

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 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.

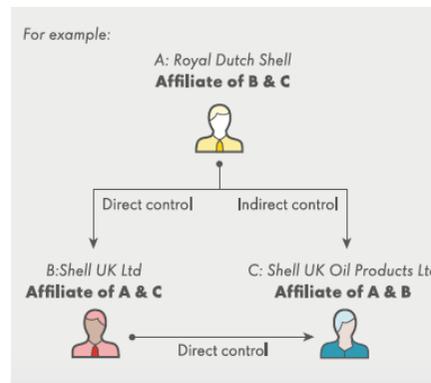
Anti-corruption laws include the United States Foreign Corrupt Practices Act of 1977, the United Kingdom Bribery Act 2010, and all other *applicable laws* that prohibit tax evasion, money laundering or otherwise dealing in the proceeds of crime or the bribery of any *government official* or any other *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.



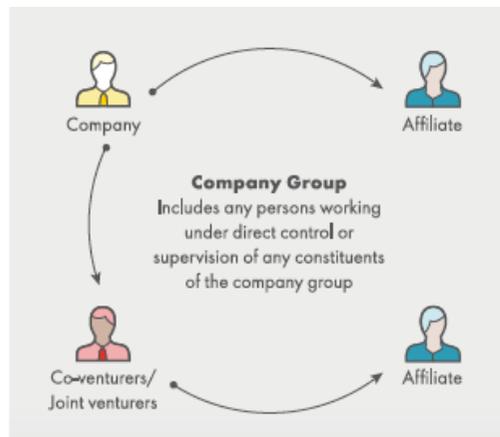
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Books and records include books, accounts, contracts, records and documentation, in electronic format or otherwise, relating to the contract and performance of *scope*.

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

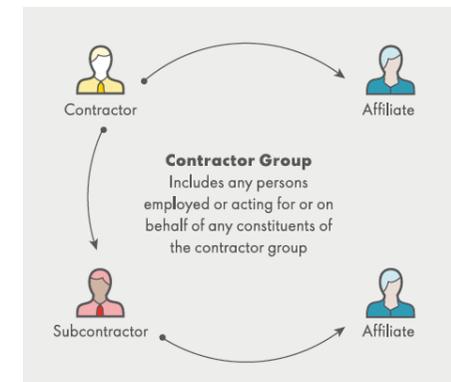
Contract price is the total amount that *COMPANY* is due to pay *CONTRACTOR* under the contract.

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.

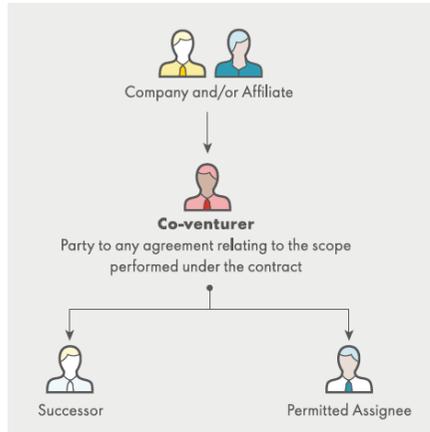


Contractor personnel indicates any individual provided by *contractor group* whether directly or indirectly, and assigned to work in connection with the performance of *scope*. That individual may or may not be an employee of *contractor group*.

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*

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individually 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 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 know-how, trade secrets 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, re-issues, re-examinations, 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*

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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:
(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 identified 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:
(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*

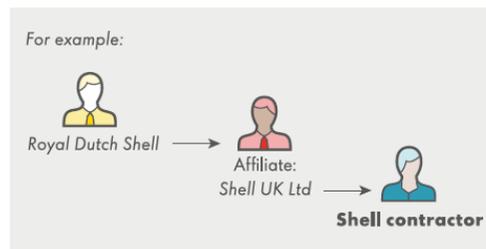
(d) any *person* acting on behalf of a *person* referred to in any of the three categories given under this entry

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



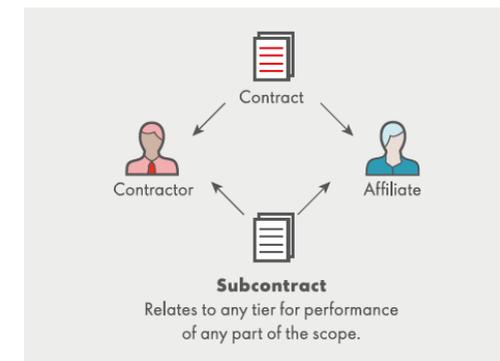
includes the database and all machine codes, binaries, object codes or source codes (whether in a machine or human readable form), and all improvements, modifications, and updates, flow charts, logic

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).

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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), semi-conductor 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*.

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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, 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.

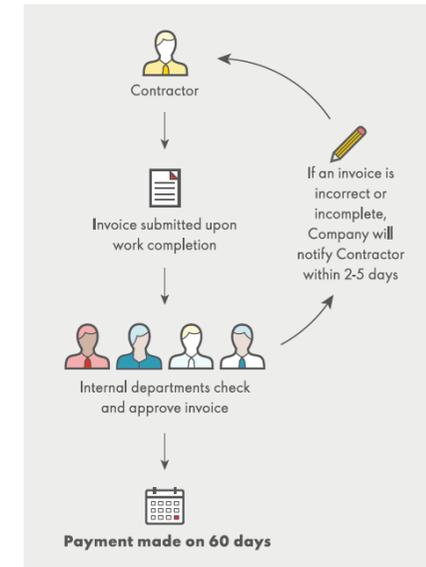
(b) **CONTRACTOR** will invoice only after *acceptance* of *scope*, unless other arrangements have been agreed in the contract.

(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. **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*.

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 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

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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 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 *HSE standards*, or causes *COMPANY* to be in violation of those laws or *HSE 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



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terminates for non-payment, **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 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 any 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 authorised 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 30 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 hsse 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 minimize 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) promptly complete the Security Self-Assessment Questionnaire required by **COMPANY** (at <https://scc.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/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.

(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 *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 thereafter for five years after the termination of the contract.

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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*. 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 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.

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



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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 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 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 formation and



25 Assignment

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.

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

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(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 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.