

### **Article XII: Final clauses**

1. To all matters not regulated by the Agreement, the provisions of Polish law shall apply, in specific Polish Civil Code but to Agreements concluded with entrepreneurs having registered seat beyond territory of Poland, on the territory of states – being party of Convention on Contracts for the International Sale of Goods drawn up in Vienna on the 11<sup>th</sup> of April 1980 – within the scope not excluded by the stipulations of the Agreement, the provisions of this Convention shall apply.
2. All disputes arising from the Agreement, in specific in connection with its conclusion, infringement, expiration, termination and annulment, shall be finally resolved – with regard to domestic Sellers – by a common court competent in respect of the seat of the Buyer and with regard to foreign Sellers - by