Terms & conditions for the purchase of goods and services
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.

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 over-rule those of the later contract.

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

Force majeure event is an event that cannot reasonably be anticipated or avoided – the contract sets out what events qualify as force majeure events.

Goods cover the goods, materials, products and equipment CONTRACTOR is to supply under the contract.

Government official is a term that covers:
(a) any official or employee of any government, or any agency, ministry, or department of a government (at any level)
(b) anyone acting in an official capacity for a government, regardless of their rank or position
(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 or 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

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.

Lien 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:
(a) joint ventures
(b) 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 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:
(a) any person resident, established or registered in a restricted jurisdiction

(b) any person classified as a US Specially Designated National or otherwise subject to blocking sanctions under trade control laws
(c) any affiliates of such persons
(d) 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 scope; 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, spread sheets, 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 non-exclusive and carries no requirement for COMPANY to purchase any minimum quantities. COMPANY may acquire same 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 purpose 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 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, commonlaw, 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.
(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.
Terms & conditions for the purchase of goods and services

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 guaranties against defects are transferable, and contractor will transfer to company all manufacturers’ guaranties. Where guaranties 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 guaranties 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

(a) Company is not liable for any of contractor’s income taxes; any withholding taxes imposed on gross amounts; any franchise tax measured by capital, capital stock, net worth, gross margin, gross receipt, or gross profit; any minimum or alternative minimum tax; or any taxes imposed by law on contractor that are prohibited by law from being passed on to company. Company is not liable to contractor for any employment related tax, fee, or charge. Company is not liable for any of contractor’s inventory based taxes, ad valorem taxes, or property taxes.

(b) Company is responsible for filing returns and paying inventory-based taxes, ad valorem taxes, and property taxes on property or inventory that it owned on the assessment date.

12.2 Indirect taxes

Company will pay all federal, state, and local taxes or other taxes that are imposed on transactions governed by the contract. For purposes of this Article, “Taxes” includes the following US taxes: federal, state, and local excise taxes, sales and transaction taxes, gross receipts taxes, utility taxes, environmental taxes and fees, or any other taxes that contractor may be required to collect or pay on the transactions governed by the contract, except any taxes imposed on contractor that by applicable law cannot be passed on to company.

12.3 Customs Responsibilities
Terms & conditions for the purchase of goods and services continued

If the contract involves goods imported into the customs territory of the United States, the party acting as the importer of record for US Customs purposes is responsible for filing the clearance declaration and is liable for paying any applicable import related fees or taxes, such as customs duties, harbor maintenance fees, merchandise processing fees, and oil spill fees. The party not acting as importer will provide the importer of record all documentation necessary to support the customs declaration. If the contract involves goods for which US import duty drawback can be claimed, the parties may separately negotiate the sharing of the drawback refund.

12.4 Local (USA) Requirements
CONTRACTOR will provide to COMPANY a properly completed I.R.S. Form W-8 or I.R.S. Form W-9, as appropriate, to enable COMPANY to determine if US income tax withholding is required. If U.S. withholding applies, COMPANY will withhold amounts on its payments to CONTRACTOR as required under US law, unless CONTRACTOR provides COMPANY with the appropriate documentation to mitigate the tax.

12.5 Requirements Pertaining to Intangible Drilling Costs
COMPANY may be able to claim the Intangible Drilling Cost deduction under Section 263(c) of the United States Internal Revenue Code of 1986 for scope purchased under the contract. Accordingly, to substantiate those claims, it is necessary for CONTRACTOR to invoice the prices to be paid by COMPANY separated into “Material” and “Non-material” costs, with CONTRACTOR’s profit and overhead allocated to each category as appropriate. (i) “Non-material” costs are those costs covering intangible items that would have no salvage value at the end of the life of a project, such as design engineering, fabrication labour, and materials and equipment handling, testing, and inspection of materials through incorporation into scope, CONTRACTOR’s installation labour, transportation costs for materials used in fabrication, and the completed item. (ii) “Material” costs are those costs for tangible items that ultimately have a salvage value at the end of the life of a project. This category does not include items that are consumed in the delivery of the services (e.g. welding supplies used in welding). For example, material costs would typically include the value of steel plate used in the fabrication process as well as hardware, valves, pipe, fittings, motors, etc. purchased by CONTRACTOR for incorporation into scope.

12.6 Withholding
(a) If CONTRACTOR is required to collect taxes on a transaction governed by this contract, CONTRACTOR will invoice that tax as a separate line item on the invoice.
(b) CONTRACTOR will not collect any taxes for which COMPANY furnishes to CONTRACTOR, in a timely manner, a valid and properly completed exemption certificate or valid licence for which CONTRACTOR may claim an available exemption from taxes. COMPANY will be responsible for any taxes, interest, and penalties if the exemption certificate, licence, or other form of proof of exemption is disallowed by the proper tax authority. If a refund opportunity arises with respect to any taxes paid by CONTRACTOR as a result of the transactions governed by the contract, both parties will cooperate to pursue the refund to pay to the party that incurred the TAX burden.

(c) If CONTRACTOR holds a valid exemption certificate, it will provide copies or further information to substantiate an entitlement to avoid the withholding, which COMPANY may then rely on to apply the exemption.

13. Liens (see section 1 for definition of this term)
CONTRACTOR warrants good and clear title to scope supplied. CONTRACTOR will not permit contractor group to place any liens or claim any liens. CONTRACTOR will immediately notify COMPANY and promptly remove any liens by contractor group.

14. Suspension
(a) COMPANY may suspend performance of all or part of scope for cause (see Clause 15 for explanation of ‘for 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 written notice or a variation; 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
the company takes 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 pre-estimates of the losses that may be sustained by failure of performance.

COMPANY may claim demonstrated general damages in any case where liquidated damages are unenforceable.

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.

(c) Solely for purposes of any workers’ compensation law that might be applicable to contractor personnel involved in performance of the contract, COMPANY is considered the “statutory employer” of those contractor personnel, as that term is defined under the appropriate workers’ compensation law or case law interpreting it in cases where activities related to the contract make it applicable. Nothing in this sub-article negates any other provision of the contract that addresses the independent contractor status of contractor or contractor personnel, nor does this sub-article mean that any member of company group is the employer of any contractor personnel.

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

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

(b) CONTRACTOR and COMPANY will comply with the US Occupational Safety and Health Administration ("OSHA") Hazard Communication Standard ("HCS") - 29 CFR 1910.1200 (and any state OSHA Standard) in connection with the supply or use of hazardous chemicals, as applicable. Material Safety Data Sheets ("MSDS" or now called "Safety Data Sheets" or "SDS") provided in connection with those requirements will be current, in English, and otherwise meet the requirements of the HCS. Where supplying a chemical substance, CONTRACTOR will provide only chemical substances listed in the Toxic Substances Control Act Chemical Substance Inventory ("TSCA Inventory"), which is maintained by the US Environmental Protection Agency. CONTRACTOR will verify each chemical’s inclusion on the TSCA Inventory by sending COMPANY a letter or an MSDS that expressly verifies the chemical’s TSCA Inventory Listing. If CONTRACTOR becomes aware of a chemical substance that has been supplied which is not on the TSCA Inventory, CONTRACTOR will immediately notify COMPANY in writing.

(c) This contract may involve the performance of scope for agencies of the government of the United States, or contracts for supply which are funded in part or in whole by US government agencies, therefore:

(i) In all cases where applicable, contractor group will abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a), and 60-741.5(a). Those regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, colour, religion, sex, or national origin.

Moreover, those regulations require that, where applicable, members of CONTRACTOR GROUP take affirmative action to employ and advance in employment individuals without regard to race, colour, religion, sex, national origin, protected veteran status, or disability;

(ii) In all cases where applicable, contractor group will comply with the Trafficking Victims Protection Act of 2000, Executive Order 13627 Strengthening Protections Against Trafficking in Persons in Federal Contracts, Federal Acquisition Regulation; Ending Trafficking in Persons and other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labour; and

(iii) Where applicable, CONTRACTOR confirms that it is and will remain in compliance with all ethics rules for US government contractors, and executive orders, laws, and regulations pertaining to US government contractors. CONTRACTOR will notify COMPANY if a member of CONTRACTOR GROUP is a former employee of a federal agency who is prohibited from receiving compensation under 41 U.S.C. § 2104.

(d) In connection with its policies against use or possession of illegal or unauthorised drugs or controlled substances, intoxicating beverages, or weapons of any type, including firearms on its premises, CONTRACTOR agrees that entry onto company group worksites constitutes consent to and recognition of the right of company group and its authorized representatives to search the person, vehicle, and other property of individuals while on those premises. CONTRACTOR must have in place at its own expense a substance abuse policy meeting applicable standards of practice if all or part of the performance of scope on company group worksites or in transportation of its products or materials: i) requires exercise of independent action and results in direct and immediate irreversible effects; and iii) creates substantial risk of serious physical injury to fellow employees or the general public, or significant environmental damage.

(e) 33 CFR Parts 101-106, Maritime Security, 6 CFR Part 27, Chemical Facility Anti-Terrorism Standards ("CFATS"), 49 CFR Part 1520 (Protection of Sensitive Information), other applicable laws, or company group requirements may apply to certain company group facilities or operations. Where applicable because CONTRACTOR will perform at least part of scope at company group worksites, or will handle company group’s products or materials, CONTRACTOR will become informed of and comply, at its own expense, with these and similar requirements for (i) security; (ii) handling of sensitive security information; (iii) screening of individuals through the Department of Homeland Security database and other databases; (iv) advance provision for entry credentials; (v) security compliance training; (vi) conduct of required contractor personnel pre-assignment background investigations; and (vii) related matters.

(f) Where CONTRACTOR is providing scope to Shell Upstream

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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.

(g) Prior to commencement of any drilling or production services on the Outer Continental Shelf, COMPANY will provide and CONTRACTOR must execute a written Safety and Environmental Management Systems Contract Interface Document (“SEMS CID”) confirming the development, implementation, and maintenance of a safety and environmental management system program satisfactory to COMPANY in compliance with 3 CFR 250 Subpart S. The SEMS CID will document how policies and procedures interface where COMPANY and CONTRACTOR have compatible but independent SEMS program elements. COMPANY may decide to identify and confirm previously established programs in place between COMPANY and CONTRACTOR or their affiliates. CONTRACTOR is responsible for adhering to all company health standards, including compliance with the applicable guidelines, policies, and procedures which are located in the SEMS CID. By entering into this contract, CONTRACTOR acknowledges that COMPANY and CONTRACTOR have identified or prepared a SEMS CID which will be applicable to SCOPE, and CONTRACTOR has a copy on file and in its possession. The applicable SEMS CID may also be located at http://cid.4sems.com.

(h) Where permitted by applicable law, CONTRACTOR will establish a fitness to work program acceptable to COMPANY for contractor personnel performing job tasks identified by COMPANY as included in those requirements. Identified job tasks include remote location work, jobs requiring respiratory protection, and job descriptions identified at www.shellcontractor.com or by CONTRACTOR’s contract representative or business focal point. Compliance with requirements will be at CONTRACTOR’s expense, including any medical assessments, if necessary, and any costs to reassign workers or provide for appeal processes.

(i) CONTRACTOR will at its own cost reasonably cooperate with COMPANY’s efforts to minimise tariffs and duties owed for imports from countries with “Free Trade” agreements (“FTA”) with the US (listed at http://www.ustr.gov/trade-agreements/free-trade-agreements). In those cases, for each item purchased under this contract, CONTRACTOR will provide COMPANY with one of the following documents: (i) Certificate of Origin (“Certificate”); (ii) a Letter of Origin (“Letter”); or (iii) a letter stating the reasons why the products do not qualify for free trade treatment under the FTA, the country of origin of the products, and the Harmonised Tariff Schedule number (“Non-FTA Letter”). Each document CONTRACTOR sends to COMPANY must be complete and correctly filled out in accordance with US law and customs regulations. CONTRACTOR will send the Certificate, Letter, or Non-FTA Letter to COMPANY prior to the first shipment of products. For each following year, CONTRACTOR will send to COMPANY a Certificate, Letter, or Non-FTA Letter by November 15th of the current year to cover products for the subsequent year.

(j) COMPANY is a member of the Customs-Trade Partnership against Terrorism (“C-TPAT”) program offered by the United States Customs and Border Protection (“CBP”). Where CONTRACTOR is providing imported merchandise, directly or indirectly, to COMPANY, CONTRACTOR will at its own cost reasonably cooperate with COMPANY’s efforts to comply with the requirements of C-TPAT. CONTRACTOR will (i) provide identifying information concerning its own membership in C-TPAT and provide COMPANY with Status Verification Interface account number or evidence of membership in an equivalent supply chain security program; (ii) complete the Security Self-Assessment Questionnaire required by COMPANY at https://ssc.integrationpoint.net/Logon.aspx or through other means approved by COMPANY; and (iii) read and provide COMPANY prompt written assurance (through completion of a form provided by COMPANY) of compliance with minimum C-TPAT security criterion (found at http://www.cbp.gov/border-security/ports-entry/cargo-security/c-tpat-customs-trade-partnership-against-terrorism/apply/security-criteria). CONTRACTOR must require use of high security seals for containers meeting or exceeding the current PAS ISO 17712 standard, and ensure that carriers, forwarders, storage operators, and similar links in CONTRACTOR’s supply chain meet those requirements. CONTRACTOR will also ensure its supply chain will reasonably cooperate where inspections or audits are required by COMPANY or CBP and address issues which may be identified.

19.2 Business principles

(a) CONTRACTOR acknowledges that it has actual knowledge of:

(i) the Shell General Business Principles, at shell.com/gbpb, 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.

(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

(a) CONTRACTOR affirms that, in connection with this contract and related matters:

(i) it is knowledgeable about anti-corruption 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, to 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 anti-corruption 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 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 anti-corruption laws and record keeping by audit. CONTRACTOR will keep books and records available for audit while the contract is in effect and therefor after five years after the termination of the contract.
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 in respect of 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

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 developed independently 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.
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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.

20.5 Defend Trade Secrets

Pursuant to the Defend Trade Secrets Act of 2016, Company and Contractor acknowledge that an individual may not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (i) is made in confidence to a government official, either directly or indirectly, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law; or (ii) is made in a document filed in a lawsuit or other proceeding, if such filing is made under seal.

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. Contractor 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 sub-licences 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, 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.

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 of Contractor's obligations under the contract, where it is possible for these to be verified by audit
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(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 a 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 performanceto achieve the results required by the contract.

23.2 No business relationship

(a) The parties agree that the CONTRACT does not constitute a partnership, joint venture or fiduciary relationship for tax purposes. If it is interpreted that way, the parties agree to be excluded from the provisions of Subchapter K of the United States Internal Revenue Code of 1986, as amended. Neither party is appointed as an agent of the other. The contract does not provide for CONTRACTOR to make any commitment on behalf of company group.

(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. CONTRACTOR will indemnify company group for any liabilities related to claims for private or governmental benefits by contractor group.

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 formationand

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 subcontracts 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 any or all 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.
(vi) 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 sub-paragraph, 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 State of Texas 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 International Centre for Dispute Resolution 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 Houston, Texas.

(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 authorised representative of the waiving party.

(c) Provisions that state that they survive, or by their 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 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.