



Unless agreed otherwise in writing, the following terms and conditions apply to all services contracts (hereinafter referred to as "contracts") between HOLBORN Europa Raffinerie GmbH (hereinafter referred to as HOLBORN) and service providers – including tenderers regardless of whether or not an order will be placed – (hereinafter referred to as Contractor). In the case of contracts that HOLBORN awards through an authorised representative, e.g. an engineering company or an architect, the entire contract is executed by this representative on behalf of and for the account of HOLBORN. The representative then takes the place of HOLBORN with respect to any provisions relevant to executing the contract.

### 1. Quotation

- 1.1. Quotes do not incur any costs for HOLBORN and are not binding on HOLBORN. Any deviations from our request for quotation must be clearly marked as "Deviations" in the quote.
- 1.2. HOLBORN is interested in alternatives that are more favourable from a technical and financial perspective. The Contractor may therefore also offer solutions that it believes to be more favourable for HOLBORN under the heading "Alternative solution".

We would also like to emphasise that the evaluation of the procurement of energy services, products and facilities that may have an impact on core energy usage is, in part, based on energy-related performance. This means that energy efficiency is also a deciding factor.
- 1.3. In submitting its quote, the Contractor recognises these General Terms and Conditions for Services Contracts and any other conditions relating to the request for quotation without reservation.
- 1.4. Before submitting the quote, the Contractor must familiarise itself with all cost-related conditions that may affect the services to be rendered.

The Contractor must check that all work required to render the entire service in accordance with the contract is included in the service description.

Any ambiguities in the tender documents must be clarified with HOLBORN prior to submitting the quote.

Once HOLBORN has awarded a contract, any subsequent financial claims owing to work not being included in the schedule of services or a lack of knowledge regarding the construction site and/or operating conditions will no longer be accepted by HOLBORN.
- 1.5. Unless explicitly requested otherwise, the quote prices specified by the Contractor include any costs pursuant to Item 3.

### 2. Contract

- 2.1. With regard to the content of the contract, in the event of contradictions, the following applies in the order of precedence shown here:
  - The wording of the contract;
  - The wording of any minutes of negotiations/meetings;
  - The service description/schedule of services and/or the technical requirements specification in all its constituent parts, where available;
  - General technical terms and regulations (e.g. DIN standards);
  - These General Terms and Conditions for Services Contracts;
  - Holborn safety regulations for Contractors;
  - For construction work, the latest version of the General Conditions of Contract for the Performance of Construction Work in VOB/B and VOB/C; § 7 of VOB/B does not apply;
  - The provisions of the German Civil Code on contracts for work and labour.
- 2.2. The General Terms and Conditions for Services Contracts form part of the contract and apply exclusively.

Any deviating, conflicting or supplementary provisions of the Contractor to which HOLBORN has not expressly agreed in writing are deemed not to have been agreed. Unless otherwise agreed, the General Terms and Conditions for Service Contracts in the version valid at the time of placing the order and published on the Holborn website under [www.holborn.de/procurement](http://www.holborn.de/procurement) – or in any case in the latest version presented to the Contractor in text form – shall also apply as framework agreement for similar future contracts without HOLBORN being required to refer to them in each individual case.

- 2.3. The contract specification and the items and quantities defined in the contract are based on the conditions and circumstances known at the time that the contract is awarded. HOLBORN reserves the right to make changes to the contract at any time. The cessation or increase/reduction in the quantity of individual items or partial services will not change the unit price.

The Contractor must agree on the prices of additional services that are not listed in the schedule of services with HOLBORN in writing prior to commencing the work. The basis used for calculating the prices of additional services must correspond to that used for the main contract. Upon receipt of the change request, the Contractor is obligated to continue the work in its modified or amended form without delay.
- 2.4. Only contracts awarded and change requests issued in writing are binding on HOLBORN. Verbal agreements or agreements made by telephone must therefore be confirmed by HOLBORN in writing in order to be valid. Transmission via fax is also sufficient to satisfy the requirement for the written form. Contracts/change requests may only be sent via email if sent in PDF format.
- 2.5. In the case of unit-price contracts (measure and value contracts/hourly-rate contracts), the applicable contract value is an estimated value limit for the contract. If this estimated contract value is expected to be exceeded by more than 10%, the Contractor shall request a supplementary contract in good time before the contract value is reached. On HOLBORN's part, there is no obligation to use the full estimated contract value.

### 3. Pricing

- 3.1. Unless otherwise stated, the prices specified in the contract include:
  - 3.1.1 All costs for individual services together with ancillary services;
  - 3.1.2 Free delivery to the installation location, including any material and personnel acceptance costs for acceptance procedures/inspections required by the authorities (e.g. TÜV) for all building materials and other materials provided by the Contractor;
  - 3.1.3 In the case of factory manufacture or repairs, free delivery – including the relevant packaging costs – to the agreed place of delivery;
  - 3.1.4 Provision of all equipment, machinery and units required, e.g. work-site distribution boards, hoisting devices, means of transport, tools, scaffolding, strutting, formwork, the installation and removal of temporary water lines and power lines for construction machinery and the resources required for this purpose;
  - 3.1.5 All ancillary costs (construction site set-up, maintenance and clearance, ensuring safe movement of vehicles around the site, construction site lighting, proper storage and surveillance of material, survey and setting-out work, security expenses etc.);
  - 3.1.6 All personnel costs (including commuting and travel expenses, daily allowances, bad-weather allowances, dirty-work bonuses, hazardous work allowances, insurance premiums etc.);
  - 3.1.7 Construction water, steam and electricity costs, insofar as said costs are not related to work in the HOLBORN refinery. These items are available in the refineries free of charge from the distribution point;
  - 3.1.8 With regard to the materials that are defined in the schedule of services as on-site supply: taking delivery of said materials, transporting said materials on the refinery premises and ensuring the proper interim storage and management of said materials;
  - 3.1.9 Where applicable, the provision of reproducible original drawings as as-built drawings for the work actually completed;

- 3.1.10 Any necessary customs duties, import duties and taxes on material being supplied by the Contractor, with the exception of value-added tax;
- 3.1.11 Any other costs required in order to render the entire service in accordance with the contract.
- 3.2. Work not included in the schedule of services must be invoiced at the average hourly cost rates approved by HOLBORN that apply to all active personnel on the construction site. In addition to the costs of management and supervisory personnel who are not paid separately, this work includes:
- 3.2.1 Pay-scale or real wages, incidental wage costs and indirect labour costs, travel time and travel allowances, daily allowances, commuting expenses (remuneration is only provided for the hours actually worked) and other additional expenses incurred on site, such as allowances for work at height, dirty-work bonuses and other extra pay for difficult working conditions, safety equipment, insurance premiums etc.;
- 3.2.2 Work equipment in line with the industry standard (e.g. in the case of pipe-laying work: welding machine, grinding machine etc., as well as the provision of required filler materials, such as welding wire, carbon steel electrodes, gas, oxygen etc. and work clothes).
- 4. Contract confirmation, acceptance in case of changes**  
Upon receipt of a written contract from HOLBORN, the Contractor must confirm this contract within ten days using a copy of the HOLBORN contract.  
If HOLBORN's contract deviates from the quote submitted by the Contractor, the Contractor must – if it does not agree to the deviations – declare this to HOLBORN in writing within ten days of receiving the contract. Deviations from the awarded contract that are specified in this declaration will only form part of the contract if HOLBORN then confirms these deviations in writing.
- 5. Consortia/subcontractors**
- 5.1. In the case of contracts that are awarded to consortia, the individual members of the consortium are jointly and severally liable. The individual members are also joint and several creditors.
- 5.2. The Contractor may not arrange for work to be carried out by other (sub)contractors, either in full or in part, without HOLBORN's prior consent.
- 5.3. HOLBORN's consent to the commissioning of subcontractors does not release the Contractor from its contractual obligations.
- 5.4. The Contractor must ensure that the subcontractor it has commissioned is competent, capable and reliable, that its statutory obligations to pay taxes, social security contributions and the applicable minimum wages are met, that the requirements under trade law are met and that all contractual obligations are fulfilled in the same way.  
In particular, the Contractor must coordinate all work undertaken within the framework of the contract within the meaning of German employer's liability insurance association regulation DGUV Regulation 1, § 6.
- 6. Execution of work**
- 6.1. The Contractor is obligated to ensure that all work is only carried out by well-trained, qualified, specialised personnel and that only equipment that is in good working order and complies with safety regulations is used, in sufficient quantity as required by the work at hand.
- 6.2. The Contractor may not supply or use alternative materials without HOLBORN's written consent.
- 6.3. The Contractor shall assign a specialist engineer to its work area in accordance with the applicable state building code.
- 6.4. When executing its work, the Contractor must observe and adhere to all applicable laws, ordinances and directives issued by the EU and by federal, state and local authorities and to provisions, directives and security regulations issued by authorities and trade associations, as well as to the Holborn safety regulations for contractors, which include some requirements that go beyond the corresponding provisions in other sets of regulations. Furthermore, the Contractor must closely observe and adhere to all applicable technical standards and regulations, in particular also the General Technical Conditions of Contract for Construction Services in VOB/C and the recognised rules of engineering as they currently stand. In the case of any contradictions between the regulations specified above and the terms of the contract, the Contractor is obligated to inform HOLBORN in writing of such contradictions and propose changes accordingly.
- 6.5. The Contractor undertakes to procure all approvals required in order to render its services, without the need for a special request to do so, and to submit said approvals to HOLBORN at any time upon request, as well as to arrange for any official checks that may be required at any time.
- 6.6. The Contractor bears sole responsibility under civil, criminal and public law for its work area while executing its work. It is liable for any claims that arise as a result of non-compliance with laws, regulations, standards, rules and similar guidelines, and releases HOLBORN from any such claims.
- 6.7. The Contractor is responsible for ensuring that waterways are kept open, that traffic flow is not impeded, that safe crossings, thoroughfares and necessary bridges are constructed for public and private through traffic and access traffic, and that prohibition, warning and information signs, barriers, lighting and any other means used for public and private benefit and welfare to prevent unauthorised access are set up and maintained, insofar as these measures are required as a result of the Contractor's construction and assembly operations.
- 6.8. If the Contractor, its subcontractors or one of its employees or other agents suffer damage of any kind on HOLBORN's premises or in HOLBORN's service rooms, a claim for compensation may only then be asserted against HOLBORN if HOLBORN has violated an obligation and the said violation has caused the damage in question.
- 6.9. Prior to commencing its work, the Contractor must be satisfied that any previous work has been completed in such a way that it can perform its services and that any detrimental effects on its performance are excluded. The Contractor is obligated to share any concerns it may have with HOLBORN in a timely manner before executing its work.
- 7. Idle/down time on HOLBORN's premises**
- 7.1. Idle/down time for which HOLBORN is responsible will only be paid if the Contractor informs HOLBORN or an authorised representative of HOLBORN when the situation arises and if the idle/down time is acknowledged by HOLBORN in writing. Idle/down time must be declared and corresponding approval requested per working day. Remuneration is provided at the hourly rates defined in the Contract and is provided for personnel only for a maximum of one working day (eight hours) per person. Remuneration is not provided for equipment and/or facilities. No remuneration is provided for emergency drills, which are carried out no more than twice every six months (in areas of the site). In order to avoid idle/down time, the Contractor is obligated to also assign its personnel to another section of its work area or to make its personnel available for other work on an hourly wage basis.
- 7.2. The Contractor is not entitled to claim remuneration for idle/down time or other compensation that is due to a temporary failure in the site's power supply or other site facilities, which is the result of a temporary shutdown of such facilities for the purposes of overhauling or establishing connections or which is the result of obstructions caused by other contractors.
- 7.3. The Contractor has no right to indemnification or remuneration for idle/down time that is caused by unexpected difficulties, damage or loss as a result of adverse weather conditions, a high groundwater level or similar conditions.
- 7.4. Idle/down time that is the result of work stoppages required by the authorities, e.g. due to objections or orders issued by the trade supervisory board, is the responsibility of the Contractor and must be borne by the Contractor.
- 7.5. The Contractor will only be provided remuneration for idle/down time caused by the delayed delivery of drawings, materials or equipment to be provided on site if HOLBORN is immediately notified of and has acknowledged such idle/down time.
- 8. Liability/indemnity insurance**
- 8.1. The Contractor is liable to the extent required by law.
- 8.2. In order to cover any claims for compensation asserted by HOLBORN, the Contractor is obligated to take out and maintain

– at its own expense – indemnity insurance for personal injury and material, financial and environmental damage, as well as for damage to property in care, custody or control and damage to work in progress. The indemnity insurance must cover all liability risks arising from the contract. The indemnity insurance must also cover the personal liability of persons used by the Contractor in order to execute the contract. The Contractor shall provide proof of this insurance coverage at any time at HOLBORN's request.

8.3. A limitation of liability is not set by Item 8.2.

## **9. Deadlines/force majeure**

9.1. The delivery and/or service deadlines specified or jointly agreed upon in the contract are binding; this also applies to intermediate deadlines.

In order for a service deadline or period to be deemed to have been met, the work must be accepted on time or a certificate of performance signed by HOLBORN must be provided. Acceptance is deemed to be declared, if HOLBORN is proven to be in default in acceptance.

The Contractor is obligated to adapt its use of personnel and equipment and its material deliveries in line with its work progress in such a way as to ensure that all deadlines agreed with HOLBORN are met without fail.

9.2. If the Contractor becomes aware that an agreed deadline cannot be met for any reason, it must inform HOLBORN of this fact immediately in writing, providing the reasons for the delay and the anticipated duration of the delay.

9.3. If an agreed deadline or a deadline that has been postponed by mutual agreement is not met, HOLBORN may set a reasonable extended deadline for the service/delivery. Once this extended deadline has passed, HOLBORN is entitled to withdraw from the contract and/or to assert a claim for compensation against the Contractor.

9.4. If a contractual penalty is agreed upon for exceeding agreed deadlines, then HOLBORN's right to request the contractual penalty is not excluded by HOLBORN accepting the delayed fulfilment, by HOLBORN not requesting payment of the contractual penalty upon acceptance of the delayed fulfilment, or by HOLBORN not reserving the right to payment of the contractual penalty. HOLBORN's right to payment of the contractual penalty is excluded, however, if HOLBORN does not request the contractual penalty within one month of HOLBORN acknowledging and paying the Contractor's final invoice. In addition to the contractual penalty, HOLBORN may request compensation from the Contractor for any further damages. § 343 of the German Civil Code does not apply.

9.5. Events of force majeure and industrial action release the contractual parties from the contractual obligations for the duration of and to the extent of the disruption.

Events of force majeure are exclusively natural catastrophes, war, riots, sabotage and organised industrial action. However, wildcat strikes, the rejection of parts (casting/forging etc.), rejection during the acceptance procedure or delays caused by sub-suppliers are not classed as events of force majeure. The contractual partner affected is obligated to immediately provide the other contractual partner with the required information about the duration of the disruption. The contractual partners are obligated to adapt the contract to the changed circumstances in good faith. HOLBORN is entitled, at its own option, to withdraw from or terminate the contract, either in full or in part, if – as a result of the delays caused by the force majeure event or industrial action – it has a justified interest in refusing the service/delivery. The obligation to pay remuneration for partial deliveries and/or services accepted by HOLBORN remains unaffected by this. In all other respects, the Contractor ceases to be entitled to remuneration.

## **10. Inspection and acceptance**

10.1. HOLBORN is permitted to enter the construction site, workshops and offices of the Contractor and its subcontractors during normal business hours in order to review the services being rendered and monitor deadlines.

10.2. All documentation relating to the contract must be available in order for the service to be accepted by HOLBORN. HOLBORN shall carry out the acceptance procedure on an agreed

acceptance date following completion within ten calendar days of being requested by the Contractor.

Acceptance must be recorded in an acceptance report to be signed by both the Contractor and HOLBORN.

The date of acceptance of the entire service is also the date of transfer of risk. § 7 of VOB/B does not apply.

10.3. HOLBORN is only obligated to accept services that show no significant defects.

10.4. HOLBORN's commissioning of the work produced or parts thereof does not signify acceptance.

10.5. If HOLBORN does not carry out a formal acceptance procedure when the final invoice is accepted, the date of that final invoice will be taken as the date of acceptance.

10.6. In the case of work that is carried out on a proof or at-cost basis, HOLBORN is entitled to view the Contractor's documents that are relevant in determining the remuneration to be paid by HOLBORN. This right also applies to documents belonging to subcontractors used by the Contractor to execute the contract. Other statutory rights of HOLBORN shall remain unaffected.

This right is limited to authorised employees in the internal auditing department.

In accordance with HOLBORN's business principles, auditors are obligated to not pass on any information that is acquired in the course of an audit and that is not relevant to their audit assignment either within or outside of the HOLBORN Group.

## **11. Invoicing**

11.1. Following completion of the work, each contract must be invoiced by the Contractor individually, carefully and in full, and the invoices must be easily verifiable. Collective invoices for multiple contracts will not be accepted. Invoices must include the contract number, site and reference number, as well as any specific details stated in the notice of award. The value-added tax payable by the Contractor must be shown separately in the invoice, indicating the percentage. The same also applies to payments on account.

11.2. Quantities are invoiced at the contract unit prices according to the on-site measurements accepted by both parties, unless a lump sum has been agreed for completion of the contract. On the measurement/time sheets, HOLBORN confirms only the correctness of the quantity computation/number of hours and not the entitlement to remuneration for these quantities.

11.3. Measurements must generally be prepared immediately following completion of a self-contained project for provision of services. In the case of work that can no longer be verified following completion of a project for provision of services, the measurements must be adjusted in line with the progress of the work.

11.4. For work paid at an hourly rate, proof of the hours worked and material used must be submitted to HOLBORN each working day for review and to be signed. Preferably, time-sheet forms supplied by HOLBORN will be used for this purpose. This provision also applies to idle time acknowledged by HOLBORN as defined in Item 7. This documentation must include the contract number, account assignment, location where the work was carried out, a description of the work completed, the names of the persons who completed the work, the number of working hours completed and, where applicable, the number of idle hours.

11.5. Unless agreed otherwise in the contract, final invoices must be submitted within four weeks of the work being completed and indicated as such.

11.6. If the Contractor does not submit a verifiable invoice within a reasonable period of time, HOLBORN may prepare the invoice itself at the Contractor's expense.

## **12. Payment**

12.1. The requirements for payment by HOLBORN are:

- Proper performance of the entire service, which must be proven by the provision of unreserved confirmation of acceptance by HOLBORN; and
- Submission of the final invoice complete with all verifiable invoice documents. These documents include the contractually agreed documentation, as well as measurement sheets, measurement sketches, quantity calculations, time

- sheets, measuring certificates, acceptance certificates, factory certificates, as-built plans, operating manuals etc.
- HOLBORN shall not be responsible for any delays in payment caused by a failure to provide the above-mentioned documents.
- 12.2. Advance/partial payments will only be made if explicitly agreed upon in the contract. Further requirements for such payments are:
- Proper performance of the partial service, which must be proven by HOLBORN's confirmation of the performance progress;
  - Submission of a written request for payment, indicating the value-added tax; and
  - Where applicable, the collateral agreed upon for the advance/partial payment.
- The provision of an advance/partial payment neither confirms that the partial invoice is correct nor deems the work already completed as accepted.
- 12.3. The payment/advance payment/partial payment will be paid net within 30 days of fulfilment of the payment requirements pursuant to Item 12.1 or 12.2.
- 12.4. HOLBORN is not automatically deemed to be in default following expiry of the 30-day payment period. In order for HOLBORN to be deemed in default, the Contractor must first issue a written reminder following expiry of the 30 days.
- 12.5. The Contractor may not assign claims against HOLBORN to a third party without HOLBORN's written consent.
- 13. Contractor's warranty/liability for defects**
- 13.1. The Contractor warrants that, at the time of acceptance, its deliveries and/or services:
- Are free from material defects and defects of title;
  - Are in the contractually agreed condition;
  - Correspond to the recognised rules of engineering and comply with the applicable regulations;
  - Correspond to the drawings and specifications forming the basis of the contract; and
  - Are suitable for the intended use.
- 13.2. Unless agreed otherwise, claims for defects that may be asserted by HOLBORN become time-barred after two years. In the case of building work or planning and supervisory services related to construction work, such claims become time-barred after five years. Under no circumstances does this Item (13.2) reduce the statutory limitation period for claims for defects that may be asserted by HOLBORN. The limitation period commences on the date that defect-free acceptance is recorded.
- 13.3. If the service exhibits a defect, HOLBORN may first request supplementary performance within a reasonable grace period. Through this subsequent performance, the Contractor must – at HOLBORN's option – either remedy the defect or render a new service, unless the nature of the service only reasonably permits one form of remedy.
- 13.4. If the subsequent performance period expires without success, HOLBORN may – at its own option – exercise its further statutory rights including the right of withdrawal and the right to request compensation for damages.
- 13.5. Upon submission of a written request for subsequent performance and the Contractor's declaration that it is willing to deliver said subsequent performance, the limitation period is suspended until such time that the defects concerned have been remedied. The agreed warranty period for the part that was replaced or repaired under the warranty then starts anew.
- 13.6. In the event of an inadequately performed service, the Contractor must also bear the costs of identifying the defects, errors or damage, or their cause, and all costs that HOLBORN incurs as a result of damage to its own or third-party building work or facilities of any kind which occurs while subsequent performance is being carried out. For any further damage, the Contractor is liable pursuant to the provisions of § 13 Para. 7 Item 2 VOB/B.
- 13.7. Other claims on the part of HOLBORN pursuant to the special agreement under VOB/B or statutory provisions shall remain unaffected.
- 14. Property rights**
- 14.1. If third-party industrial property rights or copyrights are affected by the execution of the contract, the Contractor must – at its own expense – procure the necessary licences and release HOLBORN from any obligations, disadvantages and damages that HOLBORN may incur as a result of using such rights.
- 14.2. If the Contractor's own industrial property rights or copyrights are affected, the Contractor grants HOLBORN, upon execution of the contract, the irrevocable right to use these rights without limitation and free of charge in connection with the deliverables/service.
- 14.3. While executing the contract, particularly when manufacturing items, should the Contractor produce an invention that, for example, improves the item in question or parts thereof, the Contractor shall immediately inform HOLBORN of this fact and offer the rights to the invention. HOLBORN shall inform the Contractor in writing, within four weeks of receiving the offer, whether it will assume the rights to the invention. The Contractor shall keep the invention and any details shared with it about the said invention secret for as long as is necessary to apply for property rights.
- 14.4. If copyrights exist for the plans, design drawings, tables and similar documents used in connection with the contract, the Contractor grants HOLBORN the right to produce copies – or to arrange for copies to be produced – of the plans, design drawings, tables and similar documents, to alter the plans and design drawings, and to use these documents in connection with the deliverables free of charge and without limitation. HOLBORN is also entitled to make these documents available to third parties if HOLBORN entrusts third parties with the modification, replacement or repair of the deliverables.
- 15. Confidentiality**
- The Contractor must treat as confidential all information acquired from HOLBORN within the framework of the contract, unless the said information is public knowledge or generally accessible. The Contractor must obtain HOLBORN's consent for news articles and press releases relating to the contract or the work that it is undertaking within the context of the contract prior to publication.
- 16. Compliance**
- 16.1. The Contractor undertakes to comply with the applicable statutory and legal provisions. This includes in particular but not exclusively, the observance of and the compliance with the applicable anti-bribery provisions and money laundering regulations. The prohibited practices include, in particular to promise, offer or grant, directly or indirectly, an advantage to any person, including employees of Holborn, or to request or accept benefits or undue advantages, in order to influence actions.
- 16.2. The Contractor undertakes to observe the Oilinvest Code of Conduct. The Oilinvest Code of Conduct is available at [www.holborn.de/procurement](http://www.holborn.de/procurement) and can be obtained from HOLBORN. Any amendments of the Oilinvest Code of Conduct will be published on the HOLBORN website.
- 16.3. If the Contractor violates one of the obligations set out in item 16.1 and 16.2, HOLBORN shall be entitled to demand omission of the infringing activity. If the infringement concerned is not insignificant and is – upon receipt of a request for remedy – not remedied within a reasonable period of time set by HOLBORN, or in case of a repeated violation, HOLBORN shall be entitled to terminate the contract affected by the violation for good cause. The assertion of further claims and rights shall remain unaffected by this. A deadline for remedy is not required if it is not reasonable for Holborn to adhere to the contract until the expiry of a deadline or if setting a deadline apparently does not make any sense.
- 17. Limitation of right of retention, right to refuse performance and right of set-off**
- The Contractor, who is obligated to deliver in advance, has a right of retention, right to refuse performance and right of set-off only in the event of undisputed and/or legally established counterclaims.
- 18. Technical documents**
- 18.1. All drawings, calculations etc. – irrespective of their origin – used to execute the contract must be approved by HOLBORN or one of HOLBORN's authorised representatives by means of a notice of approval before work is started. This approval does not release

the Contractor from its responsibility to ensure that the dimensions, design and function are correct according to the calculations and in line with the regulations and specifications applicable to the contract in question.

- 18.2. If the Contractor identifies a discrepancy between the contract and the drawings and specifications it is provided by HOLBORN, the Contractor is obligated to notify HOLBORN of this discrepancy in writing and to request clarification.
- 18.3. The drawings, calculations etc. that HOLBORN provides to the Contractor remain the property of HOLBORN and must be returned immediately any time HOLBORN requests them. However they must be returned at the latest upon completion of the work. These drawings, calculations etc. may not be passed on to uninvolved third parties or used in any other way.

## **19. Termination**

- 19.1. HOLBORN may terminate the contract, in full or in part, at any time.
- 19.2. If HOLBORN is responsible for the reason that the contract is being terminated, remuneration will be provided for the part of the services already completed. Furthermore, the Contractor will be reimbursed for any reasonable expenses it incurs with respect to the parts of the services not completed.
- 19.3. If the Contractor is responsible for the reason that the contract is being terminated, the Contractor is not entitled to any claims for reimbursement with regard to the parts of the services not completed. HOLBORN may instead execute the part of the service not yet completed itself or arrange for a third party to execute said part of the service, at the Contractor's expense taking into account the remuneration saved from the unperformed parts of the service. HOLBORN's claims, e.g. for compensation for further damage incurred or impending damage due to inadequately performed services, shall remain unaffected.
- 19.4. Grounds for termination for which the Contractor is responsible include, in particular:
- Cessation of payment by the Contractor;
  - Gross violations in relation to quality and agreed deadlines that call into question the proper and timely completion of the work.
- In these situations, termination may also be limited to one self-contained part of the service.

## **20. Severability clause**

Should provisions of the contract be or become invalid, ineffective or unenforceable, or should any gaps be identified in the contract, this will not affect the validity of the remaining provisions. In order to replace the void, ineffective or unenforceable provision or to fill the gap, an appropriate agreement must be reached that comes as close as possible to what the contractual parties would have wanted had they considered this point. If the invalidity is based on the definition of performance or time, the statutory standard shall apply instead.

## **21. Applicable law and place of jurisdiction**

The statutory provisions of the Federal Republic of Germany shall apply, to the exclusion of the UN Convention on Contracts for the International Sale of Goods. The exclusive place of jurisdiction for both parties is Hamburg, Germany. HOLBORN also has the right to bring action against the Contractor at the Contractor's registered office.

## **22. Binding version**

These Terms and Conditions of Services Contracts are available in German and in English. In the event of any inconsistency between the German and the English version, the German version shall prevail.

### **HOLBORN Europa Raffinerie GmbH**

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