

## **PUBLIC COMPANY ORLEN LIETUVA GENERAL TERMS AND CONDITIONS (GTC) OF DESIGN CONTRACTS**

### **Article 1. TERMS & DEFINITIONS**

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| <b>1.1. Customer (builder)</b>                                       | Public Company ORLEN Lietuva, with its registered office located at Juodeikiai, LT-89453 Mažeikiai District, Republic of Lithuania, registered with the Register of Legal Entities of the Republic of Lithuania, legal entity code 166451720, VAT payer's code LT664517219.  |
| <b>1.2. Designer</b>   | Legal or natural person with whom the Customer has concluded the Contract (also referred to as contractor or service provider).  |
| <b>1.3. Party / Parties</b>  | Customer and/or Designer.  |
| <b>1.4. Contract</b>   | A contract for design works concluded between the Customer and the Designer, including Design Task, Special Terms & Conditions of Design Contracts, Orders, General Terms and Conditions of Design Contracts, also their attachments (specifications, drawings and other documents) appended to or included in the Contract.   |
| <b>1.5. General Terms &amp; Conditions of Design Contracts</b>       | Public Company ORLEN Lietuva General Terms and Conditions of Design Contracts.   |
| <b>1.6. Special Terms &amp; Conditions (STC) of Design Contracts</b> | The terms and conditions agreed separately by the Customer and the Designer when concluding a Contract.  |
| <b>1.7. Works</b>  | A package of design works performed by the Designer under the Contract terms and conditions, the outcome of which is Design Documentation as well as the result of any other engineering services and works provided by the Designer.  |
| <b>1.8. Project</b>  | A set of documents required by construction/technical standards outlining the solutions for the construction planned by the Customer (explanatory statement, design parts, calculations, drawings), and needed for validation as well as execution of the construction.  |
| <b>1.9. Technical documentation</b>                                  | An Attachment to the Design Task consisting of all drawings, specifications, plans, punch lists, logbooks, diagrams, designs, method statements, standard design solutions, requirements for materials and equipment, supply terms and conditions, specific requirements for applicable standards and norms, as well as any other technical documents submitted by the Customer to the Designer for the purpose of performing the Works. |
| <b>1.10. Design documentation</b>                                    | The result of the Designer's work that consists of technical and other documentation providing for the design solutions, calculations, expert and construction survey reports, as well as other information required to implement the objectives established in the Design Task.   |
| <b>1.11. Work Handover</b>   | A Contract execution document (issued in the form and manner established in GTC)   |

<b>and Acceptance Statement</b>	approved by the Parties confirming the fact of full or partial completion of the Works and transfer of the Design Documentation to the Customer.
<b>1.12. eService</b>	Electronic means available in the Contract Module of the Computerized Maintenance Management System CMMS D7i used in cases and according to the procedure established in GTC: i) by the Customer to submit orders approved by its authorized persons to the Designer, and ii) by the Designer's authorized persons to accept orders and confirm them by entering the actual data on the performed Works and forward the information in Form M2 for the Customer's approval. Based on this information submitted by the Designer and confirmed by the Customer, the Designer issues a Work Handover and Acceptance Statement (and other electronic documents, if any).
<b>1.13. Order</b>	Document issued by the Customer to the Designer in a form and manner established in GTC authorizing the Designer to commence the agreed Works and defining the scope (if applicable) of the Works stipulated in the Contract, Work completion deadlines, the price and any other information required for execution of the Works.
<b>1.14. Ceiling price (indicated in STC)</b>	A preliminary maximum amount established by the Parties but not guaranteed by the Customer to the Designer that cannot be exceeded unless otherwise agreed by the Parties.
<b>1.15. Fixed price (indicated in STC)</b>	A specific amount established and agreed by the Parties for completion of all the Works and for fulfillment of all the terms and conditions of this Contract.
<b>1.16. Means of Work</b>	The set of means required to perform the Works.
<b>1.17. Design Task or Technical Task for Design (DT)</b>	Documents defining the scope of Works and technical tasks for designing including the Customer's (builder's) requirements (Builder's Technical Specifications). Technical task is a document approved by the Customer (builder) specifying the scope of all the Works and the main functional, architectural, technical, quality, economic, and other indicators of the to-be-constructed building, as well as the requirements to be followed in developing the design. TD is an integral part of (attachment to) STC.
<b>1.18. Designing work schedule</b>	An integral attachment to STC, which provides for the designing work schedule and guidelines of the particular task.
<b>1.19. Builder's requirements for designing work</b>	An integral attachment to STC, which provides for the Customer's standard requirements for designing works.

## **Article 2. SUBJECT OF THE CONTRACT**

2.1 Following the terms & conditions established in this Contract, the Designer undertakes, using its own resources and at its own risk and responsibility, to perform the Works specified in the Contract in accordance with the Customer's DT and/or Order, and transfer the result of such Works (Design Documentation) to the Customer; whereas, the Customer undertakes to accept the duly completed Works and the Design Documentation and pay for them in accordance with the terms and conditions established in the Contract unless otherwise agreed by the Parties.

2.2. A detailed description of the Works is provided in DT and/or Order, and/or STC, as well as other attachments to STC.

## **Article 3. INTERPRETATION**

3.1 GTC must be read and construed in conjunction with the documents listed further in this Clause. In case of any discrepancies between the Contract documents, the documents shall have the following sequence of priority:

3.1.1. Attachment to STC – DT.

3.1.2. Attachment to STC – Designing work schedule.

3.1.3. Attachment to STC – Builder's requirement for the design works.

3.1.4. Order, as per GTC Clause 26.2 or 26.3.

3.1.5. STC.

3.1.6. Other attachments to STC.

3.1.7. GTC.

3.1.8. Attachments to GTC are listed in Article 26 of the Contract (except for the documents referred to in GTC Clause 26.2 or 26.3).

3.2 Headings used in the Contract are for convenience of reference only and shall not be taken into consideration in the interpretation hereof.

3.3 The capitalized terms in GTC shall have the meaning defined in GTC Art.1 'Terms & Definitions' unless the context requires otherwise.

3.4 Words 'appropriate', 'required', 'immediately' or similar evaluative words referring to persons, time limits, costs, conditions, etc. shall be interpreted for a particular case in the light of the terms & conditions of the Contract and specific circumstances.

3.5 Words used in singular may, where required by the context, include plural and vice versa.

3.6 In case of any difference between the meaning expressed in words and numbers, the meaning expressed in words shall prevail.

#### **Article 4. THE CUSTOMER UNDERTAKES TO:**

4.1. According to the procedure and before the deadlines established in GTC, accept the Design Documentation (Works (a part thereof)) developed following the requirements set in DT and/or Work Order, or indicate any nonconformities/defects related to the scope, quality of the being transferred Design Documentation (Works (a part thereof)), by specifying the conditions as well as deadlines for their remedy;

4.2. Pay the Designer for the properly completed Works according to the procedure and terms established in the Contract;

4.3. Cooperate with the Designer in the performance of the Contract;

4.4. Provide the Designer with Technical Documentation required for development of the Design Documentation, as well as the documentation available from the Customer's Archive (e.g., master plan of the crude oil refinery managed by the Customer) and related to the Work;

4.5. Use the Design Documentation obtained from the Designer for the purposes specified in the Contract only;

4.6. Appoint a person responsible for issues related to the execution of the Contract;

4.7. Immediately, but not later than 3 (three) business days from the inception of certain circumstances, inform the Designer about the circumstances that may prevent proper performance of the Works;

4.8. Enable the Designer to take photos of the objects (facilities) or separate parts thereof, as required for execution of the Works, in accordance with the procedure effective at the Customer's company;

4.9. Perform any other obligations set out in the Contract.

#### **Article 5. THE DESIGNER UNDERTAKES TO**

5.1. Obtain all the permits, certificates, licenses and other documents required for fulfillment of the obligations under the Contract valid, and, where demanded by the Customer, present such documents to the Customer before the start of the Works;

5.2. Develop Design Documentation according to the requirements set DT and/or Order, also other documents comprising the Contract. The Designer shall have the right to deviate from the requirements in DT and/or Order, also other documents comprising the Contract, only if approved by the Customer and agreed by the Parties in writing;

5.3. Perform under the Contract in a responsible manner, execute the Works in compliance with the highest standards of professional practice;

5.4. Appoint duly qualified and experienced employees holding valid permits, certificates and/or licenses, and other documents to perform the Work, also make sure the appointed employees cooperate with the Customer;

5.5. Prior to the start of the Works under the Contract, submit to the Customer copies of the Designer's organizational and/or other internal documents confirming the appointment of Head of Design and/or Head of Design Part;

5.6. Get acquainted with and strictly observe the provisions of this Contract, requirements of the applicable EU and Lithuanian legislation, also the Customer's internal regulations governing the Designer employees' work, occupational health and safety, environmental and other issues (if applicable);

5.7. Perform the Works following the deadlines and time limits agreed in the Contract;

5.8. Assign the number of workers sufficient to complete the Works within the time limits established in the Contract;

5.9. Outsource or change subcontractors only upon prior written consent from the Customer, and assume full responsibility for subcontractors' work;

5.10. When requested by the Customer, notify the Customer in writing within 5 business days (unless otherwise specified in the request) on the progress of Works, provide any other requested information related to the Works or their performance, enable the Customer to inspect the Works performed by the Designer at any time, and verify their conformity to the provisions of the Contract. Such inspections/verifications shall not mean that the Customer has accepted the performed Works or a part thereof, or that the Designer is released from the obligation to complete and transfer the Works in accordance with the procedure established in the Contract;

5.11. Keep all documents related to performance of the Contract and execution of the Works thereunder for a period of minimum 10 (ten) years after the final settlement under the Contract, and enable the Customer to at any time and free of charge access such documents, analyze them and receive copies thereof;

5.12. Fix, using its own resources and at its own expense, the Work drawbacks/defects identified by the Customer within the time limits agreed with the Customer;

5.13. Immediately notify the Customer of any damage caused to the Customer or third parties by the Designer which performing under the Contract;

5.14. When invited by the Customer, attend meetings organized by the Customer.

5.15. Protect the Customer's commercial secrets and other confidential information related to performance under the Contract as indicated in Article 15 of GTC;

5.16. In case of any uncertainty regarding the terms and conditions specified in DT and/or Order, contact the Customer for their explanation.

5.17. Perform any other obligations and requirements stipulated in this Contract as well as in the construction and design standards applicable in the Republic of Lithuania;

5.18. Ensure compliance with the Contract by subcontractors or other legal and/or natural entities hired by the Designer, as well as by its employees;

5.19. The Party shall immediately, but no later than within 72 hours, notify Public Company ORLEN Lietuva in writing of any material changes in its financial position which may affect the Contract performance as well as of any national or international sanctions imposed on the Party or its shareholders, or members of the Board or managers.

#### **Article 6. INSURANCE**

6.1. The Designer shall at its own expense procure direct and third party damage civil liability insurance for the amount not less than the Contract price for the Contract validity period including the warranty period established in the Contract, as governed by Article 11 of the valid Law on Construction of the Republic of Lithuania. Once requested by the Customer, the Designer is required to present a copy of the insurance policy to the Customer within 5 days following the signature of the Contract.

6.2. If the Designer does not procure the insurance indicated in Par. 6.1 herein or has no valid insurance coverage, as required by the Contract, the Customer may (but is not under obligation to) procure relevant insurance for the Designer's civil liability, pay premiums of such insurance and deduct them from the nearest amounts payable to the Designer.

#### **Article 7. WORK MEANS**

7.1. If not otherwise agreed by the Parties, the Designer shall perform the Works stipulated in the Contract in its own workplace using its own means of Work, software, other equipment and everything else needed for the Works under the Contract.

#### **Article 8. QUALIFICATION REQUIREMENTS**

8.1. The Designer confirms that it will appoint a Head of Design Part for each part of the Design project and, in case of several parts of the Design project, it will also appoint a Head of Design having appropriate qualification, acting in accordance with the Regulation STR1.04.04:2017 and holding the certificate issued by the Ministry of Environment for designing of the particular part of critical facilities and for the particular group of structures according to STR1.01.03:2017 requirements.

8.2. In case the Works are performed by a foreign Designer, such Designer shall confirm that it has legalized its activities in accordance with the procedure established in STR1.02.01:2017, or that it has subcontracted a design company operating in the Republic of Lithuania for verifying and signing of the Design Documentation.

#### **Article 9. WORK ORDER**

9.1. The Designer shall commence the Works upon receiving the Customer's Order only.

9.2. The Order is a document binding upon the Parties, which can be approved only by the authorized representatives of the Parties in the form and manner established in GTC. Non-approved Orders or those signed by non-authorized representatives of the Customer shall be considered improper and shall not be

executed by the Designer. By executing such improper Orders, the Designer shall assume all legal consequences and expenses related to the performance of such Works and shall not be entitled to claim from the Customer any remuneration for the Works and/or compensation of expenses incurred in relation thereto.

9.3. The Customer shall be entitled to unilaterally decide on the form of Order applicable to the Designer:

9.3.1. Hard-copy (Purchase Order) [27.2.], or

9.3.2. Electronic (Work Order submitted via eService [27.3.]).

Note: The form of the Order shall be indicated in STC, and if it is not indicated in STC, the Designer shall use the form received from the Customer.

9.4. Upon receiving the Order, the Designer shall immediately, but in any case no later than within 3 (three) business days after the receipt (unless a different term is indicated in the Order), approve the submitted to it Order in any of the below ways:

9.4.1. The Designer shall confirm a hardcopy Order (Purchase Order) by signing such, or return it unsigned back to the Customer (using the contact details indicated in Article 16 of STC) by indicating the reasons for rejection;

9.4.2. The Designer shall confirm an electronic Order (Purchase Order) via eService system. When the Designer receives an Order via eService, but the program becomes inoperable after the receipt, the Designer shall submit to the Customer a printed out and approved with a signature Order.

9.5. The Customer shall, within 3 (three) business days from the conclusion of the Contract, provide the persons appointed by the Designer, to whom Orders (Work Orders) are going to be submitted, with free access to eService system.

9.6. The Designer shall, within 1 (one) business day after the Contract conclusion (signature, unless STC provides for another commencement date) have the right to address the Customer in writing (using the contact details specified in Paragraph 15 of STC) for providing training on the use of eService. In such case, the Customer shall provide the Designer appointed person(s) with one-off free-of-charge training in working with eService and familiarize with the eService user manual/instructions (if needed), the eService user manuals/instructions will be handed over to the Designer during the training. If the Designer makes no training request within the period established in this Paragraph, it shall be considered that the Designer knows how to use the eService.

9.7. The Designer shall start using the eService system immediately after getting access to it and taking training provided by the Customer (if any).

9.8. The Parties shall immediately, but not later than within 3 (three) business days after the Contract conclusion (signature, unless STC provides for another commencement date) assign responsible person(s), who will be authorized to process Orders, i.e. the Customer shall appoint person(s) authorized to receive in the form and manner established in GTC, also submit Orders to the Designer, and the Designer shall appoint person(s) authorized to accept the Orders submitted by the Customer. The Parties shall inform each other in writing of the appointed responsible person(s). If the Parties do not present any information on the authorized person(s) within the set period of time, it shall be considered that Orders are placed/accepted by the signatories of the Contract.

## **Article 10. COURSE OF WORKS**

10.1 The Designer shall undertake to start and finish the Works according to the deadlines established in STC and/or Order.

10.2. The Customer shall have the right to inspect the quality and progress of the Works at any time.

10.3. The Customer shall have the right to instruct or permit the Designer in writing to change the course or sequence of the Works. The Designer shall comply with all the instructions from the Customer.

10.4. The end of the Works under the Contract shall be deemed the moment when all Works indicated in the Orders issued under this Contract are completed, the Work Handover and Acceptance Statement is confirmed in the form and manner established in GTC, and Design Documentation is transferred thereby. In any case, Work Handover and Acceptance Statements submitted by the Designer unilaterally (when Parties are in dispute and do not sign a Work Handover and Acceptance Statement mutually) shall not and will not be treated as proper documents proving the end of the Works and transfer of their result to the Customer; so, therefore, such shall be returned back to the Designer together with its submitted invoices (if any).

10.5. Should the Customer refuse to accept the Works and/or sign the Work Handover and Acceptance Statement, it must provide the Designer with motivated reasons for refusing to accept the Design Documentation. In such case, the Parties shall issue a Nonconformity Statement indicating the drawbacks of the Design Documentation, and the deadlines for fixing such. The Designer shall fix the drawbacks before the indicated deadlines using its own resources and at its own cost.

10.6. The Design Documentation, also any other documentation related to the Design Documentation, which the Designer hands over to the Customer together with the Design Documentation, shall be the ownership of the Customer, unless STC provides otherwise. With the Contract, the Designer shall transfer over to the Customer the right to manage, use and handle this documentation including the unlimited right of the Customer to transfer the documentation (and any information contained therein) to third parties without a separate agreement from the Designer, except for the cases where the Customer in a separate written statement clearly and unambiguously agrees that the use of particular information is limited. Exercise of the right granted to the Customer under this Contract Paragraph shall not constitute breach of any rights or legitimate interests of the Designer including *inter alia* the intellectual rights owned by the Designer, also the rights associated with disclosure of information that is a commercial secret or any other confidential information.

10.7. When Works cannot be continued by the Designer for reasons beyond the Designer's control (except for *Force Majeure*), the Designer shall inform the Customer thereof immediately, but not later than within 1 (one) business day. In such case, the Customer shall decide on further actions, and the Designer shall proceed as instructed by the Customer.

#### **Article 11. INTELLECTUAL PROPERTY**

11.1. The Designer shall transfer to the Customer all the intellectual property rights to the Design Documentation unless otherwise provided in STC. Such rights shall be transferred to the Customer without any formal procedures.

11.2. The Designer hereby represents and guarantees that there are no valid and binding patents or other industrial property rights as well as copyrights or any other related rights, or know-how rights of third parties that can be breached as a result of managing, using or handling the Result of Works by the Customer.

11.3. The Designer also confirms that, if any of the above third party rights related to the Design Documentation occurs or becomes known, the Designer shall, at its own expense, take all the required measures (including acquisition of required approvals, permits, etc.) to enable the Customer from the moment of Design Documentation transfer to manage and use the Design Documentation, which is subject to intellectual property rights, for its business or any related purpose without any restrictions, time limitations and free of charge.

11.4. For avoidance of doubts, it is hereby clearly stated that the Customer has the right to modify the documentation comprising the Design Documentation as deemed necessary by the Customer, use it in the way appropriate for this type of documentation with account of the purpose for which it has been developed, including *inter alia* the right to make an unlimited number of its copies and store them by any method selected by the Customer, also disseminate the Design Documentation or any part thereof to other parties.

11.5. This right also includes the right by the Customer to make, use or license any possible derivative documents related to Design Documentation, which may be developed by the Customer for the designing, construction, operation, maintenance and modification of the Design Documentation result.

11.6. The Designer undertakes to hold the Customer harmless from and protect it against any demands or claims (including those of third persons) concerning violation of the rights referred to above in this Article, and indemnify the Customer against any costs (including penalties, charges, attorney fees) and payments, provided that the Designer is notified of such demands or claims by the Customer. The Designer undertakes to examine the circumstances surrounding such demands and requests, and defend the interests of the Customer accordingly.

11.7. Should the Customer be involved in any legal disputes, the Designer shall indemnify the Customer for any losses and/or damage (including litigation costs) in relation to any demands arising from violation of intellectual property rights or alleged violation thereof (including defense in case of alleged violation), except for the cases where such violation (alleged violation) arises at the Customer's fault.

#### **Article 12. OCCUPATIONAL HEALTH AND SAFETY REQUIREMENTS**

12.1. While performing the Works in the Customer's territory, the Designer shall undertake to familiarize itself and comply with the applicable requirements set out in the Occupational Health and Safety Procedure for Contractors BDS-40 and in other occupational health and safety procedures of the Customer (to the extent not superseded by GTC and/or STC). The Customer's procedures applicable to the Designer are available at: <http://www.orlenietuva.lt/EN/ForBusiness/DocumentsForContractors/Pages/Occupational-Safety-and-Health-Documents.aspx>

#### **Article 13. PRICE AND PAYMENT**

13.1 The price of the Contract shall be indicated in Article 5 of the Contract STC. The specified price shall be paid to the Designer for properly performed Works and for fulfillment of all the terms & conditions of the Contract,

as well as for the Designer's direct and indirect expenses related to fulfillment of any obligations associated with performance of the Works according to DT and/or Order, as agreed with this Contract.

13.2. Increase in wages or other similar costs of the Designer shall not affect the price of the Contract. The Designer shall assume the risk of possible increase in any contingent costs related to the Works.

13.3. The price of the Contract shall include all taxes, fees, charges and customs duties. Unless otherwise specified in STC, the Designer shall not be reimbursed for any taxes, including the Designer's corporate income tax.

13.4. The Customer shall pay the Designer the amount of money agreed in the Contract and/or Order after the completion of specific Works or a milestone of Works, as defined in DT and/or Order, and after the approval of the Work Handover and Acceptance Statement by the Parties, within 90 (ninety) calendar days following submission of a duly issued VAT invoice to the Customer, if not otherwise established in STC.

13.5. Any penalties specified in the Contract as well as damages resulting from the respective Party's default shall be settled within the maximum of 15 (fifteen) business days from the receipt of the respective demand.

13.6. Where a payment due date falls on a rest day or official holiday, such shall be made on the business day immediately following the rest day or holiday. A payment shall be deemed made after the due amount is debited against the Customer's bank account. The above payment terms apply to all payments made in connection with this Contract.

13.7. In case of any debts between the Customer and the Designer, the Parties shall be entitled to make set-offs. In such case, a mutual set-off statement shall be signed by the Parties.

13.8. A VAT invoice shall be prepared on the basis of a Work Handover and Acceptance Statement approved by the Parties, and, where needed, a Certificate on the Value of Performed Work, as well as transferred to the Customer for payment as soon as possible, however always within 1 (one) business day from the date of approval of the Work Handover and Acceptance Statement. Where a VAT invoice is submitted to the Customer before the approval of a Work Handover and Acceptance Statement by the Parties, the term of payment under such VAT invoice shall commence on the date of approval of the Work Handover and Acceptance Statement.

13.9. The Customer shall undertake to approve a Work Handover and Acceptance Statement for properly completed Works and, if needed, the Certificate on the Value of Performed Work, as well as any related documents as soon as possible, however, not later than within 5 (five) business days from submission of the above mentioned documents to the Customer, or shall return them back to the Designer providing a reasoned refusal to approve such.

13.10. The Designer shall submit VAT invoices for approval by the Customer in the form satisfactory to the Customer (original copy of each VAT invoice, unless invoices are submitted/approved electronically) enclosed with all supporting documentation to the Customer's address specified in Par. 2.1 of STC. Any costs related to submission of appropriate invoices shall be for the Designer's account.

13.11. In addition to the information required by the general VAT invoicing procedure, all invoices must contain the following details:

- a) Customer's name and registered office address; b) Customer's company code (166451720) and VAT payer number (LT 664517219);
- c) Designer's name and registered office address;
- d) Designer's bank details;
- e) Designer's VAT number, company code, or any other identification number;
- f) Invoice issue date, series and number;
- g) Contract number;
- h) Order number;
- i) Number of Work Handover and Acceptance Statement approved by the Parties;
- j) Customer's project number (if applicable);
- k) General title of Works and description of completed Works;
- l) Work completion date;
- m) Total invoiced amount exclusive of VAT;
- n) VAT rate and VAT amount in the national currency;
- o) For purchase of services (Works) from companies registered in EU, which are exempt from VAT or subject to 0 % VAT rate, or where the Customer has the duty to calculate (deduct) and pay VAT, the invoice must include a reference to the respective provisions of the European Council Directive 2006/122/EEC or to any other grounds for exemption from VAT or for 0 % VAT rate.

13.12. For Works performed under hardcopy Orders (Purchase Orders), the Designer shall submit to the Customer's cost tracking employee a hard copy of the Work Handover and Acceptance Statement approved by the Customer's Work Supervisor and, if needed, the Certificate on the Value of Performed Works, as soon as possible, however, not later than 4 p.m. (Lithuanian time) on the 25th day of the current month. In case the 25th

day of the current month is a rest day or public holiday, the Designer shall submit the above-mentioned documents before 12 p.m. (noon) (Lithuanian time) of the following business day at the latest.

13.13. For Works performed under electronic Orders (Work Orders), at the end of each month (25th of the month at the latest), the Designer shall, based on the actual information (M2 Form) entered by the Designer and approved by the Customer, prepare a Work Handover and Acceptance Statement in eService and forward such to the Customer for approval. In case eService is out of operation, the Designer shall issue a hard copy of Work Handover and Acceptance Statement and present it for the Customer's signature.

13.14. In case of the Designer's failure to submit the Work Handover and Acceptance Statement, also Certificate on the Value of Performed Work (if needed) according to the provisions of Paragraphs 13.12 and 13.13 hereof, the Customer shall be entitled to extend the payment term agreed by the Parties and established in Section 6 ('Settlement Terms & Procedure') of the STC as follows:

13.14.1. In case of a delay of up to 24 (twenty four) hours, the payment term is to be extended by 5 (five) business days;

13.14.2. In case of a delay of up to 48 (forty eight) hours, the payment term is to be extended by 10 (ten) business days;

13.14.3. In case of a delay of more than 48 (forty eight) hours, the payment term is to be extended by 15 (fifteen) business days.

13.15. Where demanded by the Customer, the Designer shall fill out the Work Handover and Acceptance Statement and, if required, the Certificate on the Value of Performed Work and sign each VAT invoice (except for electronically submitted/approved invoices) thereby confirming that the Works being accepted under the Statement have been completed and that the invoice is current, authentic and the only one issued for the Works described therein.

13.16. In case of Works performed under hardcopy Orders (Purchase Orders) and subject to hourly and/or unit price rates, the Handover and Acceptance Statement shall be based on the daily cost reports and/or unit (one-time) work reports approved by the Customer, specifying the hours worked by the Designer and all the Designer's costs to be included in the VAT invoice.

13.17. Where the Designer carries out Works based on electronic Orders (Work Orders), the Designer shall daily enter the following data into the eService system and present such in Form M2 for the Customer's approval:

13.17.1. Hours worked by employees when performing Works subject to hourly rates or unit rates;

13.17.2. Works subject to unit or hourly rates.

13.18. In case the eService system is out of operation or the Designer carries out works under hard-copy Orders (purchase orders), the Designer shall present to the Customer the following hard-copy reports approved in writing if not otherwise required by STC:

13.18.1. Daily cost report [26.5]; and/or

13.18.2. Unit rate report [26.6].

Note: Sample forms of the above documents are available on the Customer's website:

<http://www.orienlietuva.lt/LT/OurOffer/Forcontractors/Puslapiai/default.aspx>.

13.19. Payments due under the Contract shall be transferred to the bank accounts indicated in Article 2 of STC, if not otherwise agreed by the Parties, or indicated in the VAT invoice submitted by the Designer to the Customer.

13.20. The Parties agree that the Designer will eliminate all defects and/or submit Technical Documentation, and/or perform the delayed Works within a reasonable period of time agreed by the Parties.

13.21. In case the quality of the performed Works is inappropriate or Work defects occur due to some other reasons, the Customer shall be entitled to suspend payments until the Designer improves the quality and fixes all defects.

13.22. The Designer will acquire the right to receive payments suspended by the Customer only after (i) the Parties sign a defect elimination statement, and/or (ii) the Designer submits the relevant Technical Documentation. When payments are suspended on the grounds of delay in performing the Works, the Designer shall be entitled to receive payments only upon completion of the Works, with the default interest deducted from such payments.

13.23. In case of failure by the Designer to improve the quality of Works and/or eliminate all defects, and/or submit Technical Documentation, and/or complete Works within the established time limits, the Customer shall be entitled to use the suspended payments at its own discretion, i.e. correct/eliminate the defects and/or get/prepare Technical Documentation, and/or perform the delayed Works by itself or have it done by another Designer. If the amount of suspended payments is not sufficient to cover damages incurred by the Customer, the Customer shall be entitled to demand from the Designer to reimburse for all reasonable losses, damages and additional costs of the Customer that are in excess of suspended amounts.



13.24. The Parties agree that the total amount under all Orders shall not exceed the ceiling price of the Contract (if any fixed) indicated in STC.

#### **Article 14. REPRESENTATIONS AND GUARANTEES**

##### **14.1 The Parties make the following representations and guarantees to each other:**

- 14.2. They are duly established and legally existing under the laws of the country of their registered office.
- 14.3. They have taken all legal steps necessary for proper conclusion and validity of the present Contract.
- 14.4. By entering into this Contract, they have not exceeded the limits of their competence and have not contravened any binding law, rule, regulation, statute, court order, article, covenant or arrangement;
- 14.5. The representatives that have signed this Contract are duly authorized by the Parties.
- 14.6. They are not aware of any future legal changes that could affect the performance of the Contract by the Party.
- 14.7. In cases mandatory under the Contract, the Parties have provided each other with all information (documents) necessary to evaluate the other Party's activities, economic and financial standing and that such information is accurate and correct.
- 14.8. The Contract constitutes a valid, legal and binding obligation of each Party enforceable against the Party under the contractual terms and conditions.
- 14.9. The terms and conditions of the Contract are clear and enforceable.
- 14.10. Neither the entry into this Contract nor performance of contractual obligations by the Customer or the Designer conflicts or violates: (i) any decision, order, decree or instruction by court, arbitration, state or local authority binding upon the Party; (ii) any other agreement or transaction entered by the respective Party; (iii) any law or regulation applicable to any of the Parties.
- 14.11. Electronic means of communication such as email addresses and fax numbers used by the Parties belong to the Parties and are protected against any unauthorized access by third persons; the protection of text is properly ensured and the signatory of the Party is identifiable.

##### **14.12. The Designer also confirms that it:**

- 14.12.1. Holds all statutory permits, licenses, certificates, staff, organizational and technical resources required for performance hereunder;
- 14.12.2. Has included all costs required for the performance of its contractual obligations into the Contract price and assumes all risks of potential increase of its costs related to performance hereunder through no fault of the Customer and/or changes in the complexity of performance hereunder with the exclusion of what is specified in STC;
- 14.12.3. Has read and assessed all the terms and conditions of the Contract documents, including attachments, schedules, specifications and other documents related to the Works.
- 14.12.4. Has been provided by the Customer with all information about possible risks, contingencies and other circumstances which may affect the execution of the Works.
- 14.13. The Customer confirms that it will accept the Works and the Result of the Work that have been performed in a duly and timely manner in accordance with the provisions of the Contract and will pay for such Works.
- 14.14. If any representations and/or statements of the Parties herein are found to be false and/or misleading, the Party shall be under obligation to compensate the damage of the other Party resulting from such false and/or misleading representations or statements.
- 14.15. The Designer guarantees that the Works will be done in strict compliance with the provisions of this Contract and the applicable legislation of the European Union and the Republic of Lithuania.
- 14.16. The warranty period set forth in Article 10 of STC shall apply to the result created on the basis of the Design Documentation, which may not be shorter than the period set forth in Article 6.698 (1) of the Civil Code of the Republic of Lithuania.
- 14.17. If the Designer is an entity registered abroad, the Designer shall, following the provisions of Article 4 of the Procedure on Submission of Information on Foreigners Working in Lithuania (No V-401/EV-281/V-395), fill in the notification about foreigners working in Lithuania for each of its employees seconded to the Republic of Lithuania (i.e. to Public Company ORLEN Lietuva) for temporary work, and submit such notification to the Customer's contact person at least 5 business days before the scheduled arrival at Public Company ORLEN Lietuva. Furthermore, the Designer shall guarantee that all data on the seconded employees are accurate, and such seconded employees will be paid a wage (salary) not less than the minimum wage applicable in the Republic of Lithuania at the specific point of time, and shall confirm that all requirements of the applicable legislation will be observed during the secondment of such employees in Lithuania. The same duties of the Designer shall also apply in relation to the employees of subcontractors posted to Public Company ORLEN Lietuva.

14.18. In case any failure by the Designer to provide the requested information in a timely manner results in penalties imposed on the Customer for non-performance of such duty, the relevant penalties shall be paid by the Designer.

#### **Article 15. CONFIDENTIALITY**

15.1. The Customer will provide the Designer with any information (either verbal, written or expressed in any other form if made available visually or by means of technical devices) which is necessary for proper performance of obligations hereunder (hereinafter referred to as Information). The Information includes any written and/or verbal information that is related, whether directly or indirectly, to the Customer, other ORLEN Group companies or their contractual Parties and which is submitted by the Customer directly or indirectly to the Designer or received by the Designer in any other way in connection with the Contract. Such Information shall be intended for and may be used solely in the interests of the Customer. The Designer acknowledges that the Information made available to it under the Contract is confidential, unless expressly provided otherwise in the Contract.

15.2. Confidentiality obligations shall not apply to the Designer provided that:

15.2.1. Such Information is or was in the public domain other than through unauthorized disclosure or breach of this Contract;

15.2.2. Information was obtained from a third party without any breach of nondisclosure commitments;

15.2.3. The Customer has informed the Designer in writing that the particular information is not deemed confidential. In case of any doubts as to whether the particular information is confidential or not, the Designer shall consider and treat such information as confidential until the Customer notifies otherwise.

15.3. To the extent concerning any Information disclosed hereunder, the Designer, including all its employees, shall:

15.3.1. Keep (store and use) the Information by applying reasonable confidentiality protection measures established by the present Contract and the applicable legislation, protecting the Information against any unauthorized use, transfer, disclosure, or unauthorized access. The Designer shall not copy or fix and store any Information in its systems if such is not reasonably required for due performance hereunder. The Designer shall immediately notify the Customer of any violation of information security regulations or unauthorized disclosure or use of the Information.

15.3.2. Disclose the Information or part thereof only to the Designer's staff and other persons including, in particular, auditors, consultants and subcontractors, directly related to the purpose for which the Information was disclosed, and shall impose on the above mentioned persons an obligation to protect the Information and keep its confidentiality under at least the same terms and conditions as stipulated herein throughout the term of the Contract as well as for the period of protection after termination, expiry or cancellation of the Contract or impairment of its legal effects. The Designer shall be fully responsible for acts or omissions of the persons that have been provided with access to Information, including financial liability.

15.4. The Customer may at any time restrict access to the Information by the Designer. The Information shall remain the property of the Customer and, whenever requested by the Customer, the Designer shall return all Information held on any material media, including electronic information storage media, to the Customer, or destroy it if so instructed by the Customer.

15.5. In case of loss or disclosure of Information by the Designer in the manner other than established in this Contract, the Designer shall immediately notify the Customer thereof and make all reasonable efforts to regain the lost or unlawfully, unreasonably disclosed Information.

15.6. After the expiry of the Contract, the Designer shall, to the maximum practicable extent, return to the Customer or destroy all Information held by it, including all documents, articles, drawings, descriptions, diagrams or any other material expressed and stored in any other form, as well as copies of the same, unless otherwise established herein.

15.7. The Designer undertakes to maintain the confidentiality of the Information throughout the term of the Contract as well as for 10 (ten) more years after its termination, expiry or cancellation or impairment of its legal effects or completion of services, unless the Parties hereto agree otherwise in writing.

15.8. If, for the purposes of due performance hereunder, it is necessary to disclose any commercial (production) secret or other particularly sensitive information of the Customer or any other company in ORLEN Group, a separate confidentiality agreement may be concluded between the Parties.

#### **Article 16. LIABILITY OF THE PARTIES**

16.1. The Parties undertake to fulfill their contractual obligations in a due manner and refrain from any actions that may cause damage to the other Party or impose burden on performance of the obligations of the other Party.

16.2. In case the Designer fails to complete the Works by the deadline established in the Contract (DT and/or Order), the Designer shall pay a 0.05 % penalty of the value of the delayed Work indicated in the Contract for each day of delay, however, not less than EUR 100 (one hundred) per each day of delay, if not otherwise established in STC. Payment of such penalty shall not release the Designer from its obligation to compensate Customer's losses exceeding the amount of the penalty.

16.3. In case the Customer is late to pay the Designer for the properly completed Works according to VAT invoice issued by the Designer on the basis of the Work Handover & Acceptance Statement approved by the Parties, the Customer shall pay a 0.05 % penalty of the outstanding amount for each day of delay.

16.4. The Designer shall be liable for improper and poor quality Design Documentation regardless of the fact that the Customer becomes aware thereof after the acceptance of the Design Documentation.

16.5. In case of any flaws related to the Design Documentation or performance of other contractual obligations by the Designer, the Customer shall be entitled to demand from the Designer to fix all flaws and/or extend, upon written notice to the Designer, the payment terms established in the Contract.

16.6. If the re-submitted Design Documentation still contains errors and/or irregularities previously identified by the Customer and specified to the Designer, the Customer shall be entitled to demand from the Designer to pay a penalty equal to 1 % (one percent) of the value of Order or the Customer may fix the defects at its own cost and the Designer shall be under obligation to compensate all such costs of the Customer. Each time when the Designer submits the Design Documentation containing errors similar to those previously indicated by the Customer or removes not all flaws indicated the Customer, the penalty established in this Article shall be increased by 1 % (one percent).

16.7. In case the Contract or a specific Order is terminated through the fault of the Designer or at the Designer's initiative without valid reasons, the Designer shall pay the Customer a 10 % (ten percent) penalty of the Contract value or a 10 % (ten percent) penalty of the value of the Order, and indemnify the Customer for any damages arising from such termination.

16.8. Once demanded by the Customer, the Designer shall be under obligation to pay the Customer a penalty of EUR 300 (three hundred) for each case of violation of environmental, waste management and hygiene regulations as well as for gambling by the Designer's or Subcontractor's employees.

16.9. On demand of the Customer and in view of the potential consequences, the Designer shall a penalty in the below amount for each violation of the occupational health and safety (OHS) requirements committed by an employee of the Designer or subcontractor.

16.9.1. Commencement of works by the Designer in the territory of the Customer without having the Statement of Preparedness by Designer to Start Contractual Works in Public Company ORLEN Lietuva signed in accordance with Occupational Health and Safety Procedure for Contractors BDS-40. Penalty from EUR 300 (three hundred) to EUR 500 (five hundred).

16.9.2. Performance of hazardous works by the Designer in the territory of the Customer without a relevant work permit/instruction issued by the Customer in accordance with the effective procedure. Penalty from EUR 300 (three hundred) to EUR 500 (five hundred).

16.9.3. Failure by the Designer to provide the Customer with information on subcontractors engaged. Penalty from EUR 100 (one hundred) to EUR 300 (three hundred) per subcontractor.

16.9.4. Permission by the Designer to perform works in the territory of the Customer given to an employee who has no valid health examination certificate. Penalty from EUR 40 (forty) to EUR 100 (one hundred) per employee.

16.9.5. Execution by the Designer of hazardous work in the Customer's territory in breach of the work permit/instruction requirements (e.g. absence of operational gas analyzer at the workplace; no fire watch personnel or confined space attendant appointed; work executors not instructed (have not signed on the work permit / instructions); depressurization works carried out without appropriate tag out of depressurization points; hot works carried out without appropriate marking of tie-in points; no primary fire extinguishing equipment in the workplace, when the use thereof is mandatory, or equipment is inadequate and/or not checked, etc.). Penalty from EUR 100 (one hundred) to EUR 300 (three hundred).

16.9.6. Execution by the Designer of hazardous work in the Customer's territory without formalization or with inadequate formalization of the Risk Identification Card (RI Card), failure to familiarize employees with potential hazards as well as protective equipment and measures, failure to conduct Last Minute Risk Analysis (no signature of employee(s) on RI Card). Penalty from EUR 40 (forty) to EUR 100 (one hundred).

16.9.7. Failure by the Designer's OHS specialists and other responsible persons to exercise control over the work performed by the Designer's employees in the territory of the Customer. Penalty from EUR 100 (one hundred) to EUR 300 (three hundred).

16.9.8. In the event of works performed in the Customer's territory under the work permit issued: failure by the Designer's Work Manager to exercise continuous control over hazardous works when such is required under the work permit. Penalty from EUR 100 (one hundred) to EUR 300 (three hundred).

16.9.9. In the event of works performed in the Customer's power installations and Power House heating installations under the relevant instruction issued: the Designer's Supervisor leaving the workplace without suspension of hazardous work and without getting the workers out of the workplace. Penalty from EUR 100 (one hundred) to EUR 300 (three hundred).

16.9.10. Usage by the Designer in the Customer's territory of non-verified work equipment (mechanisms and/or instruments) not marked in accordance with the Customer's requirements, with no possibility to identify its owner and determine the date of its next technical inspection. Penalty from EUR 40 (forty) to EUR 100 (one hundred) per work device.

16.9.11. Usage by the Designer in the Customer's territory of work equipment (mechanisms and/or instruments) in poor technical condition, or usage of self-made work equipment, or usage of work equipment for the purposes other than intended. Penalty from EUR 100 (one hundred) to EUR 300 (three hundred) per every piece of equipment.

16.9.12. Failure by the Designer's personnel to use personal protective equipment in the Customer's territory where so required: protective clothing, protective footwear, safety helmets (or helmet with no chin strap fastened), safety goggles, hearing protection. The Designer's personnel has no respiratory protection equipment or escape gas masks when such are mandatory. Personal protective equipment has no CE marking, does not comply with the applicable requirements, e.g. work clothing is not fire retardant and anti-static, equipment being used has not been subject to periodically inspections, is not marked or is not fit for use. Penalty from EUR 40 (forty) to EUR 100 (one hundred) per employee.

16.9.12. Failure by drivers of the Designer vehicles to observe in the Customer's territory the road signs and signals as well as established traffic routes, overspeeding above 40 km/h, driving with dipped-beam headlights off, parking in non-designated places or parking in other than reverse (with vehicle facing the exit) direction as well as other road traffic offenses. Penalty from EUR 40 (forty) to EUR 100 (one hundred).

16.9.13. Violation by the Designer in the Customer's territory of OHS and fire safety requirements applicable to storage and warehousing of materials and equipment. Penalty from EUR 40 (forty) to EUR 100 (one hundred).

16.9.14. Violation by the Designer in the territory of the Customer of the requirements applicable to the usage of lifting equipment (loads lifted with no lifting plan available, attachment of the load to the crane hook is not safe, loads lifted with people present under it, guiding ropes are not used, etc.) Penalty from EUR 100 (one hundred) to EUR 300 (three hundred).

16.9.15. Usage by the Designer's personnel of electronic devices, e.g. mobile phones, in the potentially explosive atmosphere on the Customer's territory without adequate permit, or without inspected and operational portable gas analyzer. Penalty from EUR 40 (forty) to EUR 100 (one hundred).

16.9.16. Violation by the Designer's personnel of the requirements applicable in the Customer's territory for protective equipment against fall for elevated works and/or for accessing workplaces at height (e.g. failure to use personal protection against fall when such is mandatory, scaffolding works carried out by personnel without adequate qualification, work using electrical tools and instruments carried out on non-grounded scaffolds, additional loads used for work on scaffolds, etc.). Penalty from EUR 100 (one hundred) to EUR 300 (three hundred).

16.9.17. Absence of the clearly visible scaffold inspection card attached to the scaffolds erected by the Designer, usage of scaffolds that have not been subject to periodical inspection, scaffolds not registered in accordance with the established procedure. Penalty from EUR 40 (forty) to EUR 100 (one hundred).

16.9.18. Blocking by the Designer in the Customer's territory of the roads, emergency exits, and access to fire extinguishing equipment. Penalty from EUR 40 (forty) to EUR 100 (one hundred).

16.9.19. Inadequate installation and laying of power supply cables, rubber hoses of the Designer, failure to protect them against mechanical damage. Penalty from EUR 40 (forty) to EUR 100 (one hundred).

16.9.20. Usage by the Designer's personnel in the Customer's territory of open flame and/or smoking in non-designated areas. Penalty from EUR 100 (one hundred) to EUR 300 (three hundred).

16.9.21. Violation by the Designer of the requirements applicable in the Customer's territory to warning and protection of employees against potential dangers by using barriers (e.g. places where employee is under the risk of injury not fenced or inadequately fenced with warning barrier tapes or rigid safety barriers, barriers have no clearly visible identification tag with the Designer's name or logo, etc.). Penalty from EUR 40 (forty) to EUR 100 (one hundred).

16.9.22. Failure by the Designer to observe the applicable requirements during performance of excavation works in the territory of the Customer (e.g. failure to manually dig test pits for locating underground utilities; no reinforcement of excavations with the depth over 4 m where employees need to get into the excavation, no

sketch of the excavation available, no inspection of excavations, adjacent areas and protection systems made; no geodetic survey of the newly laid underground utilities and other underground engineering structures prepared by the Designer upon completion of excavation works, etc.). Penalty from EUR 100 (one hundred) to EUR 300 (three hundred).

16.9.23. Failure by the Designer to adequately notify the Customer of any accident, fire, release of hazardous substances, damaged equipment of the Customer, and near misses. Penalty from EUR 100 (one hundred) to EUR 300 (three hundred).

16.9.24. Breach by the Designer of the occupational health and safety legislation of the Republic of Lithuania that could lead to an accident at work, other accident or other serious consequences. Penalty from EUR 100 (one hundred) to EUR 300 (three hundred).

16.9.25. Breach by the Designer of the fire safety legislation of the Republic of Lithuania. Penalty from EUR 40 (forty) to EUR 100 (one hundred).

16.9.26. Breach by the Designer of the fire safety legislation of the Republic of Lithuania that led/could lead to fire, explosion. Penalty from EUR 100 (one hundred) to EUR 300 (three hundred).

16.9.27. Breach by the Designer of the legislation of the Republic of Lithuania regulating the installation, operation and safety of power installations (el. power, heat, natural gas or liquefied petroleum gas, crude oil or petroleum products). Penalty from EUR 100 (one hundred) to EUR 300 (three hundred).

The amount of penalty imposed on the Designer shall be determined in view of the following criteria:

- The first violation (breach) in a current year shall be subject to a minimum penalty;
- In the event of repeating the same violation (breach) during a year with immediate measures, however, undertaken by the Designer to prevent such in future, the average penalty shall be imposed;
- In the event of repeating the same violation (breach) during a year with no measures undertaken by the Designer to improve the OHS situation, the maximum penalty shall be imposed.

16.10. If the Designer's or subcontractor's employees are found under the influence of alcohol/otherwise intoxicated or smoking in non-designated areas, or committing theft of the Customer's or other persons' property, such employees shall be removed from the Work site, banned from entering the Customer's territory by taking their access permits and electronic ID badges. At the request of the Customer, the Designer shall pay EUR 1'500 (one thousand five hundred) penalty for each case of such violation. Furthermore, the Designer shall indemnify the Customer for all and any damage caused to the Customer by such actions.

16.11. If the Designer's employee enters the Customer's protected territory or facilities using another person's access permit and/or electronic ID badge, the Designer shall, at the Customer's demand, EUR 600 (six hundred) penalty for each case of violation.

16.12. At the request of the Customer, the Designer shall pay EUR 600 (six hundred) penalty for each violation of Public Company ORLEN Pass System Regulations [23.7].

16.13. In the event of non-performance or inadequate performance by the Designer of its obligations referred to in Article 15 *Confidentiality*, the Customer shall be entitled to unilaterally terminate the Contract by written notice to the Designer given in accordance with the procedure set forth in the Contract, and/or, upon the Customer's request, the Designer shall pay a penalty at the rate of 10 % (ten percent) of the Contract value per each case of the breach, but to the maximum of EUR 3,000 (three thousand) and minimum EUR 300 (three hundred), as well as compensate all reasonable losses of the Customer to the extent not covered by the penalty paid.

16.14. The Customer shall have the right to unilaterally deduct all and any amounts of penalties (default interest, fines) payable by the Designer from the sums due to the Designer by giving notice to the Designer of any deductions made.

## **Article 17. EXTERNAL COMMUNICATION**

17.1. The Designer shall not have the right to use the name, trademarks, logo of Public Company ORLEN Lietuva in its website, lists of business partners, brochures, advertisements or in any other marketing or advertising materials without prior written consent of the Customer. If the Designer wants to use the Customer's information referred to herein, the Designer shall, together with a request, present the draft of public notice where such information would be used.

17.2. Without separate written consent of the Customer, the Designer is also not entitled to communicate and disclose to mass media (press, radio, television, Internet media) any information related to the execution of the Contract. If the Designer wants to communicate and disclose information referred to herein, the Designer shall, together with a request, present the draft of public notice where such information would be used.

## **Article 18. NOTICES**

18.1. All notices between the Parties in relation to this Contract shall be executed in writing and considered duly delivered if sent by registered post or electronic means of communication (with acknowledgment of receipt) or

delivered to the address of the Parties specified in the Contract or to any other address indicated by the Party in writing, or by any other means of delivery that allow tracking the sent and received notices.

18.2. Written notice sent by post shall be deemed received after 5 (five) business days from the day of its sending (unless it is received sooner).

18.3. If a written notice is served by one Party to the other Party against signature, it shall be deemed to have been received on the date of service of notice.

18.4. Written notices sent by electronic means before 5:00 PM shall be deemed received on the day they were sent. Accordingly, written notices sent after 5:00 PM or on a non-business day shall be deemed received on the next business day.

18.5. The Parties to the Contract shall inform each other within 5 (five) business days about any changes in their legal addresses, contacts and bank details provided in the Contract or any other significant data that may affect the performance of the Contract.

18.6. In case of restructuring or bankruptcy (liquidation) of the Party, it shall give written notice to the other Party within 5 (five) days after the occurrence or discovery of such fact, and to agree on further performance of their obligations under the Contract.

18.7. The Parties undertake to immediately inform each other about any actions *in rem* that may affect their performance under the Contract.

## **Article 19. FORCE MAJEURE**

19.1. Neither Party shall be liable for failure to perform its obligations under the Contract where a material and negative effect resulting in such failure comes from *Force Majeure* events defined in Articles 18.2.-18.3.

19.2. *Force Majeure* referred to in Article 19.1 shall mean any event or occurrence (or combination thereof), which substantially restricts or prevents the performance of the Contract by the Party and the causes of which were not foreseen and cannot be reasonably controlled by the Party. The causes of *Force Majeure* events include, without limitation:

19.2.1. War (either declared or not), civil war, riots and revolts, acts of piracy and sabotage;

19.2.2. Natural disasters such as violent storms, cyclones, earthquakes, tidal waves, floods, destruction by lightning;

19.2.3. Boycotts, strikes and lock-outs of all kinds, slowdowns resulting from strikes, occupation of factories, premises, machines or any kind of installations of such factories and/or associated infrastructure or logistic facilities, as well boycotts, strikes and lock-outs of all kinds, go-slows resulting from strikes, occupation of railway infrastructure, and work stoppages which occur in the enterprise of the Party seeking relief, provided that if the settlement of a labour strike or lockout or any other kind of labour dispute is not within the reasonable control of the Party affected by it, such Party will not be obliged to settle a strike, lockout, or other labour dispute on terms contrary to its interests;

19.2.4. Any actions or omissions by Lithuanian and foreign authorities such as state, public administration authorities or other national or international bodies, in particular that of EU and UNO, in the form of bans or any other economic measures which did not exist at the time of conclusion of the Contract or their inability to act properly, unlawful seizure of the Party's property or any other restriction, either lawful or unlawful, of its rights to manage, use or dispose of its property initiated by national or local authorities or third persons.

19.3. The cases, where the goods, human resources, etc. required for the Contract performance are not available on the market, or cases of the lack by the Party of the necessary financial resources shall not qualify as *Force Majeure*.

19.4. The Party, which is unable to fulfill its obligations due to *Force Majeure* event, must:

19.4.1. Notify the other Party of the event as soon as possible but no later than in 7 (seven) business days from the inception of the *Force Majeure* event;

19.4.2. Provide appropriate evidence of *Force Majeure* (e.g. certificate issued by the Chamber of Commerce and Industry of the respective state, etc.). Notify the other Party immediately if *Force Majeure* ceases to exist.

19.5. If the affected Party fails to follow the provisions of Article 19.4 above, such Party shall not be entitled to refer to *Force Majeure*.

19.6. The Parties shall use their reasonable efforts to mitigate in good faith the effects of the *Force Majeure* event and cooperate in developing and implementing a plan of remedial actions and reasonable alternative measures to remove the *Force Majeure* effects.

19.7. Fulfillment of obligations hereunder shall be suspended for the duration of *Force Majeure*. If *Force Majeure* persists for more than 1 (one) month, either Party shall be entitled to terminate the Contract by giving written notice thereof to the other Party.

## **Article 20. VALIDITY, MODIFICATION AND TERMINATION OF CONTRACT**

20.1. The Contract shall be deemed concluded and binding after it is signed by the Parties. Once the Contract is signed, all previous agreements and correspondence between the Parties with regard to the Contract shall become null and void.

20.2. All Contract modifications shall be effective only if made in writing and signed by the authorized representatives of both Parties.

20.3. Once concluded, the Contract shall remain effective until full discharge of Parties' obligations hereunder or for a period agreed by the Parties, i.e. as established in STC.

20.4. Once signed and exchanged by the Parties by electronic means, the Contract, its modifications and Contract execution documents shall be deemed valid and can be used as evidence in any legal proceedings, if not otherwise established in STC. When signed documents are transmitted by electronic means, the sending Party is responsible for the appropriateness and security of the text and signature. In case of dispute, it shall be deemed that any document associated with the Contract sent by electronic means of communication during business hours (8:00 AM – 5 PM) is received on the same day it was sent. Respectively, any document associated with the Contract sent by electronic means after 5:00 PM or on a non-business day shall be deemed received on the next business day.

20.5. The obligations of the Parties, which by their nature survive the expiry of the Contract (e.g. provisions governing liability, settlements, etc.) shall continue in full force and effect until full discharge thereof.

20.6. If, for whatever reason, any part of the Contract is found invalid, the remaining provisions of the Contract shall remain valid and binding upon the Parties. In this case, the Parties undertake to continue their performance under the Contract in good faith and serving its purpose.

20.7. The Parties may terminate the Contract before its expiry by mutual agreement.

20.8 The Customer shall have the right to unilaterally terminate the Contract (Order) without indicating the reason by giving a 30 (thirty) calendar days' written notice to the Designer, unless a different notice period is established in STC. If the Contract (Order) is terminated at the initiative of the Customer due to the fault of the Designer, the damages, expenses incurred by the Customer as well as contractual penalties may be unilaterally deducted from the amounts payable to the Designer. Termination of the Contract (Order) does not deprive the Customer of the right to claim compensation for all losses and contractual penalties for non-performance of the Contract. Termination of the Contract (Order) shall not release the Parties from the payment of default interest accrued prior to the termination of the Contract.

20.9. The Designer understands that the Customer has the right to unilaterally terminate the Contract (Order), notwithstanding that the Designer has already started to perform it. In this case, provided that there is no dispute between the Parties, the Customer shall pay the Designer part of the agreed price in proportion to the actually performed Works (after deducting all payable and/or previously paid amounts, contractual penalties and damages) as well as reimburse all reasonable costs incurred by the Designer prior to receipt of Contract (Order) termination notice from the Customer. The Designer's costs must be justified by proper Work performance documents agreed with the Customer. Such documents shall be submitted within 3 (three) business days from the day of delivery of Contract (Order) termination notice. The termination of the Contract (Order) shall be without prejudice to the Customer's right to claim compensation of losses, damages and penalties arising from the Designer's failure to perform or improper performance of the Contract (Order) as well as to deduct such amounts from the sums payable to the Designer.

20.10. The Customer shall be entitled to unilaterally terminate the Contract (Order) in writing and demand compensation from the Designer of damages by giving 5 (five) business days' written notice to the Designer (unless a different notice period is established in the Contract or Order or specified by the Customer) if a breach is not fixed within the notice period, in the following cases:

20.9.1. Insolvency or liquidation proceedings are initiated against the Designer, the Designer suspends its business, etc.

20.9.2. The Designer does not comply with the terms of the Contract (Order) execution, delays the completion of the Works by at least 1 (one) business day.

20.9.3. Information, representations and warranties provided by the Designer to the Customer both before and after conclusion of the Contract as well as representations and warranties given by the Designer in the Contract are found to be inaccurate and/or misleading;

20.9.4. Existence of any other circumstances that may have a materially adverse Designer's ability to properly fulfill its contractual obligations.

20.9.5. Despite the Customer's requests the Designer fails to start the Works or the progress of the Works is too slow to complete them by the set date.

20.9.6. The Designer fails to submit all authorizations, licenses, permits, etc. required by the Contract and/or legal acts before the start of the Work.

20.9.7. In any other cases, whether or not defined in the Contract, that by their nature may be deemed a material breach of the Contract on the grounds established in Civil Code of the Republic of Lithuania.

20.10. The termination of the Contract (Order) shall be without prejudice to the Customer's right to claim compensation for all losses and contractual penalties for non-performance of the Contract. Termination of the Contract (Order) shall not release Parties from payment of default interest accrued prior to the termination of the Contract. 20.11. If the Contract (Order) is terminated on grounds indicated in Article 20.9.5 hereof, the Customer may at its own discretion assign the unperformed scope of the Contract (Order) to another designer selected by the Customer and the Designer shall reimburse all costs of the Customer incurred as a result of hiring a new contractor. In this case the Customer shall pay the Designer part of the Work price calculated by deducting all Customer's costs incurred in hiring another designer (the price of the remaining Work) from the price due to the Designer for the actually performed Works. If the Customer's costs associated with hiring another designer (the price of the remaining Work) exceed the price to be paid for the Work completed by the Designer, the Customer shall not pay that price for the Work completed by the Designer and the Designer shall compensate the difference calculated by subtracting the price due for the Work completed by the Designer from the Customer's costs (the price of the remaining Work) incurred as a result of hiring another contractor.

20.12. In case of Contract termination, the Designer shall not later than on the last effective day of the Contract:

20.12.1. Terminate the execution of the Work (if started);

20.12.2. Submit to the Customer the list of actually performed Works and the available Design Documentation (if any) and/or other evidence of the actually performed Works.

20.12.3. Return all Technical Documentation and/or other documents transferred by the Customer to the Designer and/or access to the documentation in the Customer's archive related to the designed facility (if any).

20.12.4. Return issued permits and electronic identification cards and other tangibles (if any).

#### **Article 21. PERFORMANCE GUARANTEE (if applicable).**

21.1. The value of the performance guarantee shall be not less than 10 percent of the Contract price (including VAT) if not otherwise established in STC.

21.2. The performance of the Contract may be secured by a first demand bank guarantee issued in favor of the Customer or in other ways acceptable to the Customer.

On the date of issue of the guarantee, the issuing banks shall have a long-term credit rating of at least BBB or equivalent assigned by the international rating agencies „Fitch Ratings“ or *Standart & Poor's*, or *Moody's*. If the rating of the bank issuing the guarantee is lower or none of the international rating agencies have assigned any rating to the bank, the confirmation/counter-guarantee from a bank with acceptable rating shall be obligatory.

21.3. The bank guarantee is subject to the application of the law of the Republic of Lithuania and the *ICC Uniform rules for demand guarantees* (Publication No 758). The text of the bank guarantee shall include a provision stating that the amount of the security must be paid to the Customer within 5 calendar days on the Customer's first written demand to the issuing entity, indicating the required amount; disputes between the Parties shall be settled in accordance with the procedure established by the legal acts of the Republic of Lithuania in the courts of the Republic of Lithuania.

21.4. The performance guarantee shall be at least for the entire duration of the Designer's contractual obligations plus 30 calendar days. If the Designer's contractual obligations are postponed/extended, then the validity of the performance guarantee shall be extended accordingly. Should the Designer not extend the validity of the performance guarantee, the Customer shall have the right to suspend payments under the Contract and/or enforce the performance guarantee and demand compensation for all losses exceeding the value of the performance guarantee and/or terminate the Contract.

21.5. Should the Customer receive information that the bank having issued the guarantee no longer meets the requirements of the Contract, the Designer shall submit another performance guarantee in accordance with the requirements of the Contract within 30 (thirty) calendar days from the Customer's request. If the Designer fails to do so, the Designer shall be deemed to have committed a material breach of the Contract and the Customer shall have the right to enforce the performance guarantee and demand compensation for any losses in excess of the amount of the performance guarantee and/or to terminate the Contract.

#### **Article 22. PERSONAL DATA PROTECTION**

22.1. The Parties hereby represent and warrant to each other that, in performance of the present Contract and discharge of their obligations assumed hereunder, they are in strict compliance with all requirements of the applicable legislation of the European Union and the Republic of Lithuania regulating personal data protection.

22.2. The Parties hereby represent that, in performance of the present Contract, none of them as the controller shall transfer the data to the other Party as a processor or joint data controller, whereas in case of any need to



process or jointly control any personal data controlled by the other Party, the Parties shall conclude a separate agreement on personal data processing or joint control.

22.3. Business contacts, contacts of contractors, full names, email addresses and phone numbers exchanged between the Parties for the performance of this Contract shall be processed by each Party exclusively for the purposes of the execution/administration of the Contract following the requirements established in the General Data Protection Regulation (EU) 2016/679 (GDPR) and Law of the Republic of Lithuania on Legal Protection of Personal Data.

### **Article 23. ANTI-CORRUPTION**

23.1. Each Party, including their affiliates and representative offices, confirms that in performance of the present Contract it shall exercise due diligence and shall comply with all legal provisions of the European Union and the Republic of Lithuania binding on the Parties within the scope of preventing corruption.

23.2. Furthermore, each and every Party confirms that in performance of the present Contract it shall comply with all requirements of legal acts and internal regulations binding on the Parties with regard to standards of ethical conduct and prevention of corruption within the scope of settlement under transactions, costs and expenses, conflict of interest, granting and accepting gifts, and anonymous reporting of breaches as well as their identification.

23.3. The Parties ensure that, to the best of their knowledge, in conclusion and performance of the present Contract none of them or their owners, shareholders, stockholders, members of the management board, directors and other staff members, subcontractors or other persons acting on their behalf have/has not made, proposed, promised, authorized to make and shall not make, propose, promise, or authorize to make any payment or another transfer constituting a financial or any other benefit directly or indirectly to any of the following:

- (i) any member of the management board, director or other staff member or agent of a given Party or of any business entity controlled by or affiliated with the Parties;
- (ii) any state official understood as a natural person performing a public function within the meaning given to this term in the legal system of a country in which the present Contract is performed or in which the registered offices of the Parties or any business entity controlled by or affiliated with the Parties are located;
- (iii) any political party, member of a political party, or candidate for a post in a state office;
- (iv) any agent or intermediary in exchange for payment to anyone of the aforementioned; and
- (v) any other natural person or legal entity, whether directly or through any business entity controlled by or affiliated with the Parties, in order to obtain their actions, which may result in any privilege inconsistent with law or for any other improper purpose, if such action breaches or has breached the legislative provisions of the European Union and the Republic of Lithuania within the scope of prevention of corruption.

Payments for works, services or goods under the Contract shall not be treated as financial or any other remuneration or any other benefit directly or indirectly made to the entities listed in this Paragraph above.

23.4. The Parties undertake to immediately inform each other about the cases of breaching provisions of this Paragraph. At the written request of a Party, the other Party undertakes to provide information and answers to reasonable questions of the other Party related to the performance of the Contract in accordance with the provisions of this Section. If the Party does not cooperate (does not provide information, answer questions, etc.), the other Party shall be entitled to terminate the Contract, and claim payment of the penalty of EUR 5,000 (five thousand).

23.5. In order to duly fulfill the obligations referred to above, each and every Party shall provide their employees with a possibility of reporting breaches on an anonymous basis by: (i) e-mail via the Company's Anonymous Irregularities Reporting System, to the address: [anonim@orlenlietuva.lt](mailto:anonim@orlenlietuva.lt), and (ii) to the other Party's e-mail address: (enter as required).....

23.6. In case of suspicions of corrupt activities made in connection with the present Contract by any representatives of the Parties, the Parties undertake to cooperate for examining the circumstances of such cases.

### **Article 24. INTERNATIONAL RESTRICTIVE MEASURES AND SANCTIONS**

24.1. The Parties hereby represent that the Contract will be performed without prejudice to the regulations of the United Nations, the United States of America, the European Union and the Republic of Lithuania governing the implementation of international restrictive measures and sanctions.

24.2. Failure to comply with the provision set forth in Paragraph 24.1 above shall be deemed to be the material breach of the Contract.

## **Article 25. GOVERNING LAW AND DISPUTE SETTLEMENT**

25.1. All relations between the Parties arising out of the Contract but not covered herein shall be governed by the laws and other legal acts of the Republic of Lithuania, unless otherwise established in STC.

25.2. All disputes and disagreements arising out of or related to this Contract shall be settled by mutual negotiations. In case of failure to settle disputes or disagreements by way of negotiations within reasonable period of time, the disputes and disagreements shall be resolved as follows:

25.2.1. District Court of Vilnius City (or Vilnius Regional Court when pursuant to legal acts the case is subject to examination by Regional Court as the court of first instance) as prescribed by the law of the Republic of Lithuania in case the Designer is the entity of the Republic of Lithuania.

25.2.2. Vilnius Court of Commercial Arbitration in accordance with its rules in case the Designer is a foreign entity. The number of arbitrators shall be 3 (three). The venue of arbitration proceedings shall be Vilnius, Republic of Lithuania. Substantive law of the Republic of Lithuania shall apply to disputes. The language of arbitration proceedings shall be Lithuanian with translation into English, if necessary. All procedural documents shall be sent to the email addresses of the Parties indicated in STC.

25.2.3. For the purpose of this Article, an entity of the Republic of Lithuania shall be a person with its office or place of residence registered in the Republic of Lithuania.

## **Article 26. FINAL PROVISIONS**

26.1. The present Contract shall come into force from the date it is signed and shall remain effective until complete discharge of the Parties' obligations hereunder, unless otherwise established in STC.

26.2. By signing this Contract, the Designer undertakes to provide the Customer, upon its demand, with the relevant power(s) of attorney whereby the right is granted to the authorized persons to sign the Contract on behalf of the Designer. If the person(s) signing the Contract represent the company on the basis of its incorporation documents (Articles of Association, Regulations or other documents), the Designer shall present such documents proving the right/authority of the signing person(s) to sign the Contract.

26.4. The agreements between the Parties set forth in this Contract shall supersede all written or oral agreements made before the Contract pertaining to the Works or any other provisions of this Contract.

26.5. The provisions of this Contract may be changed only through written modifications of and/or supplements to the Contract signed by the authorized representatives of both Parties.

26.6. All notifications shall be deemed duly delivered to the other Party if delivered in person subject to signed acknowledgment of receipt or sent by registered mail, fax or e-mail specified in the Contract.

26.7. The Parties undertake to give prior notice to each other in case of any changes in their registered office address, names or bank details.

26.8. This Contract has been executed in the Lithuanian language (may have translation to a foreign language), or in a foreign language (with translation to Lithuanian), or in Lithuanian and a foreign language. Where the Contract is executed in two languages (Lithuanian and foreign language), the Lithuanian version shall prevail in cases of discrepancies between the wordings of the two languages, if not otherwise provided in STC.

26.9. All plans, drawings, designs and specifications submitted by the Customer to the Designer shall remain the property of the Customer.

26.10. All design documentation, calculations and any other documents, which the Designer transfers to the Customer as the result of the Work under the Contract, shall be the Customer's property, and the Customer may use it freely and without restrictions for its own needs, transfer the documents to third parties without a separate agreement with the Designer, but only to the extent necessary for the implementation of the objectives set by the Customer.

26.11. The Designer, its employees, agents and representatives shall not offer or give any gifts, entertainments, payments, loans, etc. to the Customer's employees in exchange for more favorable treatment under this Contract. Violation of this Article may serve as the basis for the Customer to terminate this Contract for the reason of breach.

26.12. In case the Contract is to be signed with qualified electronic signature, the Parties agree that the Contract, its annexes, amendments and other Contract performance documents may be signed with qualified electronic signature. Signing can be done locally in the Parties' computers, or in the Parties' systems using an electronic document format agreed by the Parties.

26.13. The Parties agree that the Contract, its annexes, amendments and other contract performance documents may not be signed and validity/legality of a qualified electronic signature may not be verified by uploading such to third party information systems or websites.

**Article 27. ATTACHMENTS TO GTC ARE AVAILABLE AT:**

<http://www.orientlietuva.lt/LT/OurOffer/Forcontractors/Puslapiai/default.aspx>

- 27.1. Contract modification forms;
- 27.2. Sample form of hardcopy Work Order (Purchase Order);
- 27.3. Sample form of electronic Work Order (M1);
- 27.4. Sample form for Work Handover and Acceptance Statement;
- 27.5. Sample forms for daily cost reports (for works subject to hourly/unit rates);
- 27.6. Sample form of unit rate report;
- 27.7. Builder's requirements for designing work.
- 27.8. Public Company ORLEN Lietuva Pass System Regulations;
- 27.9. Public Company ORLEN Lietuva Rules for Carrying Tangible Assets;
- 27.10. Public Company ORLEN Lietuva occupational health and safety procedures and other documents governing the safety and health of employees are available at:  
<http://www.orientlietuva.lt/LT/OurOffer/Forcontractors/Puslapiai/Darbuotoju-saugos-ir-sveikatos-dokumentai.aspx>

**If during performance hereunder the regulations/procedures and/or sample forms listed in Article 27 hereof are amended/modified by the decision of the Customer, i.e. new revisions of regulations/procedures and/or forms are approved, the Designer must follow the new revisions of such documents. The Customer shall inform the Designer in writing about the new revisions of the regulations/procedures and/or forms. If the Customer fails to inform the Designer in writing, the previous versions of regulations/procedures and/or forms specified in Article 27 shall be deemed to be valid. The Designer hereby represents that it had the possibility to read and has read the Attachments referred to above and agrees with the requirements established therein. The Attachments shall constitute an integral part of the Contract.**