

# General terms and conditions of purchase

This document contains the general terms and conditions of purchase of **Oleon GmbH (Germany)**. If you sell to another Oleon company, please contact your purchasing representative to obtain the general terms and conditions of purchase for your region.

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## A. General

**This section A. "General" applies to all purchases of goods and/or services of any kind**

### 1. Definitions

For the purposes of these GTC's, the following terms shall have the meaning assigned to them therein:

- "Affiliates" means, in relation to a **person** who is not a natural person, any entity that directly or indirectly **controls**, is **controlled** by, or is under common control with that **person**;
- "Applicable Law(s)" means German law (see [Section 23.2](#)) as well as all statutory and official provisions of the European Union (in particular EU Regulations), the Federal Republic of Germany and its federal states

relevant to the Contract and its contractual performance, as well as all relevant technical regulations, ordinances and guidelines, as well as the applicable EN and DIN standards and the relevant standards and guidelines of technical associations and the codes of practice (*anerkannte Regeln der Technik*);

- "BGB" means the German Civil Code (*Bürgerliches Gesetzbuch*);
- "Business Hours" means the period from 9.00 a.m. to 5.00 p.m. on any working day;
- "CISG" means the United Nations Convention on Contracts for the International Sale of Goods;
- "Confidential Information" has the meaning ascribed to it in [Section 16.1](#);
- "Contract" means an agreement between the **Supplier** and **Oleon** for the purchase of **Goods** from the **Supplier** and/or the provision of **Services** by the **Supplier**, including but not limited to those concluded by the acceptance of an **Order** by the **Supplier** or by an **Order** in response to an offer by the **Supplier**;
- "Control" means (i) direct or indirect ownership of at least 50.1% of the shares or voting rights of the other entity or (ii) any other arrangement whereby a **party** has the right to appoint and/or remove a majority of the board of directors or equivalent governing body of the other entity;
- "Destination" is the address specified in the **Order**;
- "Force Majeure Event" has the meaning as described in [Section 18](#);
- "Goods" are all goods and products in the broadest sense of the word as set out in the **Purchase Order**;
- "GTC's" are these general terms and conditions of purchase as amended from time to time;
- "HGB" means the German Commercial Code (*Handelsgesetzbuch*);
- "Intellectual Property Rights" means (i) inventors' rights, patent rights, utility model rights, (ii) trademark rights, trade names, trade designations, work title rights, (iii) copyrights and ancillary copyrights, rights in computer programs in any form (including source code and object code), database rights, (iv) design rights, (v) Internet domains, (vi) trade and business secrets, confidential information, secret and non-secret know-how, (vii) other registered and unregistered intellectual property rights, (viii) all registrations and corresponding applications worldwide and all goodwill associated with intellectual property rights, and (ix) all licenses and corresponding or similar rights in any of the foregoing worldwide;
- "Oleon" means Oleon GmbH, Industriestraße 10 in 46446 Emmerich am Rhein, Germany, registered in the commercial register of Kleve Local Court under HRB 8404;
- "Oleon Documents" means all models, samples, drawings, data, materials and other documents provided by Oleon to the **Supplier**;
- "Order" (or "Purchase Order") means any formal request or order from **Oleon** to the **Supplier** for the supply of **Goods** and/or the provision of **Services** by the **Supplier**, including any written amendments thereto;
- "Party" or "Parties" means the **Supplier** and **Oleon**, which may be referred to collectively as **parties** or individually as a **party**;
- "Personnel" means any **person** who works for the **Supplier** in connection with the performance of the **Services** owed by the **Supplier**, in particular its directors, managing directors and employees as well as the subcontractors commissioned by the **Supplier** and other third parties whose assistance the **Supplier** uses to fulfill its contractual obligations;
- "Purchase Order" (or "Order") means any formal request or order from **Oleon** to the **Supplier** for the supply of **Goods** and/or the provision of **Services** by the **Supplier**, including any written amendments thereto;
- "REACH" means Regulation (EC) No. 1907/2006/EC;
- "Sanctions" are all laws, regulations, embargos or other restrictive measures aimed at preventing or changing a certain behavior of certain persons or a certain situation, in particular economic sanctions, as amended from time to time;
- "Section" means a clause of these GTC's, unless otherwise stated;
- "Services" are all services in the broadest sense of the word that are listed in the **Order**, including services (*Dienstleistungen*), construction services and works (*Werkleistungen*);
- "Specification(s)" means the specifications of the **Goods** or **Services** required or approved by **Oleon** (including, but not limited to, those contained in the **TDS**, where relevant);
- "Supplier" means the supplier of the **Goods** and/or the provider of the **Services** to **Oleon**;

- "Technical Data Sheet" or "TDS" means a document from the Supplier containing the standard technical specifications and quality level for the Goods;
- "Working Days" are all days with the exception of nationwide public holidays in Germany and public holidays in the federal state of NRW.

## 2. Applicability and order of precedence

- 2.1. **Scope and Applicability.** These GTC's together with the relevant Purchase Order from Oleon constitute the terms and conditions under which Oleon wishes to purchase Goods and/or Services from Supplier. When Supplier accepts Oleon's Purchase Order, either by confirmation, production or delivery of Goods and/or commencement of the provision of Services, a binding contract is concluded and these GTC's apply.

Oleon does not agree to any proposed amendment, modification or addition by Supplier. No amendment to the binding Contract shall be valid unless made in writing and signed by a duly authorized representative of Oleon. No other statement or writing by Supplier shall modify, amend or otherwise affect the Contract.

Any general terms and conditions of Supplier that may apply to transactions with Oleon are hereby expressly rejected and shall only apply if and to the extent that they are expressly recognized by Oleon in writing. In particular, any reference by Oleon to letters from Supplier containing or referring to Supplier's terms and conditions shall not imply that Oleon acknowledges the applicability of such terms and conditions to the Contract.

These GTC's shall take precedence over all terms and conditions contained or referred to in the Supplier's offer, price quotation, Order acceptance, invoices or correspondence which are in conflict with these GTC's.

- 2.2. **Order of precedence.** In the event of a conflict between different documents applicable to the Contract, the following order of precedence shall apply: (i) any individual agreement between the Parties, (ii) any Purchase Order and (iii) these GTC's.

- 2.3. **Translation - overriding validity.** These GTC's are also available in German language (*Allgemeine Einkaufsbedingungen der Oleon GmbH*). In the event of deviations of individual provisions of these GTC's from the corresponding provision in the German version, these GTC's (i.e. the English version) of the relevant provision shall prevail; the complete GTC's are available at [www.oleon.com/legal](http://www.oleon.com/legal) and will also be sent cost-free upon request. The German version of these GTC's are also available under the afore-mentioned website and will be sent upon request.

These GTC's also serve as an aid to interpretation in the event of any doubts or ambiguities in relation to individual provisions of the German version.

## 3. Quotations and cost estimates

- 3.1. **Free of charge and non-binding.** The preparation of offers and cost estimates shall not be remunerated and shall not create any obligations for Oleon.
- 3.2. **Discrepancies.** The Supplier must expressly point out any discrepancies between its offer or quotation and Oleon's initial inquiry.
- 3.3. **Clear, detailed and complete.** The offers and cost estimates must be clear, detailed and complete and contain everything that is necessary for a complete, functional delivery of the Goods and/or Services offered in accordance with the Specifications.
- 3.4. **Standards and rules.** The offers and cost estimates must comply with good trade practice and all statutory and other legal requirements, including those relating to technology, quality, health, safety and the environment, applicable in Germany and the European Union at that time.

## 4. Orders

- 4.1. Changes to the subject matter of the Contract (whether to Goods or Services) require the prior written consent of Oleon.
- 4.2. Should Oleon wish to change the scope of the agreed Order for the delivery of Goods and/or provision of Services and should such changes (be able to) affect the price and the period within which the Order must be executed, the Supplier is obliged to inform Oleon in writing of any changes to the prices and/or conditions within 10 (ten) Working Days of receipt of such notification (Change Notice). Oleon may either accept or reject such Change Notice.
- 4.3. In the event of rejection, Oleon has the right to cancel the Order.
- 4.4. If the Supplier does not notify Oleon of any changes to the prices

and/or conditions in response to a change request from Oleon, the originally agreed terms shall continue to apply, in particular the originally agreed price and the originally agreed delivery/performance period, which the Supplier must comply with.

## 5. Subcontractors

- 5.1. **Involvement of third parties.** Only with Oleon's prior written consent Supplier may use and replace third parties (in particular subcontractors) in order to perform services owed by Supplier under the Contract, whereby such consent may only be withheld for justified reasons. Oleon's consent shall not release Supplier from its liability to Oleon under the Contract.
- 5.2. If the Supplier intends to have the Contract performed by subcontractors (in whole or in part) from the outset, it must inform Oleon thereof already when submitting its offer.
- 5.3. If the Supplier intends to subcontract, it must ensure that a provision corresponding to this Section 5 is included in its contract with its subcontractor. This applies to all potential subcontracting stages.
- 5.4. In the event of subcontracting by the Supplier to which Oleon has not consented, Oleon shall not be obliged to accept the Goods and/or Services thus provided and to pay the price for those.
- 5.5. **Admission of subcontractors.** The Supplier declares that all subcontractors proposed by it to Oleon for the execution of the tasks/Services entrusted to them within the scope of the subcontracting have the necessary professional competence and admittance. If this is not the case, the Supplier shall indemnify Oleon against all disadvantages and damages resulting therefrom for Oleon.
- 5.6. The Supplier shall be liable for faults of its subcontractors as for its own fault (§ 278 BGB).
- 5.7. All provisions and obligations relating to the relationship between Oleon and the Supplier shall remain fully applicable to the relationship between the Supplier and its subcontractor.

## 6. Quality

- 6.1. The Supplier shall carry out and maintain effective quality assurance (*Qualitätssicherung*) and provide evidence thereof to Oleon upon request. The Supplier is obliged to comply with a quality management system according to ISO 9001 or, at Oleon's request, another quality management system in conformity with the market. Oleon has the right to inspect this quality management system either itself or through third parties commissioned by Oleon.
- 6.2. The Supplier shall bear all costs for obtaining these certificates for quality assurance.

## 7. Monitoring

- 7.1. Any time during the performance of the Contract and after prior notice, the Supplier is obliged to allow Oleon to enter, access, inspect and test the Supplier's premises, facilities and equipment which are relevant for the performance of the Contract during the Supplier's normal business hours.
- 7.2. The Supplier and Oleon shall each bear their own costs incurred in carrying out such an inspection.
- 7.3. Such inspections or failure to perform such monitoring/inspection rights shall not constitute a waiver of any of Oleon's contractual or statutory rights.

## 8. Delivery, packaging and shipment

- 8.1. **Delivery date(s).** Supplier shall meet the date(s) for delivery of Goods and/or performance of Services specified in the Purchase Order (delivery deadlines). In the case of delivery of Goods, compliance with the delivery date requires that the Goods have been delivered to the Destination free of defects and with the required shipping documents until the delivery date during Oleon's normal Business Hours.

If Oleon and the Supplier have agreed on a delivery with installation/assembly/service, the delivery of the defect-free Goods shall only be deemed to have taken place if the installation/assembly/service has been carried out properly and in accordance with the Contract.

If Oleon prepares documents to enable the Supplier to execute the Order, the Supplier shall be responsible for requesting these documents in good time.

- 8.2. **Suspension Right.** Oleon has the right to suspend the delivery

deadlines without incurring any costs or liability on the part of Oleon.

- 8.3. **Advance and partial deliveries.** Advance deliveries of **Goods/Services** or partial deliveries of **Goods/partial Services** require the prior written consent of Oleon.
- 8.4. **Delay in delivery.** If **Supplier** recognizes that it will not be able to fulfil its contractual obligations in whole or in part or not on the agreed delivery date(s), milestones, time frame or other deadlines, it shall notify **Oleon** thereof in writing without undue delay. The notification must contain both the reasons for the delay and the expected duration of the delay. **Oleon's** acceptance of a delayed delivery of **Goods** or partial delivery of **Goods** or delayed performance of **Services** shall in no way constitute a waiver by **Oleon** of its rights in connection with a delayed or partial delivery of **Goods** / performance of **Services**.
- 8.5. In the event of such delay, **Oleon** shall be free either to demand performance of the **Contract** or to terminate the **Contract**.

In both cases, **Oleon** shall be entitled to claim compensation in the amount of 1% (one percent) of the **Order's** total price per calendar week of delay, including the first calendar week of delay (even if it is only parts of a calendar week), however up to a maximum amount of 10% (ten percent), without prejudice to **Oleon's** right to claim compensation for all proven damages instead, if these exceed the agreed compensation.

- 8.6. **Incoterms.** The **Parties** shall use Incoterms 2020 to agree the terms of delivery and the transfer of risk (passing of risk) as well as to regulate the costs and allocation of risk. Unless otherwise stated in the **Order**, the **Supplier** shall deliver the **Goods** DDP to the **Destination** or, if the **Destination** is not known or has not been communicated, DDP Oleon GmbH, Emmerich am Rhein, Germany.
- 8.7. **Limited obligation to give notice of defects.** **Oleon** is not obliged to inspect the **Goods** immediately after delivery. § 377 para. 2 German Commercial Code (HGB) shall not apply. However, if a defect of the delivered **Goods** becomes apparent, **Oleon** shall notify the **Supplier** of this without undue delay after discovery.
- 8.8. **Delivery and shipping documents.** Unless otherwise agreed, each delivery must be accompanied by 2 (two) copies of the delivery bill, the packing list, clearance and test certificates in accordance with the **Specifications** and all other required documents. If known, the following information must be provided in all shipping documents and - in the case of packaged **Goods** - also on the outer packaging: **Order** number, gross and net weight, number of packages and type of packaging (disposable/reusable), date of completion as well as **Destination** (unloading point) and recipient.
- 8.9. **Packaging.** **Supplier** shall pack, mark and ship the **Goods** in accordance with **Applicable Law**. The **Goods** must be packed in such a way that the transportation and delivery of the **Goods** to **Oleon** takes place without damaging, contaminating or impairing the **Goods**. **Supplier** shall be liable in accordance with statutory provisions for any damage caused by improper packaging.

**Supplier** shall, at its own expense, handle any claims or lawsuits against the carrier in connection with the delivery of the **Goods** to the extent **Supplier** was originally responsible for the transportation in the first place.

- 8.10. **Hazardous Goods.** The **Supplier** shall pack, label and ship Hazardous **Goods** in accordance with **Applicable Law**. **Supplier** shall comply with all obligations for suppliers (pursuant to Article 3 (32) REACH) under REACH in relation to the supply of **Goods**. In particular, **Supplier** shall provide **Oleon** with a safety data sheet in accordance with Article 31 REACH in the national language of the recipient country in all cases referred to in Article 31 (1) to (3) REACH.

## 9. Transfer of risk and ownership

- 9.1. **Transfer of Risk.** The risk of loss of or damage to the **Goods** shall irrevocably pass to **Oleon** upon actual delivery in accordance with the agreed Incoterms clause (in Section 8.6) or as otherwise agreed between **Oleon** and **Supplier**. If the **Parties** have agreed on delivery including installation/assembly/service, the risk of loss or damage shall pass to **Oleon** after the installation/assembly/service has been duly completed in accordance with the **Contract** and after handover of the **Goods**.
- 9.2. **Ownership.** Title to each item forming part of the **Goods** shall pass to **Oleon** upon the earlier of (i) payment in full for the relevant item or (ii) its delivery in accordance with the **Contract** and the agreed

Incoterms (Section 8.6) or as otherwise agreed between **Oleon** and **Supplier**.

A clause deferring the transfer of title or containing a reservation regarding such transfer cannot be invoked against **Oleon**. The unilateral inclusion of a retention of title clause in the general terms and conditions or any other document of **Supplier** cannot be held against **Oleon** unless **Oleon** has agreed to it in writing.

- 9.3. **No Encumbrances.** **Supplier** represents and warrants that title to all **Goods** shall pass to **Oleon** free and clear of any liens, claims, pledges or other encumbrances.

## 10. Condition of the delivered Goods/Services, rights in the event of defects

- 10.1. **Guarantees and warranty of the Supplier.** The **Supplier** is responsible for ensuring that the **Goods** and **Services** are free from material defects and defects of title and comply with the agreed **Specifications** and, where applicable, also have the warranted characteristics and features.

**Supplier** warrants that the **Goods** and **Services** are fit for the purpose specified by **Oleon** and comply with all **Applicable Laws**.

**Supplier** further warrants that the **Goods** and **Services** comply with current technical standards and, if applicable, generally accepted standards of plant safety, occupational health and hygiene and are delivered or performed by a sufficient number of appropriately trained, qualified, skilled and experienced **Personnel**.

If machines, devices or systems are delivery items, they must comply with the special safety requirements that apply to machines, devices and systems under applicable law at the time of fulfillment of the contract and must bear a CE mark.

**Supplier** warrants that all substances contained in the **Goods** are actually pre-registered, registered (or exempted from registration) and, if applicable, authorized in accordance with the applicable requirements of REACH for the use notified by **Oleon**. If the **Goods** are classified as articles within the meaning of Article 7 REACH, the preceding sentence shall also apply to substances derived from such **Goods**.

Moreover, the **Supplier** shall forthwith notify **Oleon** if a component of the **Goods** contains a substance in a concentration exceeding 0.1 mass percent (W/W) provided this substance fulfills the criteria of Article 57 and 59 REACH (so-called substances of very high concern). This also applies to packaging products.

- 10.2. **Warranty period.** Unless otherwise agreed in writing, the warranty period shall be 24 (twenty-four) months from the date of delivery of the **Goods** in accordance with the **Contract**. Guarantee claims against the **Supplier** shall also expire 24 (twenty-four) months after delivery of the **Goods** in accordance with the **Contract**. In all other respects, the statutory provisions shall apply. With respect to **Services** performed, the **statutory provisions** shall apply.

For parts and repairs that are replaced or carried out within the warranty period, a new warranty period of 24 (twenty-four) months shall apply.

- 10.3. **Rights in the event of defects.** During the warranty period, the **Supplier** warrants, at **Oleon's** option, to repair or replace the delivered **Goods** or **Services** immediately and completely free of charge, unless the **Supplier** proves that the defect in the **Goods** or the defective **Services** was caused exclusively by **Oleon**. **Supplier** shall bear all costs for assembly, disassembly and transportation.

In urgent cases or in the event of default, **Oleon** shall be entitled to remedy the defects itself or have them remedied and to recover the costs from the **Supplier**, provided that **Oleon** has notified the **Supplier** of its intention to do so and has set a reasonable deadline for remedying the defect, which has expired without result.

If a remedy of the defect has already failed or if the setting of a deadline is unreasonable for **Oleon**, the setting of a deadline is not required.

**Oleon's** rights due to the delivery of defective goods pursuant to § 437 no. 2 and no. 3 BGB shall remain unaffected.



In addition, Oleon shall in any case be entitled to compensation for all damages caused by the defect of the Goods or by the defective Service, and the Supplier shall indemnify and hold Oleon harmless against all claims for damages by third parties, unless the Supplier is not at fault for the cause of the defect.

Defective Goods or parts shall remain at Oleon's disposal until they are replaced in flawless condition.

## 11. Liability

- 11.1. Supplier shall be liable for compensation of all damages arising out of, relating to or being in connection with (i) Supplier's or its Personnel's breach of this Contract or (ii) Supplier's or its Personnel's performance of its obligations under this Contract, including, but not limited to, such damages arising in contract, tort, strict liability (*Gefährdungshaftung*) or otherwise.
- 11.2. Subcontractors commissioned by the Supplier to fulfill the Contract are its (vicarious) agents (*Erfüllungs- bzw. Verrichtungsgehilfen*).
- 11.3. The Supplier shall defend, indemnify and hold Oleon harmless against any third party claims. The scope of this obligation extends to all costs incurred by Oleon as a result of third party claims, including but not limited to court, administrative, legal and expert witness fees, compensation, fines and convictions in general. If the Supplier suffers damage as a result of the actions or negligence of third parties in relation to itself, it may not turn to Oleon, but must turn directly to these third parties.
- 11.4. Oleon shall not be liable for any loss of or damage to any equipment, property or materials belonging to the Supplier or its subcontractors.

## 12. Price

- 12.1. **Currency.** The price of the Goods and/or Services shall be paid in Euros, unless another currency is set out in the Order.
- 12.2. **Included costs.** The price (excluding VAT) is an all-inclusive price and therefore includes all Services and Goods, all ancillary costs such as transportation, insurance, administration costs, packaging, installation and connection, as well as the costs of necessary accessories and all payments for the use of intellectual property rights to the subjects of performance, including those of third parties.
- 12.3. **Taxes, duties and other costs.** The price (excluding VAT) includes all taxes, duties and charges (in accordance with social and tax legislation). All such taxes, duties and charges which are included in the price shall be borne by Supplier and Supplier shall pay such taxes, duties and charges itself in a timely manner or, if paid by Oleon, reimburse Oleon for such taxes, duties and charges.

All reasonable and foreseeable bank charges, including bank commissions and other charges levied outside Oleon's country shall be borne by Supplier.

- 12.4. **Fixed price.** The price agreed in the Order for the Goods and/or the Services is a fixed price without adjustment.

Oleon will not accept any change in price between the date of the Order and the actual delivery of the Goods and/or performance of the Services, whether due to inflation, possible increases in the Supplier's costs, changes in circumstances which would alter or otherwise affect the economic balance of the supply of the Goods and/or performance of the Services or for any other reason.

## 13. Payment

- 13.1. **Invoicing.** Unless otherwise agreed, invoices shall be issued after delivery of the Goods and/or performance of the Services. A separate invoice must be issued for each Order. Supplier must issue a valid invoice to Oleon that meets all requirements of the applicable legal system, in particular showing the applicable taxes in the respective applicable amount. In particular, the Supplier's invoice must comply with the requirements of German law regarding value-added tax, insofar as value-added tax is incurred on the delivery or Service.

All invoices are to be sent as separate ZUGFeRD or XML files by e-mail to [e-invoicing.emmerich@OLEON.com](mailto:e-invoicing.emmerich@OLEON.com) and must contain at least the correct name and company form, the address of the registered office and the VAT identification number as well as the order number.

- 13.2. **Payment term.** Provided that the Supplier's invoice complies with

these GTC's and the applicable laws, Oleon shall pay the invoice within 60 (sixty) days, starting on the day after its receipt, unless otherwise agreed in the Order. Payment shall be made subject to verification of the conformity and completeness of the delivery of the Goods and/or the Services rendered.

Payment by Oleon is not an indication of acceptance of any terms or prices and does not constitute a waiver by Oleon of any rights to delivery of Goods and/or performance of Services other than those agreed and of Oleon's rights to inspect and dispute an invoice on any other grounds.

- 13.3. **Default of payment.** § 288 (1) and (2) BGB shall apply. The assertion of further damages or higher default interest is excluded.

## 14. Withdrawal or recall

- 14.1. If the Supplier discovers or suspects that a problem arises in connection with the supply of Goods and/or Services that could result in a potential safety risk to consumers and/or a (voluntary or mandatory) withdrawal, recall or similar action, the Supplier shall (i) notify Oleon in writing within twenty-four (24) hours and (ii) fully assist Oleon in developing and implementing a strategy to remedy the situation.

The Supplier shall indemnify and hold Oleon harmless from any claims, damages, losses or costs (including legal costs and expenses) suffered, caused or incurred by Oleon as a result of such a problem, unless such a problem arises from the Specifications itself.

## 15. Term and termination

- 15.1. **Term.** Unless otherwise agreed between Oleon and the Supplier in the Contract, the term of the Contract shall be limited to the period required for the complete execution of the Order.
- 15.2. **Termination.** The Contract may be duly terminated in accordance with the statutory provisions, unless Section B or Section C provides for specific provisions on termination.
- 15.3. **Termination for cause.** Either Party may terminate the Contract in whole or in part with immediate effect for cause without the need for court or arbitration and without incurring any obligation or liability for the terminating party. Good cause shall be deemed to exist, inter alia, if (i) the other Party seriously breaches a material contractual obligation or other provisions of the Contract and the breach (if remediable) has not been remedied despite the setting of a deadline or (ii) if an application is made against the other Party for the opening of insolvency proceedings or similar legal proceedings, the other Party takes measures in connection with its liquidation or a composition or arrangement with its creditors, an insolvency administrator is appointed over the assets of the other Party or the opening of such proceedings is refused for lack of assets. The exercise of the right of termination for good cause by one Party shall not affect any other rights and remedies and shall not affect the rights and obligations of the Parties that arose prior to the termination.
- 15.4. **Obligations upon termination.** Upon termination of the Contract by termination notice, the Supplier shall forthwith: (i) cease further supply of the Goods and/or further performance of the Services unless otherwise agreed in writing; (ii) at its own expense, dismantle and remove its plant, tools and equipment and remove and appropriately dispose of all waste and debris arising from the Supplier's Services; if the Supplier fails to comply with its obligations in this regard, Oleon may carry out the work itself or have it carried out by a third party and charge the Supplier for the costs incurred if the work has not been completed after a reasonable period; (iii) return to Oleon or verifiably delete or destroy all Oleon Confidential Information in the Supplier's possession or control; and (iv) return to Oleon all property and materials belonging to Oleon in its possession or control.
- 15.5. **Continuing Obligations.** All contractual provisions that are expressly or implicitly intended to enter into force or continue in force upon or after termination or expiry of the Contract shall remain in full force and effect.

## 16. Confidentiality

- 16.1. **Confidentiality.** Supplier shall keep confidential all technical, scientific, commercial and other information obtained directly or indirectly under the Contract, in particular the information contained in Oleon Documents ("Confidential Information"). This obligation shall apply subject to any statutory, judicial or official disclosure obligations.

The aforementioned confidentiality obligation shall continue to apply for a period of 5 (five) years after the expiry or termination of the Contract.

- 16.2. **Exclusions.** Excluded from this confidentiality obligation is (i) information that the Supplier lawfully possessed prior to the disclosure of such information by Oleon, (ii) that is publicly known or (iii) that it has lawfully received from a third party.

However, Confidential Information may be disclosed for objective reasons to persons who are subject to a statutory or professional duty of confidentiality, whereby the Supplier may not release such persons from their duty of confidentiality. The burden of proof for such an exclusion shall be borne by the Supplier.

The Supplier shall ensure that its Personnel and its subcontractors who need to know the Confidential Information for the purpose of fulfilling the Contract are obliged to maintain similar confidentiality by means of appropriate contractual agreements before they come into possession of the Confidential Information.

- 16.3. **Restricted purpose.** The Supplier may not exploit Confidential Information for commercial purposes, make it the subject of industrial property rights, pass it on or make it accessible to third parties in any way or use it for any purpose other than the fulfillment of the Contract.

## 17. Intellectual Property

- 17.1. **Infringement of Intellectual Property Rights.** Supplier warrants that the delivery of the Goods and/or the performance of the Services and their use by Oleon under the Contract does not infringe or otherwise violate any Intellectual Property Rights of any third party. Without prejudice to any statutory claims, the Supplier shall indemnify Oleon against all third party claims for which Oleon may be held liable due to the infringement of such Intellectual Property Right.

The Supplier shall bear the costs of license fees, expenses and charges incurred by Oleon in preventing and/or remedying any infringement of Intellectual Property Rights, including the costs of adapting the Goods and/or Services so that they no longer infringe any Intellectual Property Rights.

- 17.2. Oleon's claims based on defects in the Goods or defective performance of Services pursuant to Section 10 shall remain unaffected.

## 18. Force Majeure

- 18.1. Neither Party shall be in breach of Contract or liable for any delay or failure to perform if such delay or failure is due to circumstances which were unforeseeable and beyond the reasonable control of the Parties ("Force Majeure Event"). Force Majeure Events include, but are not limited to: action by government or other authority, war, terrorism, riots, general strikes, flood, fire, epidemic or pandemic.
- 18.2. The failure of mechanical equipment, computer hardware and/or telecommunications equipment, the failure of software, power failures, changes in economic conditions, costs and/or supply of raw materials, strikes and other labor disputes involving Personnel shall not be considered Force Majeure Events for the Supplier.
- 18.3. In the event of a Force Majeure Event, the period for performance by the Parties shall be extended accordingly. A Party invoking a Force Majeure Event shall notify the other Party within 3 (three) Working Days of its occurrence and provide evidence that it is prevented from performing the Contract or is or may be delayed in performance and shall use all commercially reasonable efforts to mitigate the effects of the Force Majeure Event.
- 18.4. Oleon shall not make any additional payment to the Supplier for any costs beyond those provided for in the Contract incurred by the Supplier as a result of such delay. The Party claiming a Force Majeure Event shall notify the other Party within 3 (three) Working Days of the cessation of the Force Majeure Event.
- 18.5. In the event of a Force Majeure Event that prevents one Party from fulfilling its contractual obligations for more than 30 (thirty) consecutive days, the other Party shall be entitled to terminate this Contract for good cause after the thirty days have expired.

## 19. Compliance with Code of Conduct and Sanctions

- 19.1. **Code of Conduct.** Oleon's Code of Conduct for Suppliers ("Supplier Code of Conduct") is essential for Oleon in the conduct of its business. Oleon expects the Supplier to comply with the Supplier Code of Conduct, which is available at [www.oleon.com/legal](http://www.oleon.com/legal) and

can also be sent on request free of charge. This Supplier Code of Conduct is an integral part of these GTC's.

In addition, Oleon requires Supplier to ensure that all of its subcontractors at any level also comply with the Supplier Code of Conduct.

Oleon shall have the right to verify compliance with the Supplier Code of Conduct either itself or through third parties engaged by Oleon.

Notwithstanding any conflicting provisions in these GTC's, the Parties agree that this Section 19.1 shall apply even if there is no written Contract with the Supplier or if the written Contract does not expressly refer to the Supplier Code of Conduct.

- 19.2. **Sanctions.** The Parties will comply with any Sanctions issued, enforced or monitored by the European Union and/or Germany. Furthermore, the Party will also comply with any Sanctions issued, enforced or monitored by any other government in whose jurisdiction the relevant Party is located.

The Parties shall also comply with any Sanctions issued, enforced or monitored by the United States, the United Kingdom or the United Nations.

Supplier shall promptly notify Oleon of any Sanctions-related action and taken against any Supplier's employee, manager, officer, director, representative, agent, Affiliates or successors.

If, in Oleon's reasonable opinion, it is or becomes unlawful to perform the Contract (or any part thereof) as a result of the applicable Sanctions, Oleon shall be entitled to suspend or terminate the Contract.

- 19.3. **Data protection.** If and to the extent a Party, during the performance of the Contract would process personal data (terms "process" and "personal data" as defined under the EU Regulation 2016/679 of 27 April 2016 on the protection of natural persons, commonly known as 'GDPR') of appointees of the other Party, then such Party represents and warrants that it shall process such personal data in accordance with any Applicable Laws, rules and regulations (including without limitation, the GDPR and the Federal Data Protection Act).

As such, the Party processing personal data shall not process personal data for other purposes than the mere performance of the Contract, it shall neither disclose nor make available such personal data to any third party, nor process, analyze or use them for other purposes than the performance of the Contract.

## 20. Insurance

- 20.1. **Minimum insurance.** Supplier shall ensure that it has adequate general liability insurance for damages for which it or its subcontractors or agents of vicarious agents (*Erfüllungs- und Verrichtungsgelhilfen*) are responsible and - to the extent relevant for Supplier's business - professional liability, product liability and/or other insurance with a recognized and reputable insurance company and that it maintains such insurance at its own expense for the duration of the Contract. At Oleon's request, Supplier shall provide Oleon with suitable evidence.
- 20.2. **No limitation of liability due to insurance.** The Supplier's contractual and statutory liability shall remain unaffected by the scope and amount of its insurance cover.
- 20.3. **Objects and materials.** The Supplier shall mark the objects and materials which it uses on Oleon's premises and which remain its property and shall take out adequate insurance with a waiver of recourse against Oleon.
- 20.4. **Subcontractors.** The Supplier guarantees that it will have the same insurance cover from its subcontractor(s) for the same period as it has promised to Oleon.

## 21. Access to documents

- 21.1. Oleon shall have the right to inspect all documents relating to the delivery of the Goods or the provision of the Services during normal business hours and to copy and reproduce them for its own purposes in connection with the performance of the Contract.
- 21.2. Insofar as these documents contain confidential information about the Supplier, such as internal Supplier calculations, agreements or confidential information about business partners and/or employees, Oleon's right of inspection is restricted.

21.3. The right under Section 21.1 applies for the duration of the statutory retention period - but at least 3 (three) years from the date of delivery or acceptance.

## 22. Miscellaneous

- 22.1. **No Exclusivity.** Unless agreed otherwise, the Contract shall neither preclude or limit in any way (i) the right of the Supplier to provide services of any kind whatsoever to any Person as it deems appropriate, provided that such services are compatible with the performance of this Contract; nor (ii) the right of Oleon, as it deems necessary and in its sole discretion, to engage other suppliers to deliver equal or similar goods or services as the Goods or Services to be provided by the Supplier.
- 22.2. **Public Relations; Use of Name.** The Supplier agrees to submit to Oleon all proposed promotional material relating to the subject matter of the Contract in which Oleon's name is mentioned or language is used from which a connection to Oleon can be inferred. The Supplier agrees not to publish or use such advertising or publicity material without the prior written approval of Oleon.
- 22.3. **Assignment.** Neither Party shall be entitled to assign this Contract or its rights and/or obligations hereunder without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed.
- 22.4. **Notices.** All notices, requests, consents, claims, demands, waivers and other communications under this Contract shall be in writing. Such notices shall be sent to the respective Party at its address/address specified in the Contract or to any other address/address notified by the relevant Party to the other Party in accordance with this Section 22.4. Sending a scan of a signed letter by e-mail to the e-mail address provided by the respective Party also satisfies the written form requirement.
- 22.5. **No Waiver.** Any failure or delay by a Party in exercising any right under the Contract, the exercise or partial exercise by a Party of any right under this Contract, or any reaction or absence of reaction by a Party in the event of breach of one or more provisions of this Contract, will not be construed as a waiver of its rights under this Contract or under said provision(s) or preclude the further exercise of such rights. Any waiver of a right under this Contract must be express and in writing.
- 22.6. **Severability Clause.** If any provision of the GTC's or the Contract shall be held to be illegal, invalid, or unenforceable by a forum of competent jurisdiction, it is the intention of the Parties that the remaining provisions of the GTC's and the Contract remain valid and in full force and effect. To the extent legally permissible, any illegal, invalid, or unenforceable provision of this Contract shall be replaced by a valid provision that accomplishes the economic purpose of the illegal, invalid or unenforceable provision.
- 22.7. **Acknowledgement.** The Supplier acknowledges that it has expressly and with full understanding of the implications agreed to all of the provisions contained in these GTC's and expressly confirm that such provisions are fair and equitable.

## 23. Dispute resolution and Applicable Law

- 23.1. **Remedy.** In case of a breach of any term of the Contract, the defaulting Party must offer the other Party the opportunity to remedy his shortcoming within at least 10 (ten) Working Days after serving of a written notice from the other Party specifying the breach and requiring it to be remedied.  
If such term would deprive the Contract of its purpose, the other Party may consider a term that is shorter, but at least still feasible for the defaulting Party to remediate such breach.
- 23.2. **Applicable Law.** This Contract shall be exclusively governed by and construed in accordance with German law, without giving effect to any other choice or conflict of law rules or provisions that would cause the application of the laws of any other jurisdiction. The application of the provisions of the CISG is expressly excluded. Any reference to "Incoterms" in these GTC's or the Contract is a reference to Incoterms 2020. The terms of the chosen Incoterm are an integral part of the Contract.
- 23.3. **Place of jurisdiction.** All disputes arising out of or in connection with this Contract or its validity shall be settled by the ordinary courts of law. The court at which the contractual performance is to be rendered (*Erfüllungsort*) shall have exclusive jurisdiction, unless otherwise provided below.  
Oleon reserves the right to bring all disputes involving the Supplier before the competent court at Oleon's registered office or at the Supplier's registered office.

## B. Purchase of Services

**The Sections of this section B. " Purchase of Services " apply - in addition to the provisions in section A. - to all services and works commissioned by Oleon.**

## 24. Permits, approvals and licenses - and salary liabilities

- 24.1. **Permits, approvals and licenses.** The Supplier shall hold all permits, approvals and licences required by Applicable Laws for the performance of the Contract.  
The Supplier shall submit a copy of its permits, approvals and licences required by Applicable Laws together with the offer or price quote. He shall immediately inform Oleon of any alteration.

Should difficulties arise in this respect as a result of the Supplier's negligence, Oleon reserves the right to terminate the Contract as well as to recover the extra costs and any fines incurred by it from the Supplier.

- 24.2. **Salary liabilities.** Supplier confirms and warrants that it will pay its employees a salary that is at least equal to the minimum salary required by law at Oleon's place of business.  
In the event of a breach of this provision, Oleon reserves the right to terminate the Contract for cause with immediate effect and without any cost or liability to Oleon.

In such event, Supplier shall indemnify and hold Oleon harmless and reimburse Oleon for all costs and fines incurred by Oleon as a result of such breach by Supplier.

## 25. Personnel

- 25.1. **Requirements.** The Supplier shall provide the Services with a sufficient number of appropriately trained, qualified and experienced Personnel. By accepting these GTC's, the Supplier confirms that each member of the Personnel is of the minimum age for admission to work under Applicable Laws and holds all licenses, permits, approvals and certificates required by law. Supplier and its Personnel shall comply with all health, safety and environmental regulations applicable to Services at the Oleon site where the Services are to be performed.  
Upon Oleon's request, each member of the Personnel must prove that he/she knows and understands the above provisions. The Supplier shall ensure that this is the case.

Each member of the Supplier's Personnel must be able to communicate in one of the following four languages: Dutch, English, French or German.

If the Personnel or the subcontractor's personnel do not meet these conditions, Oleon shall be entitled to refuse or withdraw access to the Oleon site at no cost or liability for Oleon, in which case Oleon shall notify the Supplier so that the Supplier can take the necessary steps and measures.

Furthermore, in the event that Supplier's Personnel or the personnel of a subcontractor engaged by Supplier fails to comply with any of these requirements and conditions set out in Section 25.1, Oleon shall be entitled to terminate the Contract for cause with immediate effect and without cost and liability for Oleon and to recover from Supplier all costs and fines incurred by Oleon as a result of the Personnel's failure to comply with these conditions and to indemnify Oleon accordingly.

- 25.2. **Work clothing.** The work clothing of the Personnel must comply with the safety requirements specified by Oleon at the relevant Oleon site and clearly bear the Supplier's brand name.
- 25.3. **No direct employment relationship.** No direct employment relationship within the meaning of § 611a BGB exists or arises between the Supplier and/or its Personnel on the one hand and Oleon on the other.

## 26. Implementation of the services and termination

- 26.1. **Health, Safety and Environment.** The Supplier undertakes to



comply with Oleon's specific obligations relating to the health or safety of Personnel in the provision of the Services. This also refers to all provisions of the health, safety and environmental regulations for Services on the relevant Oleon site. The Supplier confirms that it is familiar with these regulations.

In addition, the Supplier shall comply with all applicable statutory and administrative provisions, including those relating to technology, quality, health, safety and environment, and shall fulfill the requirements necessary for this purpose. If the Supplier fails to comply with the abovementioned obligations or to do so satisfactorily, Oleon has the right to take the necessary measures itself at the Supplier's expense.

26.2. **Authority of Supplier as employer.** As the employer of its employees, the Supplier alone has employer powers vis-à-vis its employees, in particular the right to issue instructions. The Supplier is therefore exclusively responsible for the calculation and payment of employees' wages, the administration of wages, planning of holidays, reporting and procedure in case of illness or absence, training, evaluation, discipline and sanctions, control of working time and instructions to work overtime, the determination of the function and its interpretation thereof.

26.3. **Operational Instructions.** To the extent that Oleon issues operational instructions to Personnel that are necessary for the performance of the Contract, such instructions shall be strictly limited to the following and shall in no way affect Supplier's authority to issue instructions to its Personnel:

- instructions in the interest of efficient cooperation between Oleon and Supplier and/or subcontractor; this includes instructions regarding the general organization of the construction site, urgent and provisional measures necessary to prevent damage to the building or parts of the building under construction, technical instructions regarding the use and/or maintenance of certain machines, materials and/or special works.

Oleon may request Personnel to attend work meetings. On these occasions, Oleon may ask Personnel to provide an overview of the work carried out and to be carried out, solely for the purpose of efficient supervision and execution of the Contract;

- Oleon may, in consultation with the Supplier and/or its subcontractor, determine the schedule for the work to be carried out;
- Oleon may issue guidelines to the Supplier's Personnel and the personnel of the Supplier's subcontractor regarding the opening and closing times of the premises and/or access to the premises where Services are to be performed;
- Oleon may also impose requirements on Personnel with regard to the maintenance of occupational health and safety when Services are carried out on Oleon's premises. This includes:
  - informing Personnel about the potential risks associated with the Services to be provided under the Contract;
  - the request to participate in training courses or instructions for good conduct in the workplace;
  - request Personnel to use special safety equipment.

26.4. **Policies.** Oleon may provide Personnel and/or subcontractor's personnel with guidelines necessary for Oleon to fulfill its legal and internal obligations. This includes instructions on compliance with ethical standards and the use of e-mail and the internet. Personnel must strictly adhere to the guidelines provided to them. This has to be ensured by Supplier.

26.5. **Termination of service Contracts.** Oleon may terminate the Contract which subject is the provision of services only rather than works (*Dienstleistungsverträge*) in whole or in part at any time and without cause by giving written notice to the Supplier at least two weeks prior to the end of a calendar month. Upon receipt of such written notice, Supplier shall immediately cease to provide its services in connection with the Contract unless otherwise instructed by Oleon.

In the event of such termination, Oleon shall only pay the Supplier the price for those services which the Supplier already provided (free of defects) in accordance with the Contract up to the date of termination, in each case insofar as no payments have yet been made for these.

The services thus paid for by Oleon or the resulting product shall become the property of Oleon upon payment and shall be returned to Oleon unless otherwise agreed with Oleon in writing. Oleon's liability for loss of revenue or profit is explicitly excluded.

The provisions of this Section 26.5 are the only legal consequences

of ordinary termination of such a Contract by Oleon.

26.6. **Termination of Contracts for works.** The termination of Contracts for works (*Werkverträge*) is governed by Section C. 37.

## 27. Liability

27.1. If several suppliers either work together or independently of each other on the same work/item and it cannot be determined which supplier caused the damage, each supplier (including the Supplier) shall be liable to Oleon as joint and several debtors.

27.2. The Supplier is liable for the handling, use and guarding of the materials, tools, workshops, etc. which Oleon places at its disposal. It must return them in the same condition as it received them.

27.3. Oleon cannot be held liable for total or partial failure of energy supplies to Oleon by third parties.

## 28. Documents

28.1. The Supplier shall provide Oleon with the agreed quantity of plans, calculations or other documents in good time so that the contractually agreed execution period is not exceeded.

28.2. Oleon's review of the Supplier's documents shall not release the Supplier from its obligations under the Contract.

28.3. Oleon's Documents shall remain Oleon's property and shall be returned to Oleon immediately at any time upon Oleon's request. The Supplier has no right of retention to such documents. Supplier shall respect Oleon's ownership rights to all of Oleon's documents.

## 29. Intellectual property

29.1. **Intellectual Property Rights in the deliverables.** The Supplier assigns to Oleon all rights to the Intellectual Property that the Supplier develops through its activities (irrespective of the form in which it is embodied) at the time of their creation. Insofar as the transfer as a full right is not legally possible, in particular with regard to copyrights, the Supplier shall transfer to Oleon the exclusive, transferable and sublicensable right to use and exploit such rights, unlimited in time, space and content. This includes the use in all known and unknown types of use as well as the right to process and further develop and the use of the results arising from this to the same extent. The granting of rights extends in particular to the rights pursuant to §§ 16 et seq. of the German Copyright Act (UrhG).

29.2. The Supplier expressly waives any other rights to the work results to which it may be entitled as the copyright or other property right holder, insofar as this is necessary for the purpose of the transfer of rights.

29.3. The comprehensive granting of Intellectual Property Rights to Oleon is covered by the price agreed in the Contract.

29.4. It shall also apply for the period after termination of the contractual relationship under the Contract without giving rise to an additional claim for remuneration.

29.5. Supplier undertakes, at Oleon's expense, to execute all documents, make all applications, provide all assistance and take all actions to transfer the Intellectual Property Rights to Oleon as provided in Section 29.1.

## 30. Insurance

30.1. **Minimum Insurance.** Before the Supplier commences the provision of Services on the relevant Oleon site, the Supplier shall have in place and maintain in force for the duration of the Contract all insurances required by Applicable Laws as well as those specific to the Supplier, in particular:

- statutory social insurance including (statutory) accident insurance;
- professional liability insurance;
- general public liability insurance; and
- motor vehicle liability insurance for all vehicles owned, rented and used.

For the cooperation with Oleon and without prejudice to any amount specified in the relevant Contract, these insurances - where applicable - must each have a minimum cover of EUR 1,000,000 (one million euros) per damaging event.

30.2. **Proof of insurance.** The Supplier shall include with his quotation a copy of his insurance certificates and the policies providing the coverage as provided for in these GTC's. Prior to the commencement of the Services, Supplier shall submit to Oleon the insurance policies showing the insurance coverages required hereunder together

with - if applicable - the amounts of coverage.

Oleon has the right to request the presentation of insurance policies and proof of premium payment at any time (even several times).

## C. Purchase of works

**In addition to sections A. and B., the provisions contained in this section C. " Purchase of works " only apply to the purchase of works and/or construction works (excluding services and similar other services)**

### 31. Performance of the works

- 31.1. **Implementation Plan.** Supplier shall perform the works in accordance with an implementation plan approved by Oleon and which may only be modified with Oleon's prior consent. Oleon shall make commercially reasonable preparations for the performance of the works by Supplier at the site, but the performance of the works shall in any event be the sole responsibility of Supplier. Supplier shall inform Oleon accordingly as soon as the works have been performed and are ready for use by Oleon.
- 31.2. **Site manager.** The Supplier shall provide an experienced and competent site manager who shall also ensure smooth progress of the works on the site. This site manager must be present on site all day, or at least be available full-time, and must at any time be able to provide a list of members of the Personnel present on the site. He must have the necessary authority and skills, in terms of both organization, management and supervision of the works and of the Personnel and with respect to health and safety.
- 31.3. **Site access.** Oleon always reserves an unrestricted right of access to the site and to all installations erected there.
- 31.4. **Intervention right.** Oleon reserves the right, when dangerous situations are identified which the Supplier cannot rectify itself at that time and which require immediate intervention, to take the necessary measures itself to rectify this at the Supplier's expense. If the Supplier is responsible for the dangerous situation, the Supplier shall be obliged to reimburse Oleon for the costs incurred to avert the danger.
- 31.5. **Site Installation.** The Supplier may only erect its installations and equipment at the locations indicated by Oleon. The works may not obstruct either the organization of the work or the operational plants belonging to Oleon. The Supplier itself must take adequate measures to prevent accidents and damage caused by external factors, such as weather conditions, theft, vandalism or fire.
- 31.6. **Coordination and cooperation.** The works can be carried out simultaneously with several other suppliers and departments of Oleon. The Supplier shall be obliged to assist in the coordination and cooperation with other suppliers of Oleon. For this purpose, the site manager of Supplier will attend the coordination meetings as often as the works require him to do so.

The Supplier will perform its works in such a way that other suppliers and professional services of Oleon will not be hindered or will not suffer any damage therefrom. The Supplier will see to it that any and all necessary notifications and arrangements will be taken care of in time and to a sufficient extent. The Supplier will indemnify Oleon against any claims of third parties to Oleon for any such nuisance as may arise at the site.

### 32. Acceptance

- 32.1. **Acceptance.** The Supplier shall notify Oleon in writing as soon as the works have been performed in accordance with the Contract and are therefore ready for acceptance. Oleon may not refuse acceptance due to insignificant defects. The Parties shall draw up a protocol of the acceptance.
- 32.2. **Warranty period.** The warranty period shall commence upon acceptance, which, unless otherwise agreed between the Parties, shall be twenty-four (24) months, unless a longer warranty period applies by Applicable Law. In this case, the statutory warranty period shall apply.
- 32.3. **Self-remedy by Oleon or a third party.** In the event of a defect in the works, Oleon may remedy the defect itself and demand reimbursement of the necessary expenses from the Supplier after the unsuccessful expiry of a reasonable period set by Oleon for subsequent performance, unless the Supplier justifiably refuses

subsequent performance. A deadline need not be set if (i) subsequent performance has failed or is unreasonable for Oleon, (ii) the Supplier seriously and finally refuses performance or (iii) the Supplier fails to perform by a date or within a period specified in the Contract, although performance in time or within a period specified in the Contract is essential for Oleon according to a notification by Oleon to the Supplier prior to conclusion of the Contract or due to other circumstances accompanying the conclusion of the Contract. Such self-remedy measures shall not affect the warranty period pursuant to Section 32.2.

- 32.4. **Explicit acceptance.** Acceptance of the works shall always be formal. Acceptance of the works shall never be tacit. Commissioning shall also not be deemed acceptance. Acceptance cannot be based on inspections, expert opinions, certificates or proof of work. The payment of invoiced amounts is not an indication of acceptance. Neither the commencement of (final) work nor the entry of another contractor onto the construction site shall be deemed to constitute provisional acceptance.

### 33. Transfer of risk

- 33.1. **Transfer of risk.** The Supplier shall bear the risk until acceptance of the works by Oleon. Upon acceptance, the risk shall pass to Oleon.

### 34. Condition of the delivered goods/construction services, rights in the event of defects

- 34.1. **Defects in the works.** If the work is defective, Oleon shall be entitled to demand subsequent performance from the Supplier. If the subsequent performance fails, Oleon shall be entitled (i) to remedy the defect itself under the conditions set out in Section 32.3 and to demand reimbursement of the costs and expenses required for this or (ii) to reduce the price.
- 34.2. Further statutory claims on the part of Oleon due to defective work are not excluded by Section 34.1.

### 35. Bank guarantee(s)

- 35.1. If stipulated in the relevant Contract, the Supplier is obliged to provide bank guarantees as security for the fulfillment of one or more of its obligations.
- 35.2. Unless expressly stipulated otherwise in the Contract, these bank guarantees must be issued by a reputable bank based in Europe which at least has one subsidiary, branch or office in Germany.
- 35.3. Each bank guarantee shall remain in full force and effect at least until acceptance of the works by Oleon. Oleon is entitled to reject any bank guarantee submitted by the Supplier that does not meet Oleon's requirements and to request the submission of another bank guarantee that meets Oleon's requirements.

### 36. Price

- 36.1. **Unit price contract.** In case of a Contract in which the works are not invoiced as a lump sum but according to unit prices, the agreed unit prices shall apply on the basis of the actual quantities and documented by time or measurement. Changes in material prices and wages shall have no influence. The surcharge for overtime shall only be calculated on the part of the hourly rate that corresponds to the wages paid by the Supplier, plus social security contributions.
- 36.2. **Progress reports and payment method.** If the Contract stipulates that the works are to be paid on the basis of a performance record, this performance record shall be prepared by Supplier at least once a month and sent to Oleon in digital form. This proof of performance with the corresponding receipts shall be checked by Oleon within 10 (ten) Working Days of receipt. If the proof of performance is approved by Oleon, the Supplier may issue the corresponding invoice.

### 37. Termination

- 37.1. Oleon may terminate the Contract in whole or in part at any time without cause by giving written notice to the Supplier until completion of the works. Upon receipt of such written notice, the Supplier shall immediately cease to perform the contractual works unless otherwise instructed by Oleon.
- 37.2. In the event of termination pursuant to Section 37.1, Oleon shall pay the Supplier only the following amounts: (i) the price for the works already completed (and free from defects) in accordance with the Contract by the date of termination, in each case to the extent that no payments have yet been made for such works; and (ii) the costs



of work in progress and raw materials already incurred by the Supplier in performing the works in accordance with the Contract as per the date of receipt of the termination notice, however only to the extent that such costs are reasonable in amount. These costs must be proven to Oleon by submitting suitable receipts. Deductions may result from Section 37.4.

- 37.3. The works paid for by Oleon in accordance with Section 37.2 and the resulting work or raw materials respectively become Oleon's property upon payment and must be handed over to Oleon unless otherwise agreed with Oleon in writing. Only with Oleon's prior written consent is Supplier therefore entitled to utilize those works/resulting work product / raw materials otherwise.
- 37.4. The amount payable by Oleon pursuant to Section 37.2 shall be reduced by any proceeds that the Supplier may generate from any other utilization of such works, resulting work product or raw materials pursuant to Section 37.3.
- 37.5. Oleon shall not be obliged to make payments for finished goods, work in progress or raw materials manufactured or procured by the Supplier in excess of the amounts authorized in the delivery requests, if such have been agreed.
- 37.6. Oleon's liability for loss of turnover and loss of profit is explicitly excluded.
- 37.7. Payments under this Section 37 shall in any event be limited in amount to the total (net) price payable by Oleon for the complete works under the Contract.
- 37.8. The provisions in this Section 37 are the only legal consequences of ordinary termination of the Contract by Oleon.
- 37.9. For the purpose of determining the amounts payable under this Section 37 Supplier shall upon request allow Oleon to inspect the relevant books, records and other business documents and provide

information.

## 38. Insurance

38.1. **Erection and construction all-risk insurance.** Without prejudice to insurance coverage as specified in Section 30.1 herein above, the Supplier shall provide adequate erection and construction all risk insurance coverage against any losses and damages for which Supplier could be liable, so that it is insured or covered:

- a) the works, services and items together with all materials and equipment for installation on Oleon's site or in Oleon's premises, to their respective full replacement cost against all insurable damages or losses;
- b) the Supplier's equipment, tools and any other materials brought onto Oleon's site by the Supplier, for a sum sufficient to provide their replacement on Oleon's site, except in case the Supplier formally undertakes to replace forthwith said equipment, tools and other materials when they get damaged and/or destroyed, whichever shall be the cause;
- c) Oleon's equipment, buildings, tools and any industrial installation on Oleon's site that could be damaged by the Supplier during the performance of the Contract;
- d) any additional costs of, and incidental to, the rectification of losses or damages including professional fees and costs of demolishing and removing of any part of the works and/or items as well as the removal of all debris relating thereto.

For the items to be insured in accordance with lit.a) and d), the Supplier shall ensure that Oleon and its employees and agents are also covered by the insurance. The Supplier is obliged to instruct its insurers accordingly.