

1 Area of Validity

- 1.1 The following conditions apply to all services that OMICRON offers or provides to its customers, in particular commissioning, testing and consulting services, employee leasing, as well as training sessions, webinars, and conferences (hereinafter jointly: “Services”), provided that nothing to the contrary has been agreed in writing.
- 1.2 For training sessions, webinars, and conferences as well as for employee leasing, the applicable special provisions of OMICRON, which can also be viewed online at <http://www.omicronenergy.com/en/legal/terms/>, shall apply. In the event of the validity of special provisions, this General Terms and Conditions shall apply in addition and subsidiary.
- 1.3 Any conflicting general terms and conditions of the customer are hereby rejected in advance. This is the case even if they are part of a letter from the customer and OMICRON has not expressly objected to them; silence on the part of OMICRON shall signify rejection.
- 1.4 Should contradictions in the previous mutual contractual declarations or in any letters of confirmation arise, the Individual Agreement shall be governed by these General Terms and Conditions in every case, even if the Services are being provided.
- 1.5 These General Terms and Conditions only apply in respect to companies conducting business activities with OMICRON.
- 1.6 OMICRON shall be the contractual partner, regardless of the place of performance or the employees providing the Service. For certain Services, however, an affiliate of OMICRON shall be involved in the business transaction. This shall be specified in the order confirmation at the latest. In such case, the customer shall have the right to withdraw from the Individual Agreement within five (5) days of receipt of the order confirmation, and otherwise the affiliate indicated in the order confirmation shall be deemed to be accepted as a different contractual partner, and its terms and conditions, which reference is made in the order confirmation, shall also be deemed to be accepted.

2 Quotes and Conclusion of Agreements

- 2.1 All quotes from OMICRON are non-obligatory and non-binding, provided that they have not been expressly indicated as being binding or contain a specified deadline for acceptance.
- 2.2 Orders are placed in writing via mail, fax, email, or the online store. OMICRON can confirm acceptance of the placement of the order within 14 days of receipt, also via mail, fax, or email. An order is regarded as having been effectively placed once OMICRON has confirmed acceptance.
- 2.3 The legal relationships between OMICRON and the customer are determined by the written order and its acceptance (hereinafter “Individual Agreement”). The Individual Agreement including these General Terms and Conditions as well as – in the case of training, webinars, and conferences or employee leasing, the special provisions in this regard, may be amended, supplemented, or modified exclusively by means of mutual, written agreements.

3 Scope of Services

- 3.1 OMICRON is obliged to carry out the performance of Services in line with recognized engineering standards.
- 3.2 Commissioning and testing of electrical installations:
 - 3.2.1 OMICRON is responsible for a certain successful performance only to the extent that decisive criteria for successful performance have been defined in the Individual Agreement and the customer has properly satisfied its duty to cooperate in line with Section 6 on time.
 - 3.2.2 A test report is prepared for the tests performed, where no agreement is made to the contrary. Test services and the test report, which OMICRON provides on the basis of the Individual Agreement, only contain one statement on the contractually specified scope of testing and not to the customer’s facilities in total. OMICRON has no obligation to provide information in this respect. Where not agreed to the contrary in an Individual Agreement, OMICRON shall merely be obliged to supply the measurement results, but not to provide an interpretation of such results, however.
 - 3.2.3 A repeated test of test objects shall be regarded as a new test.
 - 3.2.4 Waiting times of more than 15 minutes for confirmed commissioning or testing appointments are invoiced to the customer from the 16th minute on the basis of the hourly rates contained in the quote.
- 3.3 Consulting services:
 - 3.3.1 OMICRON considers its consulting to be a service. The customer, therefore, cannot hold OMICRON liable for a certain performance outcome or a certain performance success.
 - 3.3.2 Unless otherwise stipulated by the Individual Agreement, OMICRON grants the customer the simple, non-exclusive right to use the verbal or written results of the consulting services provided for its own purposes on a permanent basis within the framework of the intended contractual purpose.
 - 3.3.3 OMICRON reserves the right to make use of the results of the consulting services for research purposes and for the further development of its own products.
- 3.4 Employee leasing: More details can be found in the relevant special provisions.
- 3.5 Training sessions, webinars, and conferences: More details can be found in the relevant special provisions.

4 Prices and Payment

- 4.1 The Services are performed for the prices stipulated in the Individual Agreement. The prices are net amounts plus the statutory value added tax due on the date of the provision of Services. The agreed remuneration as well as delivery costs are due within 10 days of invoicing, where not specified to the contrary in the quote.
- 4.2 More or special services that go beyond the scope of services specified in the quote shall be billed by OMICRON separately.
- 4.3 OMICRON is entitled to request suitable advances on cost and/or to issue partial invoices for the Services already provided. Partial invoices need not be indicated as such. The receipt of an invoice does not mean that OMICRON has invoiced the partner for the full amount of the Individual Agreement.
- 4.4 OMICRON shall be – irrespective of all other claims – entitled to charge default interest in accordance with legal stipulations from the due date, in any case in the event of payment default.

5 Delivery Dates and Delays

- 5.1 The observance of delivery dates requires that the customer fully and promptly uphold all of its obligations to cooperate, especially with regard to approvals, the provision of required documents such as manuals, the provision of personnel, listing all of the operating conditions, the provision of data material, and the establishment or approval of the specifications.
- 5.2 Should OMICRON be prevented from providing its testing services and deliveries due to an unforeseen event, in particular force majeure, work strikes and their effects, interruptions of operations, transport obstructions, changes in statutory provisions, official action or directives, the testing and delivery deadline shall be extended by an appropriate period, but at least by the duration of such preventions plus an appropriate response period.
- 5.3 In the case of consulting, testing, and commissioning services performed abroad, OMICRON shall be entitled, at its discretion, to either withdraw from the contract or agree upon a new appointment with the customer in the event of security concerns (in particular travel warnings).
- 5.4 Should the agreed testing or delivery time be exceeded or should this time be extended in accordance with Section 5.2, the customer may, provided that it has demonstrably suffered damage as a result of the delay for which OMICRON is at fault, charge default compensation of 0.5% of the order value/volume for each full week of the delay, but up to a maximum of 5% of the order value/volume.
- 5.5 The customer's right to withdraw following the expiry of a suitable grace period for OMICRON without success remains unaffected.
- 5.6 Upon the handover of the test report and return of the test object (or return of the key to the relevant facilities), the testing service is regarded as concluded and approved.

6 Customer Obligations to Cooperate

- 6.1 The customer must support the Services to be performed by OMICRON by contributing to and participating in the activities that are a part of the Services, in particular:
 - 6.1.1 The customer must ensure that it is satisfied with the compatibility of the measures required, both in respect to the test object, as well as the compatibility with the system as a whole.
 - 6.1.2 The customer must ensure that the data required for the performance of the Services is available in an orderly form prepared in line with the intended purpose. In the event that the data in the form provided cannot be evaluated or can only be evaluated with considerable effort for OMICRON (such as because large volumes of data are handed over in a disordered manner), OMICRON shall be entitled to invoice separately for the additional work effort required for the preparation of ordered data.
 - 6.1.3 The customer must inform OMICRON of any particularities (in particular in terms of business-specific procedures, the subject matter of the order, and the associated particularities).
 - 6.1.4 The customer is also obliged to make data backups as well as to avoid malware in line with technology standards.
 - 6.1.5 The customer bears full responsibility in terms of compliance with safety stipulations for its system and in particular will ensure that all OMICRON employees present are provided with safety instruction in a suitable manner before the start of testing work.
- 6.2 Should the customer not fulfill the obligations to cooperate as described in Section 6.1, or should it breach a currently unnamed obligation to cooperate that is nonetheless commercially reasonable under the circumstances, then OMICRON is authorized, at its discretion, to (i) adhere to the Individual Agreement, but with an amendment of the service conditions defined in the Individual Agreement (including the time and scope of performance), (ii) cancel the performance of the applicable Services, or (iii) terminate the Individual Agreement.
- 6.3 In exercising OMICRON's discretion hereunder in respect to the Services, OMICRON shall take the interests of the customer into account.
- 6.4 Should the provision of Services not be possible or only be possible to a limited extent or with higher efforts, the customer shall compensate OMICRON for the resulting additional costs (waiting times, attempts in vain, etc.) in line with the agreed or customary hourly rates.
- 6.5 For testing done at the site of the customer or the client, the test object shall be made ready for operational disposal for OMICRON.
- 6.6 By means of an enclosed instruction manual, it must be possible for OMICRON to operate the test object without the requirement of any special skills, or to have it operated by an employee provided by the customer.

7 Warranty

- 7.1 OMICRON warrants that the Services shall be performed with commercially reasonable skill and diligence. Furthermore, OMICRON ensures the accuracy of the test report at the time of delivery in line with Section 5.6.
- 7.2 If, after performing the testing, the customer makes changes to, replaces parts of, or makes use of other materials for the testing objects, no warranty can or shall be assumed by OMICRON for the applicability or compliance of the test report.

8 Liability

- 8.1 OMICRON shall be liable for personal injuries and/or property damage for which it is at fault up to a maximum total amount of EUR 1,000,000.00. Where Services are provided at the customer's facilities, the customer shall be solely responsible for determining and maintaining the safety and adequacy of its own facilities in terms of insurance policies, protection against fire, theft, loss, damage, destruction, and other risks, as well as regarding liability for bodily injury, death, and property damage. If requested by OMICRON, the customer will verify the nature and extent of all such insurance coverage. The customer hereby assumes full liability for and agrees to indemnify and hold harmless OMICRON, its employees, representatives, successors, and legal successors from and against any and all losses, damage, injuries, claims, legal and court costs arising out of or related in any way to the use, operation, or maintenance of the customer's facilities.
- 8.2 The client is solely responsible for examining and determining in detail whether the maximum liability limits stated in Section 8.1 are sufficient to cover its risks, and if not for considering taking out an excess liability insurance plan.
- 8.3 OMICRON shall not be liable for any damage to the test object that arises in the course of testing. Claims for damages against OMICRON – irrespective of the legal basis – going beyond this, especially those for direct and indirect and subsequent damage (in particular lost profit, sales losses, cost for replacement procurement, additional expenses, and costs due as a result of the delayed provision of Services by OMICRON), are excluded. The customer shall release OMICRON from third-party claims, in this respect.
- 8.4 The customer shall ensure that the data necessary for testing from data material is kept in machine-legible form until the conclusion of the testing. OMICRON shall not be liable for data loss while performing the testing service. The customer must secure its data using appropriate technical devices.
- 8.5 OMICRON remains open to objections to contributory negligence. In particular, the customer must observe its obligations to cooperate pursuant to Section 6.
- 8.6 The aforementioned limitation of liability does not apply in cases of intentional or grossly negligent damage. In the event of harm to life, limb, and health as well as in line with claims arising under the Product Liability Act, the statutory provisions apply without restriction.

9 Place of Fulfillment

Unless specifically stated otherwise in the Individual Agreement, the place of fulfillment for all obligations arising from this contractual relationship shall be the place of OMICRON.

10 Privacy Policy

- 10.1 OMICRON and the customer shall keep secret all confidential information of which it becomes aware during the testing.
- 10.2 The customer acknowledges and agrees that OMICRON may store data from this contractual relationship for the purpose of data processing and reserves the right to provide any such data, to the extent necessary for the fulfillment of the Individual Agreement, to third parties (i.e. insurance agencies), or to affiliates of the OMICRON Group. OMICRON reserves the right to make use of knowledge gained from the performance of the Services for research purposes and for the further development of its own products. The customer declares its consent to the above.

11 Final Provisions

- 11.1 No ancillary agreements to this Agreement have been concluded. Additions and amendments to the Individual Agreement, including these provisions, must be made in writing in order to be valid. The submission of the addition or amendment via fax or the sending of a scanned copy of the signed document via email shall satisfy the written form requirement.
- 11.2 The place of jurisdiction for any disputes arising from the Individual Agreement between OMICRON and the customer shall be the place of OMICRON or the place of the customer, at OMICRON's discretion. For claims against OMICRON, the place of OMICRON shall be the exclusive place of jurisdiction. Mandatory statutory provisions concerning exclusive places of jurisdiction remain unaffected by the provision.
- 11.3 The relationships between OMICRON and the customer shall be subject solely to German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods and Conflict of Laws.
- 11.4 Should individual provisions of these General Terms and Conditions be or become ineffective, this shall not affect the validity of the remaining provisions. In place of the invalid or unenforceable provisions or to close a loophole, the parties shall agree upon an appropriate provision that comes closest, to the extent legally possible, to what the parties intended, or according to the meaning and purpose of the agreement would have intended, if they had considered this matter.