Terms & conditions for the purchase of goods and services
Terms & conditions for the purchase of goods and services continued

At Shell, we consider good business to be about relationships, and trust to be at the heart of good business relationships and practice. The people and companies you trust and have good working relationships with are those you do the best business with. A contract represents the formal basis for trust between the parties who sign it. For all parties to commit to it, a contract must be an accurate account of the agreement reached; and, for it to be read and understood, it must be written in terms that are accessible and familiar. This document aims to honour that trust by laying out its terms and conditions as clearly and unambiguously as possible.

shell.com/termsandconditions

These terms and conditions apply to the contract between COMPANY and CONTRACTOR. This contract may be in the form of a purchase order or a work statement (the contract). These terms and conditions are binding between COMPANY and CONTRACTOR; they supersede and replace any CONTRACTOR terms and conditions or previous contracts for any goods or services (defined as scope in the contract). If the parties to this contract agree any special terms, those terms should be documented and added to the purchase order terms – or a further contract should be drawn up containing those special terms. Where these terms and conditions are attached to or incorporated in a contract issued under an existing contract, the terms and conditions of that existing contract will overrule those of the later contract.

What we mean by some of the words used in the contract

1. Definitions

Commercial terms and conditions

2. What we require in relation to scope

3. What we require from contractor in relation to goods

4. What we require from contractor in relation to services

5. Our procedure for invoicing and payment

6. Quality assurance

7. When a contractor needs access to company systems, information or infrastructure

8. Variations in relation to scope

9. Inspection, testing, and acceptance of scope

10. Contractor’s responsibilities if there are defects

Legal terms and conditions

11. Performance

12. Taxes

13. Liens

14. Suspension

15. Termination

16. Liquidated damages

17. Liabilities and indemnities

18. Insurance

19. Compliance with applicable laws business principles, and HSSE standards

20. Confidential information

21. Intellectual property

22. Financial and performance audit

23. Relationship of the parties

24. Contractor personnel and subcontracting

25. Assignment

26. Force majeure

27. Notices

28. Governing law, dispute resolution and remedies

29. Additional legal provisions
Terms & conditions for the purchase of goods and services
continued

What we mean by some of the words used in the contract

1 Definitions

This section gives the meaning of words and expressions (presented here in bold) that are used in the contract. Any word that appears in italics is defined elsewhere in this section.

Acceptance is the point at which COMPANY accepts scope [the goods to be delivered or the services to be performed] in writing – or is considered to have accepted scope in the manner set out in the contract.

Affiliate of a person is any other person who
(b) directly or indirectly controls or is controlled by the first person or
(c) is directly or indirectly controlled by a person who also directly or indirectly controls the first person

A person controls another person if that first person has the power to manage the other person, or to influence the way in which they are managed – this can be directly or indirectly, through one or more intermediaries or in other ways. This control may be exerted by ownership of shares or other equity interests, the holding of voting rights or contractual rights, by being the general partner of a limited partnership, or otherwise. Any affiliate of Royal Dutch Shell plc is an affiliate of COMPANY.

Agency personnel are those contractor personnel who are not direct employees, but are working under the direct control and supervision of contractor group.

Anti-corruption laws include the United States Foreign Corrupt Practices Act of 1977, the United Kingdom Bribery Act 2010, and all other applicable laws that prohibit tax evasion, money laundering or otherwise dealing in the proceeds of crime or the bribery of any government official or any other person – these laws also prohibit providing unlawful gratuities, facilitation payments, or other benefits to such people.

Applicable data protection law covers all laws, rules, regulations, governmental requirements, codes, as well as international, federal, state, provincial laws that apply to COMPANY when acting as a controller or processor of personal data.

Applicable laws may apply to a person, property, or circumstance, and may be amended from time to time. Applicable laws include:
(a) statutes (including regulations enacted under those statutes)
(b) national, regional, provincial, state, municipal or local law
(c) judgments and orders of courts of competent jurisdiction
(d) rules, regulations and orders issued by authorities
(e) regulatory approvals, permits, licences, approvals and authorisations

Authorities refers to the government and any county, municipality, local government or other political subdivision, instrumentality, ministry, or department that has jurisdiction over any part of scope, or any county, municipality, local government or other political subdivision of any of these listed.
**Terms & conditions for the purchase of goods and services continued**

**Books and records** include books, accounts, contracts, records and documentation, in electronic format or otherwise, relating to the contract and performance of scope.

**Company group** indicates COMPANY and (a) its co-venturers and joint ventures (b) any affiliate of COMPANY (and its joint ventures, or its co-venturers) (c) any director, officer, employee, or other individual working under the direct control and supervision of COMPANY (and its joint ventures, or co-venturers), or the affiliates of COMPANY (and its joint ventures, or co-venturers). A reference to company group includes a reference to each of its member individually.

**Company provided items** indicate materials equipment, services or facilities provided by COMPANY to CONTRACTOR to perform scope.

**Confidential information** is data, software and all technical, commercial, financial, legal or other information, and items that record such data, software or information disclosed by or on behalf of company group to contractor group, all work product, personal data, and scope, and the terms of the contract.

**Consequential loss** covers:
(a) indirect or consequential losses
(b) loss of production, loss of product, loss of use, and loss of revenue, profit or anticipated profit, whether direct, indirect or consequential, and whether or not the losses could have been foreseen at the time of entering into the contract

**Contract price** is the total amount that COMPANY is due to pay CONTRACTOR under the contract.

**Contractor equipment** refers to any machinery, plant, tools, equipment, goods, materials, supplies and other items (including all appropriate associated spare parts, storage containers, packing and securing) owned or contracted for by contractor group unless the ownership of these items has not passed and will not pass to COMPANY under the contract.

**Contractor group includes** CONTRACTOR and:
(a) its subcontractors
(b) any affiliate of CONTRACTOR or its subcontractors
(c) any director, officer, employee, other person or agency personnel employed by or acting for and on behalf of CONTRACTOR, its subcontractors or the affiliates of CONTRACTOR and its subcontractors.

A reference to contractor group includes a reference to each of its members individually.

**Contractor personnel** indicates any individual provided by contractor group whether directly or indirectly, and assigned to work in connection with the performance of scope. That individual may or may not be an employee of contractor group.

**Co-venturer** is any person who is a party to a joint operating agreement, production sharing arrangement or similar agreement or arrangement solely for the purposes of such agreement or arrangement with COMPANY or any of its affiliates. A reference to co-venturer includes a reference to each co-venturer.
Terms & conditions for the purchase of goods and services
continued

individually and to their respective successors and permitted assigns (the people to whom the property or interest of a co-venturer may be transferred).

(c) any official or employee of a company wholly or partially controlled by a government (e.g. a state-owned oil company), political party, or any official of a political party
(d) any candidate for political office, or any officer or employee of a public international organisation (e.g. the United Nations or the World Bank)
(e) any immediate family member (meaning a spouse, dependent child or household member) of any of the people identified in (a) to (d)

Health, Safety, Security and Environment (HSSE) standards include:
(a) all HSSE policies, manuals, standards, rules and procedures – as communicated to CONTRACTOR by or on behalf of COMPANY – designed to manage HSSE risks during performance of scope under the contract
(b) all applicable laws relating to HSSE
(c) any other rules and procedures (whether issued by company group or otherwise) in force at a relevant company group worksite at the time of performance of scope

Indemnify is to release, save, defend and hold harmless.

Indirect taxes include:
(a) value added tax
(b) goods and services tax
(c) sales tax or similar levy

Insolvency event is if or when a person:
(a) stops or suspends, or threatens to stop or suspend, payment of all their debts or a material part of their debts, or is unable to pay their debts as these fall due
(b) ceases or threatens to cease to carry on all or a substantial part of their business
(c) begins negotiations for, starts any proceedings concerning, proposes or makes any agreement for reorganisation/compromise/deferral/general assignment of, all or substantially all of their debts
(d) makes or proposes an arrangement for the benefit of some or all of their creditors of all or substantially all of their debts
(e) takes any step with a view to the administration, winding up, or bankruptcy of that person
(f) is subject to an action that involves securing possession of all, or most of their assets, or selling these off to pay a debt, or any similar process, including the appointment of a receiver, trustee in bankruptcy, or similar officer
(g) is subject to any event under the law of any relevant jurisdiction that has an analogous or equivalent effect to any of the insolvency events listed above

Intellectual property (IP) rights cover patents, copyrights (including rights in computer software), database rights, design rights and rights in proprietary technical information and I knowhow, trademarks and inventions, trademarks, servicemarks and design marks, whether these are all registered or not, including all applications for any of them and all equivalent rights in all parts of the world; these rights apply in all circumstances and at any stage of their full term, and include any divisions, reissues, reexaminations, continuations, continuations-in-part, and renewals.

Joint venture refers to any entity:
(a) which itself is not an affiliate of COMPANY
(b) in which an affiliate of COMPANY has a direct or in direct ownership interest
(c) the activities of which are related to scope
Terms & conditions for the purchase of goods and services continued

**Liabilities** cover liabilities for all claims, losses, damages, costs (including legal fees) and expenses.

**Liens** is a French word that identifies the right of a **person** to keep possession of attachments, charges, claims or other rights or interests against **scope** or property of **company group**.

**Liquidated damages** are the sums of money agreed in the contract that **CONTRACTOR** must pay to **COMPANY** if certain events or obligations specified in the contract are not achieved or are not achieved in the time agreed.

**Other Contractor** identifies any other contractor engaged by **COMPANY** to perform work at the worksite.

**Other permitted buyer** refers to:
- **Joint ventures**
- **Shell contractors**

**Person** refers to a human being or a legal entity – including any partnership, limited partnership, limited liability **COMPANY**, corporation, firm, trust, body corporate, government, governmental body or agency, or unincorporated venture.

**Personal data** covers all information relating to an identifiable or identifiable individual (unless another definition has been agreed for it under applicable laws).

**Restricted jurisdiction** relates to countries or states that are subject to comprehensive economic or trade sanctions, restrictions, or embargoes (which the relevant authorities may amend from time to time).

**Restricted party** refers to:
- any **person** resident, established or registered in a restricted jurisdiction

- any **person** classified as a US Specially Designated National or otherwise subject to blocking sanctions under **trade control laws**
- any affiliates of such **persons**
- any **person** acting on behalf of a **person** referred to in any of the three categories given under this entry

**Scope** refers to all activities and obligations performed under this contract including **goods** to be delivered or the **services** to be performed by or on behalf of **CONTRACTOR** under this contract, and any **work product** provided.

**Services** are those to be supplied by **CONTRACTOR** under the contract, including the results of those **services**.

**Shell contractor** refers to a person acting as a **CONTRACTOR** of an affiliate of **COMPANY**.

**Software** includes any **software** that forms part of **scope** or is necessary for the intended use of **scopes**; the term includes the database and all machine codes, binaries, object codes or source codes (whether in a machine or human readable form), and all improvements, modifications, and updates, flow charts, logic diagrams, passwords, and output tapes, and any future updates, releases and generally available associated **software** items, together with the licence to use them or ownership rights in them.

**Standards of practice** is a term used with reference to **scope** and the performance of **scope** to define the sound standards, methods, skill, care, techniques, principles and practices that are recognised and generally accepted in the international energy industry.

**Subcontract** refers to any contract between **CONTRACTOR** and a **subcontractor** or between a subcontractor and another **subcontractor** of any rank or level for the performance of any part of scope; the term includes any specific contract (or call-off) under framework agreements of **COMPANY** or an affiliate of **COMPANY** and supply agreements for materials.

**Subcontractor** identifies any party to a subcontract, other than **COMPANY** and **CONTRACTOR**, including any employers of **agency personnel** (except as explicitly provided otherwise).
Terms & conditions for the purchase of goods and services continued

Taxes covers all taxes, duties [import, export, customs, stamp or excise — including clearing and brokerage charges], levies, charges, surcharges, withholdings, deductions, or contributions that are imposed or assessed by any competent authority of the country where scope is performed or any other country in accordance with applicable laws.

Trade control laws covers all applicable laws concerning trade or economic sanctions or embargoes, restricted party lists, trade controls on the import, export, re-export, transfer or otherwise trade of goods, services, software, or technology, including those of the European Union, the United Kingdom and the United States of America.

Variation is a modification, alteration or deletion of all or part of scope, or an addition to it.

Variation assessment is a proposal prepared by CONTRACTOR which relates to a variation and provides full detail of:
(a) the impact of the proposed variation on scope
(b) a detailed schedule for the performance of adjusted scope
(c) the effect on the contract price (if any), determined in accordance with the contract
(d) any other information COMPANY concludes is necessary for its evaluation

Variation order is a written order for a variation that COMPANY has authorised.

Work product refers to any and all information, reports, data, databases, drawings, computer programs (including source code, object code and documentation), semiconductor topography, mask work, spreadsheets, presentations, analyses, results, conclusions, findings, solutions, calculations, studies, concepts, codes, manuals, inventions, models, designs, prototypes, magnetic data, flow charts, recommendations, working notes, specifications or other information, documents, materials or goods which arises or is made, created, generated or discovered under the contract in connection with scope.

Worksite describes the lands, waters, and other places on, under, in, or through which scope or activities in connection with scope are to be performed; the term includes manufacturing, fabrication or storage facilities, offshore installations, floating construction equipment, vessels, offices, workshops, camps or messing facilities — it does not include any lands, waters or other places used during transportation to and from worksites.

Commercial terms and conditions

2 What we require in relation to scope
This contract is nonexclusive and carries no requirement for COMPANY to purchase any minimum quantities. COMPANY may acquire some or similar scope from other suppliers.

3 What we require from contractor in relation to goods
(a) CONTRACTOR guarantees that goods supplied in connection with the performance of scope will:
(i) be without fault, defect, or deficiency
(ii) be new on delivery, unless otherwise specified in the contract
(iii) be fit for use for any purposes specified in the contract
(iv) conform strictly with the contract and any specification, drawing, or other description supplied by COMPANY to CONTRACTOR and agreed to as part of the contract.
(b) CONTRACTOR’s warranty for goods applies to all defects arising within 12 months of COMPANY’s acceptance of goods unless a different period is given in the scope description.
(c) After COMPANY’s acceptance of goods, the warranties set out in this clause [Clause 3] replace all other warranties expressed or implied by statute, common law, custom, usage or otherwise.
(d) In any case where International Commercial Terms (Incoterms) are specified, CONTRACTOR retains risk of loss of and damage to the goods until delivery is complete in accordance with Incoterms, or until the COMPANY takes physical possession of the goods.
(e) Ownership of the goods will pass to COMPANY as soon as either of the following occurs:
(i) risk of loss of and damage to the goods passing to COMPANY
(ii) COMPANY makes payment for the goods
(f) CONTRACTOR will pack the goods so that they may be transported and unloaded safely.
CONTRACTOR agrees that, on delivery, the goods will have been accurately described, classified, marked, and labelled in accordance with the contract, all applicable laws and standards of practice.
Terms & conditions for the purchase of goods and services continued

4 What we require from contractor in relation to services

4.1 Services warranties

(a) CONTRACTOR warrants that all services supplied in connection with the performance of scope will be:
(i) performed in accordance with the contract
(ii) fit for use for any purpose specified in the contract
(iii) free from any defect or deficiency

(b) Unless a different period is specified in the scope description, COMPANY’S warranty for services applies to all defects arising within 12 months of COMPANY’S acceptance of the services.

(c) Following company’s acceptance of services, the warranties set out in this clause (Clause 4) replace all other warranties expressed or implied by statute, common law, custom, usage or otherwise.

(d) COMPANY will supply services diligently, efficiently, and carefully, in a good and professional manner, and in accordance with the contract and all standards of practice. CONTRACTOR will provide all skills, labour, supervision, equipment, goods, materials, supplies, transport and storage required for services.

4.2 Contractor personnel in connection with services

Where COMPANY requires, CONTRACTOR will at its own expense perform security background checks and obtain entry credentials for contractor personnel on company group worksites.

5 Our procedure for invoicing and payment

(a) COMPANY agrees to pay the contract price to CONTRACTOR in the currency specified in the Schedule of Prices, and at the times and in the manner specified in this clause (Clause 5). The contract price is all-inclusive except for value added tax or sales tax.

(b) CONTRACTOR will invoice only after acceptance of scope, unless other arrangements have been agreed in the contract.

(d) COMPANY will pay CONTRACTOR any undisputed amount within the time period specified in the contract after it has received a correct and adequately supported invoice (i.e., it has been filled out correctly and contains all the necessary documentation). It takes COMPANY 2–5 days to establish whether an invoice is adequately supported, and those days are counted as part of the standard payment term of 60 days after an invoice has been received. COMPANY would need to approve any alteration to this standard payment term in advance and in writing.

(e) Payment of an invoice is not:
(i) by itself either an agreed satisfactory conclusion to the obligations of the contract or a limitation of the rights of the parties in connection with the matter
(ii) acceptance of scope was performed in accordance with the contract

(f) If COMPANY disputes an invoice, COMPANY may withhold payment of any disputed part of an invoice and pay only the undisputed part. COMPANY may also, if notice is first given to CONTRACTOR, deduct from the invoice any liabilities between CONTRACTOR and COMPANY arising out of the contract.

6 Quality assurance

CONTRACTOR must have adequate quality assurance plans or methods in place to support its performance of scope.
7 When a contractor needs access to company systems, information or infrastructure

Access to company group’s information technology or resources (including COMPANY’s infrastructure) in order to perform scope, will require CONTRACTOR to sign and comply with COMPANY’s standard terms and conditions for access and security - unless the parties agreed otherwise in writing.

8 Variations in relation to scope

COMPANY may request, or CONTRACTOR may initiate, a variation assessment. CONTRACTOR is not entitled to a variation for matters that were included in scope, or matters that CONTRACTOR agreed to perform or should take into account in connection with the contract. COMPANY may accept the variation assessment by issuing a variation order, or reject the variation assessment.

9 Inspections, testing and acceptance of scope

(a) To confirm scope complies with the contract, CONTRACTOR will perform all tests and inspections required by the contract, applicable laws and, unless otherwise specified in the contract, standards of practice.

(b) CONTRACTOR will request acceptance of goods upon the completion of the delivery of these goods, or acceptance of services upon the completion of these services. Acceptance has occurred if one of the following takes place:

(i) COMPANY has notified CONTRACTOR in writing
(ii) 30 days has passed after CONTRACTOR’s request for acceptance
(iii) scope is put into commercial use by company group

Acceptance of goods/services marks the start of the warranty period. Other remedies that are included in the contract will not be affected by acceptance of goods/services and will continue to apply.

10 Contractor’s responsibilities if there are defects

If defects in scope are discovered, CONTRACTOR will provide a plan to remedy the defects and will remedy them as quickly as possible. CONTRACTOR’s guarantees against defects are transferable, and CONTRACTOR will transfer to COMPANY all manufacturers’ guarantees. Where guarantees against defects are not transferable, upon CONTRACTOR’s request, CONTRACTOR will, on behalf of COMPANY or the organisation to which COMPANY transfers responsibility, pursue all guarantees that cannot be transferred.

In certain circumstances COMPANY may perform, or have others perform, some or all of the remedial actions, without prejudice to other remedies it may have. This may be when:

(i) emergency situations or other HSSE risks mean that remedial actions need to be carried out immediately
(ii) CONTRACTOR presents a plan which does not provide for a speedy enough completion of warranty work

(iii) CONTRACTOR does not complete the actions in the time agreed on the schedule

In these circumstances, CONTRACTOR will pay or promptly reimburse COMPANY for all costs CONTRACTOR would have been liable for under the contract.

Legal terms and conditions

11 Performance

CONTRACTOR will participate in business performance reviews established by the scope description or, alternatively, by COMPANY’s representative.

12 Taxes

12.1 Contractor taxes

CONTRACTOR will be responsible for payment of all taxes, and any interest, fines or penalties for which contractor group is liable for:

(i) income, capital gains, and wages
(ii) import or export of contractor equipment, or the movement of contractor personnel

12.2 Indirect taxes

CONTRACTOR will add any indirect taxes to the invoice as a separate item, and COMPANY will pay them in addition to the contract price.

12.3 Withholding

(a) If required under applicable laws, COMPANY will withhold, or deduct and pay over to relevant authorities, taxes from amounts payable to CONTRACTOR. If CONTRACTOR is nonresident in Canada, COMPANY is required by law to collect and remit to the Canada Revenue Agency a 15% withholding tax for CONTRACTOR’s services to COMPANY rendered in Canada, unless the requirement is waived directly by
the Canada Revenue Agency. If the Canada Revenue Agency provides a waiver to CONTRACTOR, CONTRACTOR will forward a copy of the waiver to COMPANY.

(b) To facilitate the appropriate level of withholding tax, CONTRACTOR agrees to provide the following additional information on its invoices to COMPANY: (i) the amount chargeable for services performed in Canada; (ii) the amount chargeable for services performed outside Canada; (iii) the cost of services provided by third parties (along with a copy of the relevant invoices separately indicating the cost of services provided in Canada, the cost of services provided outside Canada, and the amount of reimbursed expenses); (iv) identification and rationale for any charge that is unrelated to the provision of services; (v) the information prescribed by the Input Tax Regulations under the Excise Tax Act (Canada) or any other information prescribed for a similar value added tax; and (vi) details of any expenses for which reimbursement is sought, including for meals, hotel, airfare, travel, and the similar expenses.

(c) Where CONTRACTOR demonstrates that it is exempt from any withholding or deductions under applicable laws, it will inform COMPANY and provide COMPANY with a valid certificate of exemption or immunity from the relevant authority. COMPANY may act on the information given to it and will not be liable to CONTRACTOR or any other person if COMPANY applies the withholding or deduction according to applicable laws.

2.4 INDIRECT TAXES in event of CONTRACT changes

Any amount payable as a result of a breach, modification, or termination of the contract, will be increased by any applicable indirect taxes remittable by the recipient of the payment.

14 Liens (see section 1 for definition of this term)

CONTRACTOR warrants good and clear title to scope supplied. CONTRACTOR will not, to the fullest extent permitted by applicable law, permit contractor group to place any liens or claim any liens. CONTRACTOR will immediately notify COMPANY and promptly remove any liens by contractor group.

15 Suspension

(a) COMPANY may suspend performance of all or part of scope for cause (see Clause 15 for explanation of ‘cause’). Written notice is required for such suspension, which takes effect immediately pending COMPANY’s decision on whether it has grounds to terminate the contract for cause. If there is suspending for cause, CONTRACTOR will not be entitled to any variation or other compensation.

(b) COMPANY may suspend performance of all or part of scope for convenience at its own discretion with seven days’ prior written notice. CONTRACTOR may seek a variation if actions required by suspension affect the schedule or timing of scope.

(c) COMPANY may at any time withdraw by written notice all or part of a suspension; when this happens, CONTRACTOR will resume performance.

15 Termination

15.1 Termination by company for cause

(a) COMPANY may terminate the contract or part of scope for cause by written notice with immediate effect if:

(i) in the performance of the contract, contractor group breaches its own business principles or, if it has no equivalent principles, then Shell’s Business Principles

(ii) contractor group violates anti-corruption laws, applicable competition laws, trade control laws, other applicable laws or HSSE standards, or causes COMPANY to be in violation of those laws or HSSE standards

(iii) contractor group becomes a restricted party or

(iv) CONTRACTOR is subject to an insolvency event,

(b) COMPANY may terminate the contract or part of scope for cause if COMPANY determines CONTRACTOR materially breached the contract any way other than those set out in Clause 15.1(a). COMPANY will first provide written notice, which may require CONTRACTOR to remedy the breach; or COMPANY may terminate the contract if COMPANY determines the breach cannot be remedied in time, or it is not subsequently remedied.

15.2 Termination by company for convenience

COMPANY may terminate the contract or part of scope for convenience at its own discretion, as long as it does so with 30 days’ prior written notice.
15.3 Termination by contractor for cause
(a) CONTRACTOR may terminate the contract if COMPANY fails to pay an undisputed amount to CONTRACTOR that is properly presented, due, payable for more than 60 days and exceeds 5% of the contract price. This assumes complete performance of the contract and is subject to:
(i) CONTRACTOR giving COMPANY written notice specifying the unpaid amount and requiring it to be paid within a further period of 14 days of such notice
(ii) COMPANY failing to make the payment or to provide proper grounds for non-payment during the notice period
(b) CONTRACTOR’s termination rights do not apply if COMPANY exercises a valid right to make a deduction from the invoice.

15.4 Contractor obligations on termination
Upon termination, CONTRACTOR will promptly cease performance of terminated scope, give access to scope in progress, avoid unreasonable interference with others, and take reasonable steps to allow COMPANY to complete scope. These steps include turning over all documentation for scope and software which was to be supplied in connection with the contract.

15.5 Compensation in the event of termination
(a) If COMPANY terminates the contract or part of scope for cause, COMPANY will determine and pay the amounts (minus any valid deductions) owed to CONTRACTOR for scope properly performed in accordance with the contract.
(b) If COMPANY terminates the whole of the contract for convenience, or CONTRACTOR validly terminates for nonpayment, COMPANY will also pay reasonable, unavoidable and auditable costs that COMPANY has agreed elsewhere in the contract to pay on termination for convenience by COMPANY.

15.6 Exclusive reasons for termination
The parties waive any right to terminate, rescind or otherwise end the contract on grounds other than those set out in the contract.

16 Liquidated damages
Where any liquidated damages are set out in the contract, are genuine preestimates of the losses that may be sustained by failure of performance.

17 Liabilities and indemnities
(a) Any liability for loss of and damage to property and for personal injury, death or disease to any person that arises in connection with the contract will be determined in accordance with applicable law.
(b) Neither party will be liable to the other for that other party’s own consequential loss, regardless of negligence or other fault unless consequential losses are caused by the disclosure of confidential information or liabilities related to IP rights.

18 Insurance
Before beginning performance, CONTRACTOR will arrange any insurance required by applicable law, and maintain that insurance in effect for as long as the contract lasts. If the obligation to procure insurance and perform other actions in connection with this clause is satisfied, this will not relieve CONTRACTOR of any other obligations or liabilities.

19 Compliance with applicable laws

business principles, and HSSE standards

19.1 Applicable laws
The parties will comply with applicable laws in the performance of the contract and will notify each other of any material breaches.

Where CONTRACTOR is providing scope to Shell Upstream operations, CONTRACTOR is required to be familiar with and comply with applicable guidelines, policies, and procedures which are located at www.shellcontractor.com. This includes policies for health and safety, as well as requirements regarding use of COMPANY contracted aircraft and marine vessels, and compliance with COMPANY’s land transportation programs for deliveries to and from its sites.

19.2 Business principles
(a) CONTRACTOR acknowledges that it has actual knowledge of:
(i) the Shell General Business Principles, at shell.com/sgbp, and Shell’s Supplier Principles, at shell.com/suppliers
(ii) Shell’s Code of Conduct, at shell.com/codeofconduct
(iii) Shell’s Global Helpline, at shell.com/globalhelpline
(b) CONTRACTOR agrees that contractor group will, in the performance of this contract, adhere to and notify COMPANY of violations of CONTRACTOR’s business and supplier principles if these are equivalent to COMPANY’s principles contained in the Shell General Business Principles and Shell Supplier Principles. Where CONTRACTOR does not have equivalent principles, COMPANY’s principles will apply.
Terms & conditions for the purchase of goods and services continued

(c) If contractor group supplies staff that work on behalf of COMPANY or represent COMPANY, CONTRACTOR commits that the staff will behave in a manner that is consistent with the Shell Code of Conduct.

19.3 Anti-bribery and corruption

(e) CONTRACTOR affirms that, in connection with this contract and related matters:
(i) it is knowledgeable about anticorruption and will comply with those laws
(ii) contractor group has not made, offered, authorised or accepted – and will not make, offer, authorise or accept – any payment, gift, promise or other advantage, whether directly or through any other person, or for the use or benefit of any government official or any other person where that payment, gift, promise or other advantage would comprise a facilitation payment or violate the relevant anticorruption laws.

(b) CONTRACTOR will immediately notify COMPANY if CONTRACTOR receives or becomes aware of any matter that is prohibited by the preceding paragraph.

(c) CONTRACTOR affirms that no person in contractor group is a government official or any other person who could assert illegal influence on behalf of COMPANY or its affiliates. If a person in contractor group becomes a government official, CONTRACTOR will promptly notify COMPANY and, should COMPANY request it, remove that individual from performance in connection with scope.

(d) CONTRACTOR will maintain adequate internal controls and procedures to ensure compliance with anti-corruption laws. This includes the ability to demonstrate compliance through adequate and accurate recording of transactions in its books and records.

(e) COMPANY will have the right to confirm compliance with anticorruption laws and record keeping by audit. CONTRACTOR will keep books and records available for audit for five years after the termination of the contract. Audits may take place during performance or after completion of scope, so long as notice of an audit is provided prior to the expiration of the period set out above for the retention of books and records. Conditions of the audit will be as prescribed for financial and performance audits in the CONTRACT.

(f) Where CONTRACTOR relies on contractor group to perform part of scope, CONTRACTOR will ensure that contractor group:
(i) maintains its books and records for the same purposes and for equivalent periods; and
(ii) provides books and records, which may be required by COMPANY to similarly confirm satisfaction of the compliance and record keeping obligations.

(h) For purposes of this Article, the term government official includes a member of any elected aboriginal body

19.4 Export and trade controls

(a) CONTRACTOR will comply with all applicable trade control laws and will provide COMPANY with necessary data to comply with trade control laws.

(b) CONTRACTOR will ensure that, except with the prior written consent of COMPANY:
(i) company provided items are not exported, provided or made available to any restricted jurisdiction or restricted parties
(ii) contractor personnel with access to COMPANY group’s technical information, information technology resources [including company group’s infrastructure] or company group worksites are not restricted parties or nationals of a restricted jurisdiction
(iii) CONTRACTOR will not use subcontractors that are restricted parties
(iv) CONTRACTOR will not source any of the goods, software or technology in scope to be delivered or supplied to COMPANY under this contract, directly or indirectly, from restricted parties or a restricted jurisdiction

19.5 Personal data protection

(a) The parties may provide each other with personal data in the course of the performance of this contract. The processing and transfer of such data will be done in accordance with applicable data protection law and this contract. For the avoidance of doubt CONTRACTOR may not process, sell, retain, use or disclose the personal data for any purpose other than for the specific purpose of performing the scope specified in this contract or as required or permitted by applicable data protection law. CONTRACTOR certifies that they understand this condition and will comply with it. Each party is a ‘data controller’ as defined in applicable data protection law with respect to the personal data.

(b) Personal data processed by COMPANY is governed by the terms of the Privacy Notice - Business Customer, Supplier, Partner or Investors, available at https://www.shell.com/privacy/b2b-notice.html and from the relevant Shell website in each location.

19.6 Health, safety, security, and environment (HSSE)

In performing scope at company group worksites, or other location if specified in the HSSE standards, CONTRACTOR will, and will ensure that contractor group will, at all times:

(i) pursue Shell’s HSSE principle of Goal Zero
(ii) comply with IOGP 459 Life Saving Rules, available at iogp.org/life-savingrules/
(iii) comply with other applicable HSSE standards
Terms & conditions for the purchase of goods and services continued

9.7 Ontario Carpentry SERVICES

For all SCOPEN performed in the Province of Ontario, CONTRACTOR must ensure all carpentry, scaffolding, concrete forming, caulking, dry wall, or fanning as defined in the “Provincial Collective Agreement” between the Carpenters’ Employer Bargaining Agency and the Carpenters’ District Council of Ontario, United Brotherhood of Carpenters and Joiners of America, in effect at the time, is performed by that union, either through members of the appropriate local chapter or members who carry a valid travel certificate from the appropriate local chapter.

20 Confidential information

20.1 Obligations in connection with confidential information

(a) CONTRACTOR will not disclose company group’s confidential information to any third party without the prior written consent of COMPANY, and will also use company group’s confidential information only in connection with performance of the contract.

(b) Information that CONTRACTOR can prove, (i) when disclosing it, is either in the public domain or, in the possession of CONTRACTOR without binder of secrecy, or developedindependently of COMPANY’s confidential information is not confidential information. CONTRACTOR’s obligations regarding confidential information will cease if CONTRACTOR can prove that the information had become part of the public knowledge through no fault of contractor group or is subsequently disclosed to CONTRACTOR without an obligation of confidentiality by a third party who has the legal right to do so.

(c) After expiration or termination of the contract, or on COMPANY’s request, CONTRACTOR will promptly return or destroy any confidential information and delete it from electronic storage.

and delete or destroy all extracts or analyses that reflect any confidential information.

20.2 Contractor information

Contractor group will not provide company group with any proprietary information.

Company group will not have an obligation not to disclose or use information provided by contractor group except where the obligation is expressly stated elsewhere in the contract or through a separate agreement.

20.3 External communications

CONTRACTOR will not broadcast or publish any external communications related to the contract.

20.4 Mandatory Disclosures

If CONTRACTOR is required by any court, judicial, governmental, or regulatory body, or otherwise under applicable laws, to disclose any confidential information, CONTRACTOR, to the extent lawful to do so, shall: (a) promptly notify COMPANY of such disclosure requirement to allow COMPANY or a member of company group to oppose the requirement or to seek a protective order and/or take any other action to protect such information; (b) reasonably cooperate, if requested by COMPANY or a member of company group, in taking any of these actions at the COMPANY’s or member of company group’s reasonable cost and expense; (c) disclose only that portion of such information as CONTRACTOR is legally required to disclose; and (d) use reasonable endeavours to ensure that confidential treatment is given to such information.

21 Intellectual property

(a) Except for IP rights vested with CONTRACTOR as provided below, all right, title, and interest in and to work product hereby vests in COMPANY or its designee upon the generation, creation and/or discovery thereof, and shall be COMPANY’s IP rights. In addition, all IP rights generated, created or discovered hereunder that use or are an improvement to company group’s IP rights, or are generated, created or discovered using, or are an improvement to, confidential information, hereby vests in COMPANY or its designee upon the generation, creation and/or discovery thereof, and shall be COMPANY’s IP rights. CONTRACTOR will execute, and will cause contractor group to execute documents, and take all other steps as may reasonably be necessary to document the ownership of COMPANY or its nominee in the IP rights to allow COMPANY to secure, protect, and enforce those rights for the benefit and full use by company group. CONTRACTOR irrevocably waives, and will cause contractor group to irrevocably waive, any moral or similar, non-transferable rights that any persons in contractor group may have in IP rights vesting in COMPANY under this sub-article. All right, title, and interest in and to work product generated, created or discovered by CONTRACTOR in the performance of scope that are an improvement to CONTRACTOR’s IP rights hereby vests in CONTRACTOR or its designee upon the generation, creation and/or discovery thereof, and shall be CONTRACTOR’s IP rights and shall not be subject to the obligations of secrecy and restricted use set forth in the confidentiality provisions herein.

(b) CONTRACTOR, warranting that it is entitled to do so, grants to company group an irrevocable, non-exclusive, perpetual, worldwide, royalty-free right and licence, with the right to transfer, assign or grant sublicences in any of CONTRACTOR’s IP rights embodied in any work product, to use, have used, make, have made, sell, have sold, operate, have operated, possess, have possessed, import, have imported, export, have exported, copy,
Terms & conditions for the purchase of goods and services continued

have copied, distribute, have distributed, modify, have modified, create derivative works of, have derivative works created of, improve, have improved, repair, have repaired, maintain, have maintained any work product. CONTRACTOR warrants that the sale, license, use or distribution by any member of company group of any work product or any other materials made available to company group by CONTRACTOR in connection with scope will not infringe or misappropriate the IP rights of any third party.

(c) CONTRACTOR will indemnify company group, assignees, transferees, and sublicensees permitted by this contract for any liabilities resulting from any claim that: (i) the contractor group’s provision of scope, (ii) any work product provided to company group, or (iii) the use of such work product by any member of company group, infringes or misappropriates the IP rights of any third party.

22 Financial and performance audit
(a) COMPANY will have the right to audit:
(i) invoiced charges and proper invoicing
(ii) other books and records
(iii) the performance of any other of CONTRACTOR’S obligations under the contract, where it is possible for these to be verified by audit
(b) Within 45 days of any audit finding, the parties will settle any amounts charged incorrectly, and CONTRACTOR will provide or re-perform any scope that the audit identifies as needing to be done.
(c) CONTRACTOR will keep books and records available for audit for whichever is the longer of the following periods:
(i) five years following termination of the contract or any longer period as required by applicable laws
(ii) two years after the period expires on any obligation of CONTRACTOR to perform or re-perform any scope
(d) CONTRACTOR will comply with any requirement in the contract for relevant books and records to be retained for longer period, in order to comply with anti-corruption laws.

23 Relationship of the parties
23.1 Independent contractor
CONTRACTOR is an independent CONTRACTOR in all aspects of performance under the contract. CONTRACTOR is responsible for the method and manner of performance to achieve the results required by the contract.

23.2 No business relationship
(a) The contract and its performance do not create a partnership or joint venture, and neither does the contract appoint either party to it as agent of the other. The contract does not permit CONTRACTOR to make any commitment on behalf of company group.
(b) CONTRACTOR will indemnify company group for any liabilities incurred as a result of any finding that: (i) any contractor personnel is an employee of company group, (ii) company group should have or must make statutory deductions from payments to CONTRACTOR or for contractor personnel under applicable laws (including concerning employment insurance, pension plans, health insurance, or income tax); or (iii) COMPANY should have or must include CONTRACTOR or contractor personnel in COMPANY’s workers’ compensation assessment.

(b) CONTRACTOR and contractor personnel are not to be considered employees of company group and are not eligible to participate in any of company group’s employee benefit plans.

24 Contractor personnel and subcontracting
24.1 Responsibility
CONTRACTOR is responsible for any scope performed by any subcontractor and all contractor personnel; all activities, omissions and defaults are to be treated as if they were the activities, omissions or defaults of CONTRACTOR.

24.2 Condition to subcontract and formation and content of subcontracts
CONTRACTOR may not subcontract any part of its obligations under the contract except as agreed in writing by COMPANY and CONTRACTOR will ensure that subcontractors are in all material respects consistent with the terms and conditions of the contract.

25 Assignment
A party can assign or novate (substitute a new legal obligation for an old one) all or part of the contract only with the written consent of the other party; the exception to this is that, provided COMPANY gives written notice to CONTRACTOR, COMPANY may assign and novate all or part of the contract to an affiliate without the consent of CONTRACTOR.
26 Force majeure

(a) If a force majeure event prevents performance of part of an obligation of the contract, COMPANY and CONTRACTOR are each excused from performance of the affected part of the contract, unless it was the fault of the party that contributed to the event or unless reasonable care and attention on the part of the party could have avoided or mitigated the circumstances that caused the event.

(b) Only the following are force majeure events:
(i) riots, wars, blockades, or threats or acts of sabotage or terrorism
(ii) earthquakes, floods, fires, named hurricanes or cyclones, tidal waves or tornadoes
(iii) radioactive contamination, epidemics, pandemics, maritime or aviation disasters
(iv) strikes or labour disputes at a national or regional level or involving labour not forming part of contractor group or company group, which materially makes the party claiming force majeure less able to perform the contract
(v) government sanctions, embargoes, mandates or laws that prevent performance
(vi) inability of a party to obtain, in time, licences, permits or the necessary consent of authorities for performance, unless there is an express provision otherwise in the contract
(vii) non-performance of a party’s subcontractor where the subcontractor has been or is affected by one of the above force majeure events – performance will only be excused under this subparagraph, however, if the parties to the contract agree that in the circumstances it is impracticable to substitute performance by another subcontractor

(c) If a party’s performance is delayed or prevented, they will notify the other party and use reasonable endeavours to mitigate the effects of any force majeure event.

(d) COMPANY may terminate the contract or part of scope if any force majeure event results in a delay of more than 90 consecutive or 180 cumulative days.

27 Notices

All notices or other communications under the contract must be in English and in writing, and delivered in one of these four ways:
(i) by hand
(ii) sent by prepaid courier
(iii) sent by registered post
(iv) sent by email with a request for confirmation of receipt

Notices and communications are effective when actually delivered at the address specified in the contract.

28 Governing law, dispute resolution and remedies

28.1 Governing law

This contract, and any dispute or claim arising out of or in connection with this contract – or its subject matter or formation, including any non-contractual disputes or claims – will be exclusively governed by and construed in accordance with the laws of the Province of Alberta, Canada excluding conflict of law rules and choice of law principles that provide otherwise. The United Nations Convention on the International Sale of Goods will not apply to this contract.

28.2 Dispute resolution

(a) Any dispute or claim arising out of or in connection with the contract or its subject matter or formation will be finally and exclusively resolved by arbitration by ADR Institute of Canada under its then current commercial arbitration rules. This shall apply whether the dispute or claim is in tort, contract, under statute or otherwise, including any question regarding the contract’s existence, validity, interpretation, breach or termination, and including any non-contractual claim.

(b) The arbitral tribunal, to be appointed in accordance with the arbitration rules, will consist of one arbitrator. If either party asserts that the amount in controversy is more than USD $5 million, however, then the tribunal will consist of three arbitrators.

(c) The seat of the arbitration will be Calgary, Alberta, Canada.

(d) The language of the arbitration will be English.

(e) Nothing in Clause 28 will be understood as preventing any party from seeking conservatory or similar interim relief (where conservatory means aimed at preserving a state of affairs) from any court with competent jurisdiction. The arbitral tribunal will make awards in writing and any such award will be final and binding on the parties. The parties will carry out the award without delay. Judgement upon any award or order may be entered in any court having jurisdiction. All aspects of the arbitration will be considered confidential.

29 Additional legal provisions

(a) The parties retain their rights and remedies under applicable laws subject to any provisions in the contract that provide otherwise.

(b) A provision of the contract may be waived only if made in writing by an authorized representative of the waiving party.

(c) Provisions that state that they survive, or by their
Terms & conditions for the purchase of goods and services

continued

nature are intended to survive, completion of performance or termination of the contract do so, along with all remedies attached to them.

(d) For amendments to the contract to be binding, they must be made in writing and signed by the parties' authorised representatives.

(e) Contractor group or company group that is not a party to the contract is nevertheless entitled to enforce any rights conferred to it; they are not, however, required to consent to, amend or terminate those rights.

(f) The contract and all ancillary notices, correspondence, and other documents, will be in English. Where translations have been provided, the English version will prevail in case of any conflicts or inconsistencies between translations. Les parties déclarent qu'il est leur volonté expresse que ce Contrat d'achat soit rédigé en anglais et que tous documents s'y rattachant ou ayant trait ou suite au présent Contrat d'achat soient rédigés en anglais.

(g) The contract sets forth the entire agreement between the parties concerning its subject matter and supersedes any other agreements or statements relating to the same subject matter, except those agreements or statements expressly referenced in the contract. Any confidentiality agreement relating to the subject matter will remain in effect for the duration of the contract, unless the contract allows it to be terminated or replaced.