

## 1. General

**1.1** These conditions of purchase of BASF SE and its Affiliated Companies Located in Germany for Installation Services (hereinafter "Conditions of Purchase for Installation Services") form an integral part of all contracts on deliveries and provision of installation services (hereinafter "Installation Services") between the service provider, respectively, (hereinafter "Contractor") and BASF SE or its affiliated companies located in Germany, respectively, (hereinafter "Principal") In individual cases, Installation Services may also represent construction services within the meaning of §§ 650a ff of the German Civil Code (BGB).

**1.2** General terms of business of the Contractor shall only apply if and insofar as the Principal has explicitly accepted them in writing. Any references of the Principal to correspondence from the Contractor containing or referring to the Contractor's general terms of business shall not constitute the Principal's acceptance of the applicability to this contract of such general terms of business. The Contractor's general terms of business shall also not apply if the Principal should accept the provision of Installation Services in the knowledge that the Contractor has purported to deliver them on general terms of business of the Contractor that deviate from or are in conflict with these Conditions of Purchase for Installation Services.

## 2. Offer

**2.1** Offers and price quotes shall not be remunerated and shall not create any obligations on the part of the Principal.

**2.2** In its offer the Contractor shall explicitly expose any discrepancies between its offer and the Principal's inquiry. If the Contractor has alternative solutions for an inquiry which are technologically or economically superior, it shall additionally present this offer to the Principal.

## 3. Types of Orders

**3.1** "Contract" in the meaning of these Conditions of Purchase for Installation Services is an object-related or project-related individual contract and a "call-off contract" based on an existing framework purchase order or framework contract (hereinafter "Framework Order") between the Principal and the Contractor.

**3.2** For the call-off contract, the provisions in the relevant framework purchase order shall apply even if the Principal does not refer to the relevant framework purchase order when concluding or awarding the respective call-off contract.

**3.3** Details on the type of order are specified in the Principal's relevant purchase orders.

Type and scope of the Installation Service to be provided, and the remuneration of the Contractor are defined by the contract and its following components – valid in case of contradictions in the specified sequence. This order of precedence does not apply if any ambiguity or incompleteness in the primary contract elements can be remedied or completed by the subordinated contract elements. Applicable are:

- a) The respective contract
- b) Framework purchase order (in case of a call-off contract)
- c) The Principal's "Supplementary discipline-specific provisions" specified in the respective contract or framework purchase order in the version valid at the time of contract conclusion
- d) The "Conditions of Purchase of BASF SE and its Affiliated Companies Located in Germany for Installation Services" in the version valid at the time of contract conclusion
- e) Standard Service Catalogs (SSC) / Service Catalogs (SC)
- f) Discipline-specific Standard Material Catalogs (StMC)
- g) The site regulation of the Principal valid at the place of provision of the Installation Services in the version valid at the time of contract conclusion can be downloaded at <http://www.basf.com/supplier-conditions>
- h) The other discipline-specific Technical Rules of the Principal specified in the respective contract or framework purchase order in the version valid at the time of contract conclusion

- i) All technical regulations and standards in the respective version valid until acceptance, such as DIN standards, EN standards, ISO standards, VDI / VDE directives including published drafts, provided that they comply with the generally applicable rules of technology, the manufacturer's guidelines and regulations, provided that they comply with the generally applicable rules of technology valid at the time of acceptance
- j) The relevant regulations on occupational health and safety such as the Construction Site Ordinance and the provisions on occupational health and safety at construction sites, the Occupational Health and Safety Act, the German Workplace Ordinance and the Workplace Regulations, DGUV regulations (accident prevention regulations), other provisions issued by professional associations, the directives and regulations issued by German property insurers
- k) Public laws, ordinances and other regulations issued by the federal government, the states and other public law bodies.

## 4. Duties of Cooperation and Provision on the Part of the Principal

**4.1** The Contractor shall list the required duties of cooperation and provision on the part of the Principal explicitly and finally in its quotation. These include the type, scope, time and other details, unless this involves duties or details on duties that could not be foreseen and which may only be revealed during the course of executing the contract.

**4.2** The Principal may fulfill duties of cooperation and provision itself or via a third party. In the case of violation of the duties of cooperation and/or provision, the Contractor shall set the Principal an appropriate extension deadline in writing. If it becomes evident that agreed dates or periods are endangered due to the violation and/or that the Contractor incurs additional costs due to the violation, the Contractor shall immediately inform the Principal of this in writing.

## 5. Contract Execution

**5.1** The Contractor shall request the documents required for the provision of the Installation Services from the Principal in due time and review the documents for completeness and compliance immediately upon receipt. The Contractor shall inform the Principal immediately in writing of any inconsistencies that are apparent to the Contractor.

**5.2** The Contractor shall provide the Principal with the name of a contractor officer in writing before the start of Installation Services. The Contractor officer shall have all the requisite decision-making powers and authority to legally represent the Contractor with legally binding effect. The contractor officer must possess extensive expert knowledge required for the execution of the Installation Services and must possess experience in the respective discipline. The Contractor officer must be proficient in spoken and written German. In case of a planned replacement of the Contractor officer, the Contractor shall inform the Principal in advance in writing.

**5.3** Whether the Installation Services are executed during continuous ongoing operation, during planned or unplanned partial shutdowns, during complete shutdowns or in new constructions shall be determined in particular in accordance with the specific operating situation and defined in the relevant contract.

**5.4** In the case of Installation Services that cannot be checked afterwards (e.g. disassembly), the Contractor's officer shall describe the type and scope of the Installation Services precisely and conclusively and submit these to the Principal's construction management. The execution of Installation Services such as these requires prior written consent from the Principal's construction management. The approval by the Principal shall, if the billing of a price is done according to a quantity survey, be attached to the quantity survey.

**5.5** When executing the contract, operational concerns of the Principal shall be taken into account as a matter of priority.

**5.6** The Installation Services executed at the site of the Principal shall be performed within the normal working hours of the Principal. The performance of Installation Services outside the normal working hours shall require the prior approval of the Principal's construction management in writing.

The normal working hours shall be defined in the contract or the supplementary discipline-specific provisions of the Principal. A contact designated by the Contractor must be available to the Principal at all times during normal working hours.

**5.7** The Contractor undertakes, upon request by the Principal, to also provide Installation Services outside the agreed execution period, provided the Contractor's operational capacities allow this.

**5.8** The Contractor shall inform the construction management of the Principal immediately and in writing on all obstructions which could in the opinion of the Contractor endanger the proper execution of the Installation Services, especially the execution on schedule and with the required quality. If such a notification is not submitted or not submitted in due time, then compensation claims asserted by the Contractor against the Principal arising from the obstructions and interruptions are already excluded for this reason, unless the obstruction was apparent to the Principal. Possible construction-related or minor obstructions and obstructions that are not attributable to the Principal (e.g. due to weather conditions) do not entitle the Contractor to any form of compensation claims against the Principal.

**5.9** For safety and technological reasons, the Contractor shall ensure that it is possible to communicate in German on the construction site at all times, the Contractor shall moreover ensure that these so-called "permits" of the Principal are only accepted by Contractor or subcontractor employees who possess the corresponding specialized qualification and command of written and spoken German. These persons are responsible for implementing the safety requirements from the permit and must be present on the installation site during performance of the Installation Services. This also applies when the Contractor dispatches only a single worker to the installation site.

**5.10** The employees, subcontractors (regardless of their level) deployed by the Contractor and their employees, leasing employees and personnel service providers (hereinafter "Vicarious Agents") have to possess the required skills, qualifications (in particular specialized knowledge) and experience to provide the commissioned Installation Services in compliance with the contract and are equipped with the necessary equipment and the personal protection equipment specified.

**5.11** When executing the contract, the Contractor shall take all necessary precautions and safety measures in order to prevent damage to persons, health, the environment, property and assets at its own cost.

**5.12** The place of fulfillment is the installation site named in the respective contract.

## **6. Dates / Periods, Partial Services, Changes**

**6.1** The Contractor shall comply with all contractually agreed dates/periods. The time of final acceptance is definitive for the timeliness of the completion of the Installation Service. The early completion of Installation Services or partial provision of Installation Services require the Principal's prior written agreement.

**6.2** If the Contractor recognizes that it will not be able to fulfill its contractual obligations either in full or in part, or not within the stipulated timeframe, it must notify this to the Principal in writing forthwith and propose measures for how the delay can be prevented.

Any unconditional acceptance by the Principal of a delayed (or partial) provision of Installation Services shall by no means constitute a waiver of any rights or claims of the Principal due to late or (partial provision) of services.

**6.3** On becoming aware of an increase, reduction, change or other deviation (hereinafter "Deviations") from the agreed scope

## **Conditions of Purchase of BASF SE and its Affiliated Companies Located in Germany for Installation Services**

of services to be performed while fulfilling the contract the Contractor shall inform the Principal immediately in writing specifying the resulting scheduling and financial consequences.

Any changes to the Installation Service require written consent by the Principal.

**6.4** If the Principal exercises his rights to unilaterally demand changes to the contract with regard to construction services, the Contractor is obligated to comply if the execution is reasonable. Any adaptation of the remuneration in such a case is governed by statutory provisions in § 650c BGB.

## **7. Sustainability, EHS and Certification**

**7.1** The Principal conducts its business in accordance with the principle of sustainable development and adheres to internationally recognized fundamental standards for occupational health and safety, environmental protection (EHS), labor and human rights as well as responsible corporate governance (hereinafter "ESG Standards"). The Principal has described its understanding of the ESG Standards in the Supplier Code of Conduct (<http://www.basf.com/supplier-code-of-conduct>). The Principal expects the Contractor to adhere to the ESG Standards. Furthermore, the Principal calls upon the Contractor to ensure that all its subcontractors of any tier adhere to the ESG Standards likewise. The Principal shall have the right to check adherence to the ESG Standards on the part of the Contractor, either itself or through third parties that it commissions, with prior notice.

**7.2** The Contractor shall ensure that the Vicarious Agents it uses comply with the constraints of the Principal regarding occupational safety and health and environmental protection (EHS) specified in the contract, all relevant statutory, governmental and other SHE regulations and the plant-specific and installation site-specific safety instructions and site rules, including any relevant site regulations ("Standortordnung"), that are to be provided to the Contractor by the responsible plant or construction management of the Principal before the start of the Installation Services.

**7.3** The Contractor shall for the duration of contract execution have a certified safety concept in place, which shall be documented to the Principal upon demand. Examples of proof that can be provided of this include the system audit of the Principal, certification in accordance with Safety Certificate Contractors (SCC) or a comparable SHE certification. The Contractor shall furnish proof regarding the involvement of subcontractors, regardless of level, in the safety concept of the Contractor by submitting the list of participants including the employees of the subcontractor who participated in the relevant safety instructions by the Contractor.

**7.4** The Contractor shall bear any processing costs incurred by the Principal as the result of culpable wrongdoing on the part of the Contractor and his Vicarious Agents, especially in the case of violations of criminal law or the Technical Rules named in Clauses 3.3 and 7.2. The Principal's further rights shall remain unaffected.

## **8. Quality**

The Contractor shall carry out and maintain effective quality assurance and, if requested, demonstrate this to the Principal. The Contractor shall apply a quality assurance system with elements as per ISO 9000 ff. or a similar system of equivalent standard. The Principal shall have the right to inspect the Contractor's quality assurance system with prior notice, either itself or through third parties commissioned by the Principal.

## **9. Testing and Inspection in the Course of Contract Fulfillment**

**9.1** The Principal has the right to test or inspect how the contract is being fulfilled by the Contractor. Such inspection/testing does not have any effect on the contractual and legal rights or claims of the Principal.

**9.2** The Contractor is obligated to provide to the Principal with appropriate qualification certificates for the Vicarious Agents it dispatches upon demand.

**9.3** On request from the Principal, the Contractor must remove any Vicarious Agents who are insufficiently qualified or who violate order and safety at the plant from the installation site at its own expense and provide replacement. The Contractor shall bear the costs arising from any resulting scheduling delays or excessive costs.

#### **10. Use of subcontractors and personnel service providers**

**10.1** Third parties (in particular any subcontractors as well as personnel service providers and self-employed persons or leasing employees provided by the Contractor) may only be employed or replaced by the Contractor to perform the contract at the site of the Principal with the Principal's prior written consent. The Principal will not refuse its consent without cause. In particular, the use of further subcontractors by the Contractor's subcontractors is generally not permissible. If the Contractor intends to use subcontractors to perform the contract from the outset, the Contractor must inform the Principal of this when submitting its offer.

**10.2** The Principal has the right to base his approval for the use or replacement of subcontractors and personnel service providers by the Contractor within the meaning of Clause 10.1 on an approval audit. Upon request by the Contractor, the Contractor may participate in such an approval audit.

**10.3** Irrespective of the execution of an approval audit and the written consent of the Principal, the Contractor shall contractually obligate the designated subcontractors or personnel service providers to refrain from deploying third parties within the meaning of Clause 10.1 without prior written consent. The Contractor shall undertake all reasonable checks and efforts to prevent an impermissible personnel leasing or a chain leasing within the meaning of § 1 para. 1 sentence 3 of the German Temporary Employment Act (AÜG).

**10.4** The use of third parties or a respective consent from the Principal shall not affect the Contractor's responsibility for proper fulfillment of the contract. Occupational accidents occurring when performing the due Installation Services, in particular infringements of the provisions specified in Clause 3.3 and Clause 7.2 by the Contractor's vicarious agents, shall be attributable to the Contractor.

**10.5** The Contractor shall ensure that its contracts concluded with subcontractors include a clause that, in the event of early termination of this contract for reasons attributable to the Contractor, the Principal may enter the contract concluded between the Contractor and the subcontractor.

#### **11. Statutory Minimum Wages Act (MiLoG), Employee Assignment Law (AEntG), Prohibition on Illegal Employment**

**11.1** The Contractor must ensure that the employees used by the Contractor or its subcontractors or personnel service providers to perform contracts with the Principal receive the minimum wage as per the German Minimum Wages Act (MiLoG), respectively the minimum hourly rate of pay (Mindeststundenentgelt) according to the regulation based on section 3a of the German Temporary Employment Act (Arbeitnehmerüberlassungsgesetz). If the Installation Services to be provided are subject to the scope of the Employee Assignment Law (AEntG), the contractor must moreover ensure that the provisions contained in German law or administrative provisions as listed numerically in section 2 paragraph 1 of the Employee Assignment Law (AEntG) concerning working conditions as well as the collective bargaining agreements to be applied in accordance with section 3 of the AEntG - in particular with regard to the payment of standard wages - are observed. The Contractor must also ensure that binding obligations to pay contributions to social security carriers, employers' liability insurance associations and other institutions such as the

## **Conditions of Purchase of BASF SE and its Affiliated Companies Located in Germany for Installation Services**

joint institutions of the collective bargaining agreement parties named in section 8 AEntG are fulfilled.

**11.2** When choosing subcontractors or personnel service providers, the Contractor shall check fulfillment of the aforementioned conditions as per Clause 11.1 and require them to provide written confirmation of compliance. Furthermore, the Contractor shall obtain written assurance from these parties that they will require other subcontractors or personnel service providers as may be engaged to comply with the requirements.

**11.3** The Contractor shall indemnify the Principal against justified claims any employee of the Contractor or any employee of a subcontractor, regardless of level, or of a personnel service provider used has brought forward towards the Principal as the guarantor of payment of the statutory minimum wage or minimum remuneration pursuant to AEntG, or claims by one of the institutions of the collective bargaining agreement parties named in section 8 AEntG for the provision of payments.

**11.4** The Principal is entitled to terminate the contract with the Contractor without notice if and when the Principal is justifiably made liable as guarantor according to MiLoG or AEntG.

**11.5** Moreover, the Contractor shall accept liability vis-à-vis the Principal for any damage that may be suffered by the Principal through culpable failure to meet the obligations as per Clauses 11.1 and 11.2.

**11.6** Illegal employment of all kinds is prohibited.

#### **12. Certificate of Exemption for Construction Services**

**12.1** The Contractor shall attach a valid certificate of exemption from the responsible tax office in accordance with § 48b of the German Income Tax Act (EStG) to its quotation documents, provided the offered Installation Services are "construction services" in the meaning of § 48 EStG.

**12.2** If no valid certificate of exemption is available at the time of payment, the Principal shall retain the tax from the invoice amount to safeguard the legally required tax claim. The costs associated with executing the tax withholding procedure will be billed as a flat-rate payment in the amount of EUR 150 and deducted from the Contractor's remuneration claims.

**12.3** If the certificate of exemption submitted to the Principal is retracted by the tax office responsible, the Contractor shall inform the Principal of this retraction immediately and in writing.

#### **13. Acceptance, Passing of Risk**

**13.1** The Contractor shall inform the Principal of the completion of its Installation Services in writing (including the use of an Electronic Data Processing (EDP) system such as Avisor). The Contractor is obligated to review his Installation Services prior to the notification of completion for completeness and faultlessness, and execute any remaining work/rework that may be necessary. A formal acceptance shall take place for object or project-related individual contracts as well on the explicit demands of the Principal; each contracting party shall bear its costs arising in connection with conducting the acceptance.

In all cases, the Installation Services shall be considered as accepted upon the Principal's receipt of the notification of completion and receipt of the final payment in the Contractor's bank account. Other implied or implicit acceptance are excluded; partial payment approvals in particular shall not constitute acceptance.

**13.2** The Principal can refuse to submit a declaration of acceptance and withhold any installment payment associated with this if the goods or services are not provided in full or are defective. This also applies in the case of an agreed acceptance date or a deadline for acceptance set for the Principal by the Contractor.

**13.3** The passing of risk shall only occur with the unconditional declaration of acceptance by the Principal.

**13.4** Immediately after acceptance by the Principal, the Contractor shall supply the Principal with the quantity survey data including all required checkable documents in connection with the proof of proper performance of the Installation Services.

13.5 Clauses 13.1 to 13.3 apply equally to the acceptance of a rectification measure in the case of a liability for defects on the part of the Contractor.

#### 14. Condition of the Installation Services, Rights in the Event of Defects

14.1 The Contractor is responsible for provision of Installation Services free of defects, in particular compliance with the agreed specification of goods and services, and, additionally, for ensuring that guaranteed properties and features are present. In addition, the Contractor guarantees that the Installation Services meet the current technical standards and – if applicable – the generally recognized standards in plant safety, occupational medicine and hygiene; are provided by qualified personnel and are in line with all legal regulations pertinent for the place of fulfillment. If the contract also includes the delivery of machines, equipment or plants, they shall meet the special safety requirements applicable to machinery, equipment and plants at the time of contract fulfillment, and shall be CE marked.

14.2 In the event of any defects, the Principal has the right to demand rectification of such defects according to applicable law. The mode of rectification shall be at the Principal's discretion.

The Contractor shall bear the cost of rectification within the framework of the statutory provisions and must execute rectification in all respects in accordance with the Principal's instructions and requirements. If rectification does not take place within an appropriate period of time, rectification has failed, or it is not necessary to fix a grace period for rectification, the Principal shall be entitled to claim further legal rights in the event of defects.

14.3 If rectification does not take place within an appropriate period of time, if it has failed, or if it is not necessary to fix a grace period for rectification, the Principal has the right, in addition to the rights named in Clause 14.2, to remedy the defects itself at the cost and liability of the Contractor, or allow this work to be undertaken by third parties. The Principal is in this case entitled to demand compensation from the Contractor for the required measures. A grace period for rectification is particularly unnecessary if there is a danger of unreasonably high damages and the Contractor cannot be reached. In addition, the applicable law shall apply. Any additional rights of the Principal concerning the Contractor's statutory liability for defects or under any guarantees shall remain unaffected.

14.4 Claims under warranty shall become time-barred thirty (30) months after the acceptance unless a longer expiration period is prescribed by law. The Principal shall not be deemed to have waived any of its rights to make claims under warranty in the absence of an express written waiver.

#### 15. Infringing Property Rights

It is the Contractor's responsibility to ensure that the provision of the Installation Services of the Principal and the use thereof by the Principal pursuant to the contract will not infringe any patent laws, copyright or other proprietary rights of third parties. Notwithstanding other legal claims, the Contractor shall indemnify the Principal from any third party claims for which the Principal may be held liable as a result of the infringement of any of the aforementioned property rights if these are based on a culpable violation of obligations by the Contractor. The Contractor shall in this case bear the cost of any licensing fees, expenses and fees incurred by the Principal in preventing and / or rectifying any infringements of property rights.

#### 16. Contract Penalty

If a contract penalty has been agreed upon and is incurred, the Principal is entitled to claim such penalty until the final payment is due without requiring a reservation pursuant to section 341 paragraph 3 of the German Civil Code ("BGB").

#### 17. General Liability, Insurance

17.1 Unless otherwise established in these Conditions of Purchase for Installation Services, the Contractor shall be liable as

## Conditions of Purchase of BASF SE and its Affiliated Companies Located in Germany for Installation Services

per the statutory provisions. If claims are made against the Principal by third parties due to damage that falls under the responsibility of the Contractor, the Contractor undertakes to indemnify the Principal from these claims immediately, unless the Contractor proves that it has not culpably caused the damage in question.

17.2 The Contractor shall maintain sufficient liability insurance in line with usual industry standards at its own cost for damage attributable to it or its Vicarious Agents with a limit of liability per damage event of at least EUR 5,000,000 all-inclusive for damage to persons, property and assets and a maximum annual compensation payment of at least EUR 10,000,000. Evidence of the amount of insurance coverage shall be provided to the Principal upon request. The Contractor's contractual and legal liability remains unaffected by the extent and amount of his/her insurance coverage. If the Contractor is liable and a third party asserts claims against the Principal regarding the damage event, the Contractor shall indemnify the Principal against such claims from third parties.

#### 18. Invoicing, Payment

18.1 The remuneration for Installation Services accepted by the Principal is paid in accordance with the price types "fixed price", "price in accordance with quantity survey" or "price by expenditure", and will be billed in accordance with the contractually agreed hourly rates. Different price types may be defined in the contract. The agreed prices are net of any applicable value-added tax.

18.2 In the case of the "price in accordance with quantity survey" price type, Installation Services accepted by the Principal are recorded based on the definitive standard service catalogs/service catalogs/standard materials catalogs of the Principal definitive for the contract in each case, based on individual calculation and evaluated using the contractually agreed factors.

Installation Services which are not specified in a standard service catalog / bill of quantities (possibly in connection with a standard material catalog), known as remaining work and/or additional services, are either remunerated as per the unit prices to be agreed by the contract parties or based on expenditures as per Clause 18.4. The contract parties shall define the price type to be applied prior to the performance of the remaining work and/or additional service. If extraordinary difficulties or special circumstances arise during the performance of the remaining work and/or additional services, the Contractor shall inform the Principal immediately in writing; the continued performance of the Installation Services requires the prior written consent from the Principal.

18.3 The Principal shall check the quantity surveys on site, usually together with the Contractor. Should the Principal detect errors, inconsistencies or other uncertainties while checking the quantity surveys, the Principal shall inform the Contractor accordingly and give it the opportunity to comment and if necessary to correct the quantity survey(s) concerned.

18.4 If a need for non-assessable, additional Installation Service becomes apparent during the execution of Installation Services, these shall be accounted by time in accordance with the contractually agreed hourly rates.

The execution of such additional Installation Services requires the prior written consent from the Principal. The Contractor shall use the "Services charged on a time basis / provisions / use of equipment" sample form from the Principal for billing approved services on a time basis. Time sheets completed by the Contractor according to the sample shall be submitted on a daily basis to the Principal's construction management for technical and quantitative review, and shall be confirmed by the construction management in writing. The Contractor shall include this confirmation with the billing. The signing of the above-mentioned verifications by the Principal's construction management does not represent the legal acknowledgment with regard to the fundamental entitlement of the Contractor to invoice these services on a time basis

in this specific case; the right to review remains whether this involves additionally required services or services that are already covered by the contract. If the later review finds that the services calculated based on expenditure have already been taken into account in the scope of contractual services or are part of the support services, the Contractor shall have no claim to the desired remuneration even if the verifications have been signed off. In the case of any duplicate payment of services, i.e. if this was remunerated as contractual services, the Contractor is obligated to reimburse the payment immediately. The Contractor cannot plead loss of enrichment.

**18.5** The contractually agreed payment covers all Installation Services that are to be performed by the Contractor as part of contract fulfillment, including expenses, incidental costs, incidental services, allowances etc., which are to be performed by the Contractor under the contract fulfillment. In particular, this includes:

- a) Evaluation/calculation work and the further processing of the recorded data for the Installation Services,
- b) All wage and ancillary wage costs for site managers, supervisors, experts, helpers or other staff of the Contractor,
- c) Staff-related costs such as accommodation allowances, travel costs, travel times, overnight stays, additional payments except for overtime or work at night or on Sundays or public holidays ordered by the Principal,
- d) Office containers, similar facilities and construction site containers,
- e) Office and workshop equipment,
- f) Workshop, workshop facilities, outdoor storage areas, warehouses etc.,
- g) Construction site, office, recreational and sanitary facilities,
- h) Set-up, maintenance and dissolution/clearance of the construction site,
- i) Tools usual in the sector for the agreed Installation Services,
- j) Means of communication such as telephone, cell phone, fax machine etc. and their set-up and maintenance,
- k) Passenger vehicles, service vehicles,
- l) Protective equipment and work clothing in line with the Principal's regulations,
- m) Common weather-related measures,
- n) Detailed agreements on agreed service contents,
- o) Order-related documentation and erector certificates,
- p) Safety training/briefings,
- q) Relevant safety agreements incl. work permits etc.,
- r) All transportation unless different arrangements are explicitly made in the contract,
- s) Rent for spaces, offices, containers,
- t) EDP-compliant contract implementation,
- u) Costs for the Contractor for instruction of the Principal's staff in the operation and maintenance of the plants delivered and/or constructed by the Contractor,
- v) EDP hardware and software for standard PC applications.

**18.6** The contractually agreed prices / factors are binding for the defined duration of the contract. They remain valid even in case of changes in quantity. A price gliding clause for wage, material, device and substance costs is not contractually agreed.

## 19. Value Added Tax, Invoicing, Payment

### 19.1 Value Added Tax (VAT)

If the Installation Service is taxable and subject to taxation in Germany, an invoice on the completed Installation Service shall be issued that complies with the requirements of § 14 of the German Value Added Tax Act (UStG). Otherwise, the Principal can withhold any VAT until the Contractor has submitted a corresponding invoice which entitles the Principal to an input tax deduction.

If the Contractor is an entrepreneur whose place of business is not in Germany, while the Installation Service is taxable and subject to taxation in Germany, the invoice shall explicitly specify "Tax liability of the recipient of the services" or "Reverse Charge"

## Conditions of Purchase of BASF SE and its Affiliated Companies Located in Germany for Installation Services

(§ 13b para. 5 UStG). Specifying value-added tax in these invoices is not permitted.

### 19.2 Invoice: Payment without Credit Note Procedure

**19.2.1** The Contractor shall prepare an invoice for each contract after every proper acceptance of the corresponding Installation Services, which shall contain all legally required mandatory data in accordance with German law.

The full purchase order number of the Principal shall be stated on the invoice. Proof of services on the provision of Installation Services and other supporting documents shall be included with the invoice. Invoices shall correspond to the contract with regard to designation of services, price, quantity, sequence of ordered items and item numbers. Invoices are to be sent to the billing address specified in the contract.

An adjustment of the remuneration as per § 650c BGB based on changes after the conclusion of the contract shall, in the case of construction services, also be considered and specified in the invoice. If no agreement has been reached on an adjustment of the remuneration, § 650c BGB shall apply for construction services accordingly.

**19.2.2** The Principal shall only make installment payments if these are contractually agreed and the prerequisites for the payment becoming due have been met, unless the Contractor is entitled to a claim as per § 632a BGB and provides the Principal with the corresponding collateral. The collateral shall be provided in accordance with German law in form of an enforceable guarantee from a credit institution or credit insurer with a registered office in Germany.

**19.2.3** Unless otherwise agreed, the payment period shall commence as soon as an invoice, that meets the aforementioned requirements, has been received. Payment will be made subject to verification that the delivery / Installation Services conforms to the contract and is complete.

**19.2.4** Payments by the Principal shall not represent an acceptance of conditions or prices stated in the invoice, and shall not constitute a waiver of the Principal's rights regarding services performed that differed from those as agreed upon, the Principal's rights to inspection, or the right to find fault with an invoice for other reasons.

If, after payment of the invoices, it emerges that the Contractor's invoice does not correspond to the actually provided Installation Services/results of the quantity survey, the Principal shall be entitled to a compensation/repayment claim. This is subject to statutory period of limitation. The Contractor cannot plead loss of enrichment.

**19.2.5** If a tax deduction is required by legal provisions affecting the Contractor for a service provided by the Principal, then the Principal is liable for the due tax. The withholding of the tax is settled by a deduction from the respective invoice amount. A certificate shall be prepared for the withheld tax upon demand by the Principal and to the extent it is required by law in accordance with the legally required sample. Reference is made to the relevant provisions of the German Income Tax Act, in particular §§ 49 et seq.

### 19.3 Invoice: Payment with Credit Note Procedure

**19.3.1** If a payment is contractually agreed under the credit note procedure, it shall be executed upon issue of the credit note. The credit note is in each case related to each contract upon proper acceptance of the Installation Service concerned by the Principal. The due date for the credit note is determined by the contractual provisions. An adjustment of the remuneration as per § 650c BGB based on changes after the conclusion of the contract shall, in the case of Installation Services, also be considered and specified in the credit note. If no agreement has been reached on an adjustment of the remuneration, § 650c BGB shall apply for construction services accordingly.

**19.3.2** The Principal shall only make installment payments in the credit note procedure when these are contractually agreed and the prerequisites for the payment becoming due have been met, unless the Contractor is entitled to a claim as per § 632a BGB

and provides the Principal with the corresponding collateral. The provision according to Clause 19.2.2 applies accordingly.

**19.3.3** If, after payment of the invoices, it emerges that the Contractor's credit note does not correspond to the actually provided Installation Services/results of the quantity survey, the Principal shall be entitled to a compensation/repayment claims. This is subject to statutory period of limitation. The Contractor cannot plead loss of enrichment.

**19.3.4** The Principal can offset its own due claims from contracts with the Contractor as part of existing business connections with the Contractor or declare offsetting against due remuneration claims of the Contractor. This shall also apply in the case of due claims of the Contractor that have arisen as part of assignment and are oriented towards cash payment.

## **20. Assignment of Contract, Transfer, Change of Company Name, Offsetting, Retention**

**20.1** The Contractor may assign the rights and obligations under the contract with the Principal to third parties only with the prior written consent of the Principal.

**20.2** The Contractor is required to notify the Principal forthwith in writing of any assignment of the contract by virtue of law and of any change of its trade name.

**20.3** The Principal may assign the rights and obligations under the contract with the Contractor to BASF SE, Ludwigshafen (Rhine) or to any affiliated company pursuant to section 15 of the German Stock Corporation Act at any time without the Contractor's prior agreement, provided that the execution of the contract is not endangered thereby.

**20.4** The Contractor is only permitted to offset reciprocal claims arising from this contractual relationship, and against undisputed claims or claims substantiated by court judgement. The Contractor is only entitled to a right of retention if the claim, due to which the right of retention shall be deemed valid, has its origins in the same contractual relationship.

## **21. Termination, Rescission**

**21.1** The Principal's right to ordinary termination of the contract with notice or to rescission from the contract shall follow statutory provisions, unless set forth otherwise in the individual contract.

**21.2** Each contracting party is entitled to terminate the agreement for good cause, provided the respective statutory requirements for this are met, such as for continuing obligations as per § 314 BGB or services within the scope of work contracts as per § 648a BGB. A good cause for termination by the Principal is given in particular if:

- The Contractor commits a breach of duty, which is not remedied within a reasonable period of time defined by the Principal and following a termination warning or a fruitless warning, and therefore, taking into account all circumstances of the individual case and weighing the mutual interests, the continuation of the contractual relationship cannot reasonably be expected from the terminating party, or
- The relationship of trust is significantly and lastingly disrupted due to circumstances occurring after conclusion of the contract, e.g. due to a violation of criminal laws or due to commission of administrative offences in the course of the performance of the contract by the Contractor or by third parties employed by the Contractor for the execution of the contract, and therefore, taking into account all circumstances of the individual case and weighing the mutual interests, the continuation of the contractual relationship cannot reasonably be expected from the terminating party, or
- A significant deterioration in the asset situation of the Contractor has taken place, which jeopardizes contract fulfillment, or
- The Contractor does not comply with his/her obligation to pay taxes or social security contributions, or
- There are other circumstances that make continuation of the contract with the Contractor unreasonable for the Principal.

## **Conditions of Purchase of BASF SE and its Affiliated Companies Located in Germany for Installation Services**

Further rights legally provided to the Principal regarding termination, termination for good cause and rescission from the contract shall remain unaffected by this provision.

Payments already made by the Principal shall be refunded in cases of overpayment. The Principal's further statutory rights and claims, in particular with regard to damage compensation, shall remain unaffected.

**21.3** In cases of termination for good cause as per Clause 21.2, the services verifiably performed by the Contractor in line with the contract up to the time of the cancellation shall be remunerated upon submission of the relevant receipts. Payments already made by the Principal shall be offset against the payment or refunded in cases of overpayment. The Principal's further statutory rights and claims, in particular with regard to damage compensation, shall remain unaffected.

**21.4** If the Contractor has acquired from the Principal any documents, records, plans or drawings within the scope of the contractual collaboration or for the purposes of fulfilling the contract the Contractor must forthwith hand them over to the Principal in the event of termination of the contract by a party to the contract. These requirements apply likewise in the event of rescission.

## **22. Contractor's Removal Duty upon Termination of the Contract**

In the event of termination of the contract, the Contractor must, at its own expense and regardless of the grounds for termination, forthwith dismantle and remove any plant, tools and equipment used and / or stored on the Principal's premises. Any waste, residue or debris produced by the Contractor's work must be promptly removed and disposed of appropriately by the Contractor at its own expense. If the Contractor does not fulfill its duties in this regard, the Principal may undertake the work itself or have it undertaken by a third party and charge the expenses incurred to the Contractor if the work has still not been completed after a reasonable period of time has elapsed. These requirements apply likewise in the event of rescission.

## **23. Documents, Confidentiality, Rights of Use, Data Protection**

**23.1** The Contractor must provide to the Principal the agreed quantity of any plans, calculations or other documents in order not to exceed the contractual deadline for execution.

**23.2** The review and / or release of any Contractor's documents by the Principal shall not relieve the Contractor of any of its responsibilities for these documents under the contract.

**23.3** Any models, samples, drawings, data, materials and other documents provided to the Contractor by the Principal (hereinafter "Principal Documentation") shall remain the property of the Principal and must be returned to the Principal forthwith upon its request at any point in time. The Contractor shall have no rights to retain any Principal Documentation. The Contractor must observe the proprietary rights of the Principal in and to all Principal Documentation.

**23.4** The Contractor is obliged to keep confidential all technical, scientific, commercial and other information obtained either directly or indirectly within the scope of the contract, in particular the information given in Principal Documentation (hereinafter "Confidential Information"). The Contractor may not exploit Confidential Information for commercial purposes, make it the object of industrial property rights, pass it on or make it accessible to third parties in any way. The Contractor is entitled to share confidential information with subcontractors approved by the Principal if the subcontractor requires this information in order to fulfill the contract.

Confidential Information may not be used for any purpose other than fulfilling the contract. The aforementioned confidentiality obligation shall continue to apply for a period of ten (10) years after the contract has ended.

**23.5** This confidentiality requirement shall not include any infor-

mation that the Contractor lawfully possessed prior to the Principal's disclosure of such information, or is lawfully known to the public, or has been lawfully obtained from a third party. Also excluded from this confidentiality requirement shall be information that is disclosed to persons subject to a legal obligation to confidentiality, whereas the Contractor shall not release such a person from its obligation to confidentiality. The burden of proof for such an exception lies with the Contractor.

**23.6** The Contractor shall ensure that its employees and other Vicarious Agents deployed to fulfill the contract are obliged to confidentiality according to the above confidentiality provisions by means of appropriate contractual agreements, too. Upon request, the Contractor shall confirm compliance with these obligations to the Principal in writing.

**23.7** The Contractor shall specifically undertake all required, appropriate precautions and measures to effectively protect the Confidential Information obtained at all times against loss or against unauthorized access. This includes in particular the creation and maintenance of appropriate, required access and entry precautions for facilities, repositories, IT systems, data storage devices and other information storage devices, especially those which contain Confidential Information. This also includes informing and instructing those people who are granted access to Confidential Information pursuant to this clause. The Contractor is required to promptly notify the Principal in writing in the event that Confidential Information is lost and / or accessed by unauthorized parties.

**23.8 "Work Results"** are all results of the Contractor's work that arise in connection with the contract as well as the results of the work of third parties that have been brought in by the Contractor to perform the Contract with regard to the production of work results as well as all of the Contractor's copyright-protected items and services that may arise in the course of Contract performance, including, without limitation, all plans, drawings, graphics, calculations and other documents.

**23.9** Upon the creation of the Work Results, and at latest at the time of the acquisition, the Contractor shall grant the Principal the exclusive right, freely transferable to third parties, without any restrictions as to area, content or time, to use the Work Results in all known media formats including electronic media, Internet and online media saved to all imaging, audio and data storage devices, for the contractually agreed purposes or purposes implied as per the Contract. This includes, in particular, but is not limited to, the right to edit and process, to store in all media and to reproduce. The Contractor shall obtain any necessary granting of rights by third parties for this purpose. The Principal accepts the granting of the right.

**23.10** The Principal has the right in particular to exploit, duplicate and distribute the Work Results wholly or in part and to have the aforementioned activities carried out by third parties. The Principal also has the right to grant third parties the same complete rights to use the Work Results wholly or in part inclusive of any intermediate changes and revisions.

**23.11** The Contractor shall also grant the Principal the right to adapt the Work Results. The right of the Principal to modify and adapt the Work Results includes the right to modify and adapt the buildings/engineering constructions and/or plants erected based on the Work Results or to have third parties modify and adapt them. This includes additions, reconstructions, conversions, expansions, changes of use, repairs, modernizations and demolition work on parts of or the entire building/engineering construction and/or parts of or the entire plant. Insofar as the use of the usage rights granted in this clause threaten to violate the author's moral right in the sense of misrepresentation of the work in accordance with Section 14 of the German Copyright Act (UrhG), the Principal shall consult the Contractor before the modification or adaptation is conducted.

**23.12** The Contractor may not otherwise use or exploit, including, without limitation, publish or use for advertising purposes, the

## Conditions of Purchase of BASF SE and its Affiliated Companies Located in Germany for Installation Services

Work Results or any templates or models created for them without the prior written consent of the Principal. The Contractor shall impose corresponding contractual obligations on all Vicarious Agents that it may employ to perform its contract.

**23.13** Inalienable moral rights under copyright law are not affected by the provisions above.

**23.14** The granting of the rights set out in Clauses 23.9, 23.10 and 20.11 is covered by the agreed remuneration.

**23.15** In case the Contractor, in the course of the performance of the respective contract, receives from the Principal or otherwise obtains personal data related to employees of Principal (hereinafter referred to as "Personal Data") the following provisions shall apply.

If processing of Personal Data disclosed in the aforementioned manner is not carried out on behalf of the Principal, Contractor shall only be entitled to process Personal Data for the performance of the respective contract. Contractor shall not, except as permitted by applicable laws, process Personal Data otherwise, in particular disclose Personal Data to third parties and/or analyze such data for its own purposes and/or form a profile.

If and to the extent permitted by applicable laws, Contractor is entitled to further process the Personal Data, in particular to transmit Personal Data to its affiliated companies for the purpose of performing the respective contract.

Contractor shall ensure that Personal Data is only accessible by its employees, if and to the extent such employees require access for the performance of the respective contract (need-to-know-principle). Contractor shall structure its internal organization in a way that ensures compliance with the requirements of data protection laws. In particular, Contractor shall take technical and organizational measures to ensure a level of security appropriate to the risk of misuse and loss of Personal Data.

Contractor will not acquire ownership of or other proprietary rights to the Personal Data and is obliged, according to applicable laws, to rectify, erase and/or restrict the processing of the Personal Data. Any right of retention of Contractor with regards to Personal Data shall be excluded.

In addition to its statutory obligations, Contractor shall inform Principal in case of a Personal Data breach, in particular in case of loss, without undue delay, however not later than 24 hours after having become aware of it. Upon termination or expiration of the respective contract Contractor shall, according to applicable laws, erase the Personal Data including any and all copies thereof.

### 24. Publicity Ban, Severability Clause, Applicable Law, Place of Jurisdiction

**24.1** The Contractor may only refer to or publicly disclose otherwise its business relationship with the Principal with the prior written consent of the Principal, or where this is unavoidable in order to fulfill the contract.

**24.2** The invalidity or unenforceability of any provision or part of a provision of the contract shall not affect the validity of the entire contract.

**24.3** The contract shall be construed and be subject to the substantive laws of the Federal Republic of Germany with the exclusion of (i) the United Nations Convention on Contracts for the International Sale of Goods ("CISG") dated 11 April 1980 and (ii) the applicable law rules in Germany on the conflict-of-laws.

**24.4** At the Principal's option the place of jurisdiction shall be either the court competent for the Principal's registered office or the court competent according to the applicable law.