



## GENERAL TERMS AND CONDITIONS FOR PURCHASE OF GOODS AND PURCHASE OF GOODS AND SERVICES of ORLEN Spółka Akcyjna (ORLEN S.A.) OWZ Rev. III/2012 06.12.2012

These General Terms and Conditions for Purchase of Goods or Purchase of Goods and Services of ORLEN Spółka Akcyjna (ORLEN S.A.) (hereinafter "General Terms and Conditions"), together with the Purchase Order and all of the appendices thereto, shall constitute a uniform Agreement between the Parties. All and any references to the Seller's quotations or proposals, both binding and non-binding, shall not mean acceptance of any conditions or reservations provided therein save as explicitly stated otherwise in the Agreement. In the event of differences between the Agreement and the General Terms and Conditions, the provisions of the Agreement shall prevail.

These General Terms and Conditions are organised into articles, sections and headings for reference purposes only and this shall not affect in any way the meaning or interpretation of these General Terms and Conditions.

Definitions:	
"Buyer"	shall mean ORLEN Spółka Akcyjna (ORLEN S.A.) based in Płock at ul. Chemików 7, 09-411 Płock, entered into the Register of Entrepreneurs kept by the District Court for Łódź - ródnie cie in Łódź, XX Commercial Division of the National Court Register, under KRS number 0000028860, Tax Identification Number (NIP): 774-00-01-454, VAT-UE: PL7740001454, share/paid-up capital: PLN 1.451.177.561,25.
"Seller"	shall mean the operator with which the Buyer entered into the Agreement.
"Purchase Order"	shall mean the Buyer's request for Goods or Goods and Services, annexed with these General Terms and Conditions. Acceptance of the Purchase Order and General Terms and Conditions by the Seller shall result in the conclusion of the Agreement.
"Agreement"	agreement concluded between the Seller and the Buyer, together with any annexes thereto and these General Terms and Conditions.
"Goods"	tangible property (including any necessary equipment, additional materials, documentation and other) sold and delivered under the Agreement.
"Services"	services provided additionally to the sale and delivery of Goods, where such services are necessary for their assembly, installation or preparation for use by the Buyer.

### Article I: UNDERLYING CONDITIONS

1.1 The Seller and the Buyer can enter into the Agreement by any method, including by acceptance of the Buyer's Purchase Order by the Seller. Except as provided otherwise in the Purchase Order, the Purchase Order shall be considered accepted if a copy thereof, signed by persons authorized to do so on behalf of the Seller, is sent within 7 business days as from the date of receipt of the Purchase Order. The acceptance of the Purchase Order shall mean acceptance of all and any amendments and additions to the Seller's quotation as made by the Buyer and it shall have the same effects as conclusion of the Agreement according to the terms and conditions set out in the Purchase Order and herein.

The Seller represents that the person signing the Purchase Order is authorized to do so on behalf of the Seller.

Except as otherwise provided in mandatory rules of law, the Purchase Order may be accepted by the Seller by a directly submitted written statement, provided that the Buyer is notified thereof by fax or by e-mail before the statement is sent.

### Article II: DELIVERIES

2.1 The Seller shall immediately notify the Buyer of any situation which might alter the date of delivery of the Goods or Goods and Services. However, the notification shall not release the Seller from any of its obligations under the Agreement. The Buyer shall have the right to carry out at its own expense an inspection in order to verify progress in the delivery. The Buyer shall inform the Seller of any such inspections at least 5 days in advance.

2.2 At the latest within 7 days prior to the scheduled date of shipment, the Seller shall send to the Buyer a delivery notice with the following details: number of the Purchase Order, method of delivery and expected date of shipment, delivery note showing the number, weight, dimensions and description of the content of packing units as well as all and any directions necessary for proper transport and unloading of the Goods.

2.3 The following documents should be delivered together with the Goods (regardless of the documents for financial settlements between the Parties, sent by the Seller by post):

- copy of the invoice (it may also be sent within 7 days as from the date of sale),
- delivery note showing the number, weight, dimensions and content of packing units,
- complete technical documentation necessary for proper installation of the Goods at the place of use and their proper start-up, working and operation, including e.g. construction and assembly drawings showing any necessary details of the mechanical, control and measuring, electrical parts, etc.,
- certificates of material, certificates of analyses, tests and approvals as required in accordance with the law applicable in Poland and in the European Union,
- directions for proper storage of the Goods.

2.4 The date of delivery means the date when the Goods are transferred to the Buyer at the location specified in the Agreement or General Terms and Conditions as confirmed by the Buyer in the form of an acceptance and delivery report or another document proving the successful delivery and transfer of the Goods.

2.5 All and any changes to the contractually agreed date of delivery must be approved by the Buyer in writing or otherwise they shall be invalid.

2.6 Partial deliveries, except as otherwise provided in the Agreement, must be approved by the Buyer in writing. In the event of partial deliveries, except as otherwise provided in the Agreement, the date of delivery shall mean the date when the last partial delivery is made (transferred to the Buyer).

2.7 The Goods shall be considered non-delivered unless all and any documents necessary for shipment as well as any required documentation and certificates are furnished to the Buyer in the manner agreed in the Purchase Order so that they can be consulted by the Buyer.

2.8 Except as otherwise provided in the Purchase Order, in the event of imported Goods, the Seller shall be responsible for placing the Goods on the market within the customs territory of the European Union in compliance with the existing law and providing the Buyer with documents proving customs clearance, payment of customs duties and import VAT. It shall be acceptable for the Seller to submit a statement to the effect that customs clearance has been obtained and the Goods are in free

circulation in the European Union and customs duties and import VAT have been paid on an invoice proving successful delivery of the imported Goods or on an invoice proving intra-Community delivery of the Goods.

2.9 Except as otherwise provided in the Purchase Order, in the event of the Goods delivered from the European Union, the Seller shall be required to meet all and any requirements under the existing European Union law, especially those related to INTRASTAT, VAT and excise duty.

2.10 In the event that the Goods are delivered as part of intra-Community trilateral deliveries, the Seller shall be required to inform the Buyer (in written or electronic form) - before the date of the first delivery of the Goods - about its intention to use the simplified VAT procedure.

2.11 In the event that the delivery of the Goods or Services makes it necessary for the Seller to have access to the Buyer's manufacturing site, the Seller shall read and comply with provisions in the extract from the currently applicable version of the Regulation on the pedestrian traffic rules in ORLEN S.A. as annexed to the Agreement. In the event that the Seller fails to observe and comply with the provisions in the provided extract from the Regulation, the Seller shall pay a contractual penalty prescribed for a given type of non-compliance as specified in an appropriate section of the Instruction on pedestrian traffic in ORLEN S.A.

2.12 In the event of delayed delivery of the Goods or Services for reasons other than a Force Majeure Event, the following provisions shall apply respectively:

2.12.1 The Seller shall pay to the Buyer a contractual penalty equal to 0.3% of the net value of the Goods delivered after the agreed date of delivery per each day of 10 first days of the delay. The contractual penalty for each subsequent day as from the 11<sup>th</sup> day of the delay shall be equal to 0.5% of the net value of the Goods per day.

The total amount of the contractual penalty for delayed delivery shall not exceed 20% of the net value of the Goods delivered late. In the event that the Goods or Services delivered late form an integral part of the subject-matter of the Agreement and their late delivery makes it impossible for the Buyer to use any delivered Goods, the contractual penalty shall be calculated against the total net value of the Agreement.

2.12.2 The Buyer shall have the right to consider the Agreement as non-performed and exercise its rights under section 2.13.

2.13 If the Seller fails to perform the Agreement, the Buyer shall also have the right to immediately terminate the Agreement and to exercise jointly or individually the following remedies:

2.13.1 charge a contractual penalty equal to 20% of the value of non-delivered Goods or Services,

2.13.2 demand the Seller to pay the costs of a so-called substitute agreement with a third party. The substitute agreement shall be delivered provided that it involve purchasing specific products with a clearly stated type / version or Services which can be delivered by a third party. In such case the Buyer shall - at its absolute discretion - enter into an appropriate agreement with a third party and retain the right to demand the Seller to pay the contractual penalty and remedy any damages incurred by the Buyer due to the delay. The Seller undertakes hereby to reimburse the Buyer for the costs of deliveries under the substitute agreement. The Seller shall pay these costs based on a debit note issued by the Buyer. The account note shall be issued by the Buyer based on an invoice received by the Buyer from the third party.

2.14. If the circumstances show that the Seller fails to deliver the Agreement within the agreed time limit, the Buyer shall be entitled to immediately terminate the Agreement. This right shall be exercisable up to the expiry of the time limit for delivery as specified in the Purchase Order.

### Article III: PAYMENTS

3.1 Except as provided otherwise in the Purchase Order:

- the price in the Purchase Order is a fixed lump-sum price,
- the price in the Purchase Order is a net price for the Goods or Goods and Services. The Seller based in the Republic of Poland shall at all times increase any invoiced amounts by the amount of goods and services tax (VAT) in accordance with the applicable rules of law. The Seller based outside the Republic of Poland shall not charge any national VAT taxes or other similar taxes.

– Payments shall be made by bank transfer within the time limit prescribed in the Purchase Order as the number of days from the date of receipt of a properly issued invoice by the Buyer, together with an acceptance and delivery protocol signed by both parties or another document proving successful delivery of the Goods, to the Seller's bank account specified in the invoice. – The date of payment shall mean the date when the amount due is debited from the Buyer's account.

– In the event that the Goods or Goods and Services are not fully delivered in accordance with Article I hereof, the Buyer shall be entitled to withhold payments until the Seller fulfils all and any obligations falling into the scope of the Agreement. The time limit for payment specified in the Purchase Order shall run from this date. This does not limit the Buyer's right to enforce the provisions of Article II hereof.

– If the delivered Goods are revealed to be damaged, incomplete or otherwise defective following their acceptance and unpacking, the Buyer shall be entitled to withhold payments until the Goods are replaced with non-defective Goods.

– In the event of Purchase Orders submitted to national Sellers in currency other than PLN, the amount of the payment shall be equal to the value of the Purchase Order converted to PLN according to the average exchange rate of the National Bank of Poland (NBP) published on the day preceding the date of invoice and increased by the amount of VAT (the exchange rate and number of the conversion table should be specified in the invoice).

#### **Article IV: VAT AND INVOICES**

4.1 A properly issued invoice shall comply with any statutory requirements and contain the following information:

- amount of Goods (type of Services), net and gross unit prices for each item. Each item in the Purchase Order should be specified in the invoice in the same way.
- name / description of the Goods (Goods and Services) or reference to appropriate items in the specifications annexed to the invoice,
- number of the Buyer's Purchase Order,
- terms and deadline of payment in accordance with the Agreement,
- information about the prohibition of assignment of the remuneration due under the Agreement,
- in the event of deliveries from the European Union – appropriate and valid VAT-EU number of the Seller,
- statement referred to in Article II (2.8) hereof, except as the statement is provided as a separate document,
- CN code,
- additional information as indicated in the Purchase Order.

4.2 Invoices shall be sent:

- in the form of a single-page document printed on continuous white paper, filled out in type, without any handwritten annotations, unnecessary stamps and marks,
- in an envelope marked "FAKTURA" to ORLEN S.A., ul. Chemików 7, 04-411 Plock.

4.3 The Buyer represents that it is an active VAT payer assigned the following Tax Identification Number (NIP): 4.3-774-00-01. The Buyer's European Tax Identification Number for intra-Community transactions (VAT-EU no.) – PL7740001454.

4.4 The Seller represents that it is an active VAT payer assigned a Tax Identification Number (NIP) and the Buyer shall be informed of this number by the date of the Purchase Order / or is exempt from VAT and the Buyer shall receive appropriate supporting documents to this effect before the date of the Purchase Order. The Seller shall provide its European Tax Identification Number for intra-Community transactions (VAT-EU) for each and every Purchase Order.

4.5 The Buyer shall authorise the Seller to issue invoices without the signature of the person authorised on behalf of the Buyer.

4.6. The Seller shall not be entitled to assign (transfer) any remuneration due under the Agreement to any third parties without the Buyer's written consent or else any such assignment shall be null and void.

4.7 By issuing a VAT invoice, the Seller represents that it is authorised to do so in accordance with the tax regulations on VAT invoices. In the event that the Seller is a national operator, the Seller guarantees and bears responsibility for the correctness of the applied VAT rates which means that if the tax authorities question the Buyer's right to make a tax deduction due to the fact that a given transaction is not subject to taxation or has been exempt from taxation in accordance with the relevant regulations, the Seller, as and when requested by the Buyer, shall correct the VAT invoice and reimburse the Buyer for the resulting difference within 30 days as from the date of delivery of the request.

In the event that the Seller refuses to correct the VAT invoice, the Seller shall reimburse the Buyer for the equivalent of the VAT amount questioned by the tax authorities, and this reimbursement shall be made based on an accounting note issued by the Buyer and within 30 days as from the date of delivery thereof to the Seller.

Whatever the case, the Seller shall also reimburse the Buyer for the equivalent of any penalties, interest charges, sanctions and any other additional fees incurred by the Buyer or demanded from the Buyer by the tax authorities, and this reimbursement shall be made as described in the preceding sentence.

4.8 In the event that the Seller is a national operator, the Seller shall keep a record of invoice copies to prove and support transactions, which for the Buyer form the basis for reducing the amount of output VAT by the amount of input VAT as at the date of delivery of the Goods or Services. In the event that the Seller fails to comply with this requirement or in the event that the Seller's invoice copy differs from the original submitted to the Buyer, is incorrect for formal, legal or substantive reasons, the Seller shall reimburse the Buyer for the total damage incurred due to the tax obligation, including any sanctions and interest charges imposed on the Buyer by the tax authorities in amounts arising from the decision of the tax authorities.

#### **Article V: INTELLECTUAL PROPERTY RIGHTS**

5.1 The Seller guarantees that there are no patents or other industrial property rights, copyrights and other related rights or third-party know-how in force which could be infringed by the Buyer by using or disposing of the purchased Goods.

5.2 The Seller undertakes hereby to defend and hold the Buyer harmless from and against any third-party claims or objections due to infringement of the rights referred to above and to pay all and any costs (including attorney costs) and compensations awarded to be paid by the Buyer, provided that the Buyer shall immediately notify the Seller of any such claims and demands arising therefrom and

that the Seller shall have an opportunity and right to clarify at its own expense any such claims and demands and to defend or control defence from and against any third-party claims.

5.3 If it is provided in the Purchase Order that the Agreement includes also delivery of documentation and transfer of copyrights to the documentation that should be considered a work in accordance with the Copyrights Act, the following shall apply:

5.3.1 The Seller shall provide documentation specified in the Purchase Order (hereinafter the "documentation").

5.3.2 The Seller represents and guarantees that it shall be the owner of proprietary copyrights to the documentation and that these rights shall not be restricted or encumbered in any way with any third-party rights.

5.3.3 As soon as the documentation is provided, the Seller shall transfer to the Buyer, as part of the remuneration specified in the Purchase Order, all and any proprietary copyrights and related rights without any time-limits or territorial limitations on the use of the documentation using any forms of exploitation known as at the date of the Purchase Order.

5.3.4. The transfer of proprietary copyrights and related rights without any time limits and territorial limitations shall cover the following forms of exploitation;

- recording the documentation on any data carriers known as at the date of the Purchase Order and using any technique known as at the date of the Purchase Order;
- multiplying the documentation using any technique known as at the date of the Purchase Order on any data carriers known as at the date of the Purchase Order;
- publishing the original or copied documentation in any form and without any limitations,
- recording in computer's memory,
- publishing in and distributing via computer networks, including the Internet and intranet,
- leasing and lending,
- publishing in the form of brochures, publications, leaflets and folders or any other industry-related presentations.

5.3.5 The transfer of proprietary copyrights shall also include consent to exercise derivative copyrights and authorisation of the Buyer to give consent for such derivative rights to be exercised by third parties with respect to the forms of exploitation referred to in section 5.3.4 above.

5.3.6 To the extent allowed by separate regulations, the Seller agrees that the Buyer shall be entitled to modify and to correct the documentation.

5.3.7 The Parties agree that the documentations shall be used by the Buyer or any operators authorised by the Buyer to do so.

5.3.8 In the event that a third party raises a claim towards the Buyer about the infringement of copyrights to the documentation falling into the scope of the Agreement which have been transferred to the Buyer in accordance with this Agreement, the Seller shall defend and hold the Buyer harmless from and against any such third-party claims.

5.3.9 The Seller shall provide – in an explicit and legible manner – each and every page of the documentation, including pages with drawings, with the following wording: All and any copyrights and related rights to this documentation are owned by the Buyer.

5.3.10 The delivered documentation shall be prepared in Polish or also in English, if required so in the Purchase Order, and additionally in electronic format.

#### **Article VI: ACCEPTANCE OF GOODS AND SERVICES**

6.1 The Goods should be inspected by the Buyer immediately following their delivery, unless the acceptance procedure is carried out at a later date as specified in the Purchase Order on account of the intended use of the Goods and the fact that they must be stored in the original packaging. The delivery of the Goods shall be confirmed in the form of an acceptance-delivery report or another document proving successful delivery of the Goods. The Seller shall have a right to participate in the acceptance procedure at its own expense, provided that the Buyer is notified in advance of the Seller's intention and at latest on the day of shipment, except as provided otherwise in the Purchase Order.

6.2 The Seller shall be responsible for delivering the Goods in accordance with the shipment specifications and invoice sent together with the Goods. In the event of any non-included items, they shall be delivered to the Seller DDP "Buyer's warehouse or another location specified by the Buyer" in accordance with INCOTERMS@2010, except as the Buyer decides otherwise. The Seller shall bear all and any costs of delivery of such items.

6.3 Failure to make any claims about defects of the Goods in the acceptance-delivery report or another document proving successful delivery of the Goods shall not mean a waiver of the right to assert such claims at a later date, if such defects are only revealed following the acceptance procedure or concealed by the Seller in a deceitful manner.

#### **Article VII: FORCE MAJEURE**

7.1 Neither Party shall be held responsible for non-performance or improper performance of the Agreement or for any losses caused by a Force Majeure event.

7.2 The fact of the Force Majeure event and its impact on the performance of the Agreement and any damage resulting therefrom must be evidenced by the Party claiming the existence of the Force Majeure event and confirmed by the other Party.

7.3 The Force Majeure events shall include all and any external events unforeseeable at the time of conclusion of the Agreement and beyond the control of either Party, and specifically wars, terror attacks, riots, natural disasters, accidents, decisions of governmental authorities or any other acts of God which cause contamination, chemical or radioactive poisoning of persons, immovable or movable property, and natural calamities.

The time when these events continue to be in existence shall be appropriately reflected in the schedule.

If these events continue to be in existence for more than 3 months, both Parties shall agree new terms and conditions of their cooperation.

7.4 The Party unable to meet its obligations due to the Force Majeure event shall be required to:

- 7.4.1 immediately inform the other Party thereof at latest within 7 days as from the date of such event,
- 7.4.2 provide reliable evidence thereof.

When the Force Majeure event is no longer in existence, the other Party shall be immediately notified thereof, however, at latest within 7 days. Failure to comply with the requirements referred to above shall be a waiver of the right to claim the Force Majeure event.

7.5 In the event of justified claim of the Force Majeure event and lack of possibility of further implementation of the Agreement due to the Force Majeure event, the Buyer shall pay the Seller for

the Goods or Services delivered by the date of the Force Majeure event and the payment shall be calculated in accordance with the rules specified in the Agreement.

#### **Article VIII: GUARANTEES**

8.1 The Seller guarantees that the Goods delivered under the Agreement shall comply with specifications, drawings and any other requirements referred to in the Agreement and they shall be brand-new, not second-hand, of good quality and suitable for its intended use described in the Agreement, properly designed, adequately carried out of appropriate materials, defect-free and comply to a satisfactory extent with technological requirements set out in the Agreement.

8.2 The Seller guarantees that the Goods shall be carried out and – if provided so in the Agreement – assembled/installed in accordance with the rules of law, fire protection and occupational health and safety regulations, Polish Standards as well as UDT/PED regulations and standards applicable in the European Union.

8.3 Except as otherwise provided in the Agreement, the guarantee shall remain valid for a period of 24 months as from the date when the Parties sign an acceptance-delivery report or another document proving successful delivery of the Goods or start-up/installation report in the case of delivery of Goods and Services.

8.4 The Buyer shall have a right to lodge a complaint about the Goods as soon as any defects of the Goods are revealed. The Seller shall inform the Buyer – within 2 days as from the date when it is informed about the defects – about measures taken or to be taken as well as the time needed to remove the defects.

8.5 Pursuant to this article the Seller shall be required to immediately repair or replace the Goods or any damaged parts thereof at its own expense, including the costs of deinstallation and re-installation, costs of travel and accommodation for the Seller's dedicated personnel. Items replaced or to be replaced by the Seller shall remain at its disposal. Ex Works "Buyer's warehouse" or at another location specified by the Buyer (INCOTERMS®2010). New items replaced shall be delivered DDP "Buyer's premises or another location specified by the Buyer" (INCOTERMS®2010).

8.6 If it is necessary for the Seller to carry out an inspection prior to starting repairs or replacement, the Seller shall carry out any such inspection at its own expense and as soon as possible, however, at latest within 3 business days (excluding Saturdays) as from the date when the complaint is received and the Buyer is informed accordingly.

8.7 If the Buyer's complaint about the quality of the Goods is not accepted by the Seller, then results of analyses of the Goods carried out by an independent laboratory selected by both Parties shall be final and binding. The costs of such analyses shall only be borne by the Buyer if the complaint is shown to be unjustified.

8.8 The Buyer shall also have a right to repair and replace parts on its own or through a third party in the event that the repairs are minor or necessary to avoid any further damage or must be carried out immediately due to another important reason. The provision in the preceding sentence shall only apply if the Seller is informed thereof in advance.

8.9 If the Seller – being informed about the defect – fails to take immediate measures to remove the defect within the time limit prescribed by the Buyer, the Buyer shall have a right to take any necessary steps to remove the defect at the cost and risk of the Seller. However, this shall not release the Seller from any of its contractual obligations.

8.10 The Seller's guarantee for the Goods or any parts thereof, repaired or replaced in accordance with this article, shall be extended to include 24 months as from the date of repair / replacement.

8.11 The guarantee is without prejudice to the Buyer's rights under the warranty for physical or legal defects of the Goods or Goods and Services.

#### **Article IX: SERVICES**

9.1 The Agreement for supply of Goods can also include an obligation to deliver Services which are specifically delivered by the Seller at the Buyer's premises. Except as otherwise provided in the Purchase Order, it shall be assumed that:

– The value of the Services is included in the price of the Goods as specified in the Purchase Order.  
– All and any additional costs related to the Services delivered by the Seller, such as costs of accommodation, travel and insurance for the Seller's personnel, etc., shall be borne by the Seller.

9.2 In the case of foreign Sellers, the Buyer shall have a right to reduce the payment made to the Seller by the amount of withholding tax if required to do so in accordance with separate rules of law effective as at the date of payment. To apply tax exemption or a specific rate of withholding tax in accordance with double taxation avoidance agreement between Poland and the country where the Seller is based (residence for tax purposes), the Seller shall provide the Buyer – together with the first invoice, however, at latest within 5 business days in advance of the deadline for the first payment – with a valid original certificate of residence (i.e. certificate of the Seller's residence for income tax purposes issued by competent tax authorities). In the event that the Seller fails to furnish the certificate of residence within the time limit specified in the preceding sentence, the Buyer shall be entitled to reduce the payment to be made to the Seller by the amount of withholding tax at a rate prescribed in separate Polish tax regulations.

9.3 The Buyer accepts that information provided in the certificate of residence provided by the Seller is true, accurate and correct and the certificate is issued in accordance with appropriate rules of law and by competent authorities. Where, by reason of any defects, errors, omissions or inaccuracies of information provided in the certificate, the Buyer shall have to pay the tax in excess of the tax amount withheld from the Seller or the Buyer shall be subject to any penalties, interest charges, sanctions, etc. due to a lower amount of withholding tax than the amount due or failure to withhold the tax despite the obligation to do so, the Seller shall reimburse the Buyer for the amounts of such tax as well as any penalties, interest charges, sanctions, etc. imposed on the Buyer by tax administration authorities. In the event of foreign Sellers exempt from income tax (especially commercial partnerships), to have such payment non-taxed in Poland or to apply the rate of withholding tax in accordance with an appropriate and effective double taxation avoidance agreement, the foreign Seller shall have to furnish a valid original certificate of residence for each of the partners. Foreign Sellers exempt from income tax shall also have to furnish a list of all partners entitled to such payments, together with a description how the payments are to be allocated to the partners. In the event of changes to the facts in a given certificate, the foreign Seller shall furnish a valid original certificate of residence or valid original certificates of residence for each of the partners in any subsequent calendar year in which it is to be paid for the Services. If there are no changes to the facts in a given certificate, the foreign Seller shall submit a statement / furnish partners' statements, in accordance with the template provided by the Buyer, that the facts in a given certificate have not changed.

The Buyer accepts that information given in the certificate of residence provided by the Seller is true, accurate and correct and the certificate is issued in accordance with appropriate rules of law and by competent authorities. Where, by reason of any defects, errors, omissions or inaccurate information in the certificate, the Buyer shall have to pay the withholding on the payment or in excess of the amount withheld from the Seller or the Buyer shall be subject to any penalties, interest charges, sanctions, etc. due to a lower amount of withholding tax than the amount due or failure to withhold the tax despite the obligation to do so, the foreign Seller shall reimburse the Buyer for the equivalent of the tax as well as any penalties, interest charges, sanctions, etc. imposed on the Buyer by tax administration authorities.

9.4 In the event that the Buyer is required to account for VAT in accordance with the rules of law, then the foreign Seller based outside the Republic of Poland shall provide the invoice for the Services with the following wording: "reverse charge procedure". The Buyer shall account for VAT in accordance with the procedure.

9.5 The Buyer represents that the Services delivered by the Seller based in the Republic of Poland are not purchased for personal purposes of the Buyer's employees and that the Services are purchased for the Buyer's registered office (fixed place of business) located in Poland.

9.6 An acceptance and delivery report shall be prepared to confirm successful completion of the Services by the Seller. The provisions of Article VI shall be applied accordingly.

9.7 The Seller shall be required to provide personnel with qualifications suitable for proper and punctual delivery of the Services.

9.8 The Seller shall be required to obtain written consent of the Buyer to hiring subcontractors to perform the Services. If the Seller fails to comply with this obligation and entrust the Services to a subcontractor which is not approved by the Buyer, it shall be considered serious breach of the Agreement and the Buyer shall be entitled to:

a. withdraw from the Agreement for reasons attributable to the Seller. The Buyer can exercise this right up to the expiry of the time limit for delivery as specified in the Purchase Order.

b. exercise the rights referred to in section 2.13.2 of the General Terms and Conditions.

9.9 If it is necessary for the Seller's personnel and the Buyer's personnel to work together to complete the Services, the Seller shall be responsible that the Seller's personnel gives correct guidelines and instructions. Major instructions on assembly / services should be given by the Seller's personnel in writing.

9.10 The Seller shall be fully responsible for any damage and losses caused by the personnel providing the Services or any improper guidelines and instructions given by the Seller's personnel.

9.11 The Seller guarantees that the Services shall be carried out properly and in accordance with the Agreement. In the event that any defects are revealed within 24 months as from the date of completion of the Services, the Seller shall be required to remove them immediately at its own expense. For defects of the Services in the form of specific results, the Seller shall be liable under warranty as under a contract for specific work.

9.12 The Seller shall be required to fully insure its employees for the time when the Services are carried out on the premises of the Buyer. The Seller shall also assume the risk for any consequences and claims relating to:

– accidents of the Seller's personnel during the performance of the Services,

– damage and losses caused by the Seller's personnel and incurred by third parties,

– damage or destruction of tools and other equipment owned or used by the Seller or its personnel.

9.13 The Seller shall be required to and responsible for meeting any formal requirements, notifying competent administration authorities, obtaining any necessary approvals and consents, paying any taxes and social insurance contributions related to the employment of the Seller's personnel to carry out the Services on the Buyer's premises.

9.14 The Seller's personnel shall be required to comply with the rules and regulations applicable on the Buyer's premises.

9.15 The provisions of these General Terms and Conditions for Delivery of Goods shall apply accordingly to the Services to the extent not regulated hereunder.

#### **ARTICLE 8: LIABILITY**

10.1 The Seller shall release the Buyer from the obligation to make any payments to any third parties due to any bodily injuries or environmental damage caused by the Goods or during its use due to the defects of the Goods or Services.

10.2 In the event that the damage suffered by the Buyer due to the violation of the Agreement by the Seller is greater than the amount of any stipulated contractual penalties for the violation, the Buyer shall have a right to enforce a claim in that regard based on general rules provided for in Polish general law.

10.3 In the event that the Seller is liable to pay the contractual penalties referred to in the Agreement or causes damage to the Buyer, the Seller shall pay any such contractual penalties by bank transfer within 14 days as from the date of issue of an accounting note (debit note) by the Buyer. The Buyer shall also be entitled to reduce the payment due under the Agreement by the amount of the contractual penalties or compensation to be paid by the Seller. The Buyer shall issue a debit note for the amount of the contractual penalties and the debit note shall form the basis for the deduction.

#### **Article XI: CONFIDENTIALITY**

11.1 The Protected Information of ORLEN Spółka Akcyjna shall include information which has not been disclosed to the public and:

11.1.1 information subject to protection in accordance with the rules of law,

11.1.2 designated as confidential by a person authorised by the Buyer to provide such information,

which undermine or might undermine the interests of the Buyer if used, provided or disclosed to an unauthorised person,

The confidential information shall in particular include information defined as confidential in accordance with the following acts:

▪ Personal Data Protection Act of 29 August 1997 (Journal of Laws of 2002, No. 101, item 926, as amended) and the Regulation of the Minister of Internal Affairs and Administration of 29 April 2004 concerning the documentation of personal data processing and technical and organisational conditions for the computer devices and system used for personal data processing (Journal of Laws of 2004, no. 100, item 1024),

Personal Data – all and any information defined as such in Article 6 of the Personal Data Protection Act, relating to an identified or identifiable natural person. An identifiable person is a person whose identity can be directly or indirectly determined, in particular based on an identification number or one

or more specific factors relating to physical, physiological, intellectual, economic, cultural or social attributes of such person. No information shall be considered to enable identification of a natural person if such identification would require exorbitant costs, time or effort.

- Counteracting Unfair Competition Act of 16 April 1993 (Journal of Laws of 2003, No. 153, item 1503, as amended)

Company Secret of ORLEN S.A. – a company secret as defined in Article 11 of the Counteracting Unfair Competition Act of 16 April 1993, relating to technical, technological, organisational and financial or other information which has not been disclosed to the public and has business value for the Company and which is included in the Confidentiality Policy of ORLEN S.A. in order to keep it secret and confidential, and which undermine or might undermine the interests of ORLEN S.A. if used, provided or disclosed to an unauthorised person (Company Secrets of ORLEN S.A. shall be marked as "COMPANY SECRET" or "COMPANY SECRET OF ORLEN S.A.").

- Trading in Financial Instruments Act of 29 July 2005

Confidential Information – any information defined as such in Article 154 of the Trading in Financial Instruments Act, i.e. precisely defined information concerning, directly or indirectly, ORLEN S.A., one or more financial instruments of ORLEN S.A., acquisition or disposal of such instruments, which has not been disclosed to the public, and which could have a significant impact on the value of financial instruments of ORLEN S.A. or on the value of derivative financial instruments related thereto.

11.2 The Seller shall be required to keep the Protected Information of ORLEN S.A. referred to in section 11.2 secret and confidential, and in the event that it is necessary for the Seller to provide the Buyer with information subject to protection in accordance with the rules of law, referred to in section 11.1.1., the Buyer – within 14 days as from the date when the Seller is notified by the Buyer of such circumstances – shall enter with the Seller into a separate confidentiality agreement concerning the protection of such information in accordance with the rules of law and internal regulations of the Buyer (this provision does not apply to Personal Data processing), provided by the Buyer.

11.3 This Agreement does not include entrusting the processing and providing access to the Personal Data. In the event that it is necessary to provide or disclose Personal Data, the Parties shall be required to enter into a written agreement concerning the providing, processing or disclosing Personal Data. As of this moment the Parties shall not be authorised to process such information.

11.4 In the event that it is necessary to exchange the Protected Information referred to in section 11.1 hereof in electronic format, the Buyer shall allow providing such information by e-mail or electronic data storage devices after the Parties amend the Agreement to include appropriate provisions stipulating in detail the scope of liability and security rules related to such exchange.

11.5 The Buyer and the Seller shall refrain from disclosing any information, publications or press releases relating to the Agreement without prior consent of the other Party.

11.6 In the event that the Seller fails to comply with the requirements referred to in sections 11.2 – 11.5, the Buyer shall be entitled to charge a contractual penalty equal to 10% of the net value of the Agreement per each non-compliance event. The above provisions do not preclude either Party from seeking compensation based on general rules.

11.7 Notwithstanding section 11.7 above, the Buyer reserves the right to immediately terminate the Agreement if the Seller fails to comply with the requirements set out in this section. This right shall be exercisable up to the expiry of the time limit for delivery as specified in the Purchase Order.

#### **Article XII: External Communication**

12.1 The Seller shall obtain prior written consent of ORLEN S.A. to place the company's name, ORLEN S.A.'s trademark or logo on its website, list of business partners, in brochures, advertisements and any other advertising and marketing materials. In such a case, the Seller shall provide ORLEN S.A. – together with a request for approval – draft versions of materials in which such information would be placed.

12.2. The Seller shall also request written consent of ORLEN S.A. to the delivery of any information related to the Purchase Order to mass media, such as press, radio, TV, Internet. In such a case the Seller shall provide ORLEN S.A., together with the request for consent, the press release to be delivered to such mass media.

12.3. In the case of non-compliance or improper compliance with the requirements referred to herein, the Buyer shall be entitled to charge a contractual penalty equal to PLN 100 000 (PLN one hundred thousand) per each case of non-compliance. The payment of the contractual penalty referred to above shall not preclude ORLEN S.A. from seeking a supplementary compensation based on general rules in the event that the amount of the damage incurred exceeds the stipulated amount of the contractual penalty.

#### **Article XIII: MISCELLANEOUS**

13.1 The provisions of Polish law, in particular the provisions of the Polish Civil Code, shall apply to any issues not regulated hereunder, and the provisions of the United Nations Convention on Contracts for the International Sale of Goods adopted in Vienna on 11 April 1980 shall additionally apply – to the extent not excluded hereunder – to Agreements with operators based outside Poland, in states which are parties to the Convention.

13.2 All and any disputes arising from the Agreement, in particular with respect to its conclusion, violation, expiry, termination and cancellation thereof, shall be resolved by the Polish court of law with local jurisdiction over the Buyer's registered office.

13.3 Save where mandatory rules of law provide otherwise, all and any conditions, amendments and additions to the Agreement shall only be binding and effective after they are approved in writing by both Parties or else they shall be null and void.

13.4. ORLEN S.A. based in Plock 09-411 at ul. Chemików 7 informs that it is controller of the personal data provided by the Seller\* as defined in the Personal Data Protection Act of 29 August 1997 (Dz. U. [Journal of Laws] of 2002 no. 101, item 926, as amended) to be processed as and to the extent necessary for serving and implementing the Agreement. The personal data are provided voluntarily and related to the conclusion and implementation of the Agreement.

Data controller informs that the Seller's personal data may be received by operators working with ORLEN S.A. to that effect.

The Seller shall have a right to access and correct its personal data.

\*Applies to Sellers who are natural persons, including operators of business subject to registration in the Central Registration and Information on Business (CEIDG), and also partners of civil-law partnerships.