



## SHELL TERMS & CONDITIONS

The Customer agrees to be bound by these terms and conditions for any order placed with Shell for Goods, or any credit facility provided by Shell to the Customer. In the event of any inconsistency between the terms of an executed agreement between Shell and the Customer and these conditions, the terms of the executed agreement shall prevail.

### 1. Definitions

'Application' means the application form executed by or on behalf of the Customer and provided to Shell in respect of the supply of Goods.

'Customer' means the entity set out in the Application to whom Shell is supplying Goods.

'Goods' means any goods or services supplied by Shell.

'Shell' means The Shell Company of Australia Limited (ABN 46 004 610 459) or any of its related bodies corporate, affiliates or assigns.

### 2. Goods

Shell will sell and deliver, or procure the sale and delivery by its nominee, to the Customer, such quantities of the Goods as the Customer orders from time to time. The Customer acknowledges that Shell will not accept orders for Goods in quantities or volume less than the minimum order quantity as notified by Shell from time to time (and in default of such notification, 5,000 litres for motor fuels).

### 3. Price

- (a) The price payable by the Customer will be calculated based on the time and place of delivery or time and place of loading into the relevant delivery vehicle (as determined by Shell). For the purposes of this clause delivery or loading is deemed to occur at the time of completion of the relevant delivery or loading. The prices listed on delivery notes are indicative only. Any price indications or price lists issued by Shell are subject to alteration without notice.
- (b) The Customer must pay all taxes, duties and other levies imposed or assessed at any time on or in respect of the Goods which are not included in the price.

### 4. Goods and Services Tax

- (a) All italicised terms in this clause have the meaning set out in section 195-1 of the new Tax System (Goods and Services Tax) Act 1999, as amended ('GST Act').
- (b) All amounts payable under these terms and conditions are exclusive of GST.
- (c) If any party makes a taxable supply under or in connection with these terms and conditions, that party may in addition to the amount payable under these terms and conditions, recover from the other party an additional amount on account of GST, calculated by multiplying the amount payable under these terms and conditions by the GST rate (within the meaning of the GST law, being 10% currently).
- (d) Where a taxable supply is made under or in connection with these terms and conditions, the party which makes the supply must issue to the other party a valid tax invoice or an adjustment note, as applicable, in accordance with the GST Law.

### 5. Payment

- (a) Unless otherwise agreed, payment for the Goods shall be made by the Customer no later than the 21st day of the month following the month in which the Goods were delivered by Shell (the 'Due Date').
- (b) Payment shall be made by means of automatic debit by Shell from the Customer's bank account, in accordance with clause 13, or as otherwise agreed. If a payment is unable to be processed by Shell on the Due Date because of insufficient funds in the Customer's bank account, Shell reserves the right to charge the Customer a \$50 fee.

(c) If any amounts are not paid by the Due Date, Shell may charge the customer interest on the overdue amount, compounding daily, calculated at 2% above the ANZ 90 days bank bill swap reference rate: Average bid from the Due Date until payment. If any moneys are owing by Shell to the Customer, Shell reserves the right to net those amounts off against any amounts outstanding under these terms and conditions.

(d) The Customer shall pay all fees determined by Shell, including but not limited to copy media fee, unpaid direct debit fee, dishonored payment fee, account keeping fee, cheque payment fee, urgent order fee, small order fee, return fee and any other fee as advised by Shell in writing. Shell reserves the right to change the amount of any of these fees without notice.

(e) Without prejudice to clause 5(d), the Customer must pay to Shell the left on board charge in respect of: (i) any order which is cancelled by the Customer after it has been scheduled; and (ii) any delivery where the Customer does not accept more than 95% (in the case of bulk Goods) or 100% (in the case of packed Goods) of the quantity of Goods ordered, otherwise than where such non-acceptance is a result of an error, omission or inability to supply on the part of Shell. The amount of the left on board charge is as notified by Shell from time to time (and in default of such notification, \$250 (inclusive of GST) per motor fuel).

(f) The Customer shall pay any costs or expenses incurred by Shell in enforcing its rights under these terms and conditions, including, but not limited to debt collection fees and legal costs.

(g) In addition to our entitlements under clause 17, Shell may at any time vary the manner and/or terms of payment including without limitation, requiring payment prior to delivery:

- (a) by at least 30 days' written notice to the Customer;
- (b) by verbal notice to the Customer with immediate effect, where the Customer exceeds any credit limit set by Shell; or
- (c) by verbal notice to the Customer with immediate effect, where the Customer has failed to pay the price when due or if Shell believes that the ability of the Customer to make payment in accordance with the then current terms has materially changed since the date those terms were set.

### 6. Title and Risk

Title and risk in the Goods shall pass from Shell to the Customer at the time of delivery to the Customer.

### 7. Deliveries

- (a) Shell may make, or arrange to be made, deliveries of Goods by such means of delivery and in such tanks or other containers as Shell may select.
- (b) Deliveries of Goods shall be made at such place as Shell and the Customer agree.
- (c) Where the Customer gives Shell adequate notice of the Customer's specific requirements of Goods, Shell will use reasonable endeavours to make deliveries in accordance with Shell's standard lead times and delivery schedule applicable from time to time.
- (d) Ownership of any container passes to the customer with the Goods, except for deliveries of Goods in bulk containers or LPG containers. Bulk/LPG containers shall remain the property of Shell and the Customer shall pay the monthly hiring charge in respect of those containers, as specified by Shell. The Customer will not use Bulk/LPG containers for the storage or dispensing of any Goods not supplied by Shell, and will return the containers to Shell when required by Shell.

(e) The Customer must comply with all relevant local and national laws and regulations relating to health, safety and environmental conservation when storing and handling the Goods. Upon written notice from Shell, the Customer will allow Shell's representatives access to the premises where the Goods are stored, to enable those premises to be inspected for compliance with all such laws and regulations.

(f) The customer agrees and acknowledges that:

- (i) the Customer's signature on the delivery docket is evidence of satisfactory delivery to the Customer;
- (ii) the Customer must ensure that the delivery docket is signed at the time of delivery of the goods and returned to Shell;
- (iii) failure by Shell to obtain the Customer's signature is not evidence of a failure to deliver in accordance with the Customer's order and does not relieve or excuse the Customer from any obligations under these Terms and Conditions, including but not limited to, the Customer's payment obligations; and
- (iv) without limiting (iii) above, payment by the Customer is not conditional on the Customer receiving a delivery note or docket.

### 8. Discrepancies

Shell need not consider any claim by the customer in relation to:

- (a) the quality of any Goods unless
- (i) the Customer gives notice to Shell of any claim, specifying the facts on which the claim is based, within three working days of the alleged defect coming to the Customer's attention;
- (ii) the Customer uses its best endeavours to minimize loss and damage arising from the alleged defect; and
- (iii) Shell is given reasonable opportunity to take samples, inspect and test the Goods in respect of which the claim is made.
- (b) the quantity of Goods stated on any delivery docket or invoice compared with the amount delivered to the Customer's premises, unless the Customer has notified Shell of such discrepancies within 3 working days of delivery. If the Customer fails to notify Shell, the amount stated to have been delivered shall be deemed correct.

### 9. Force Majeure

Shell will not be responsible for any failure to comply or any delay in complying with any of these terms and conditions if the failure or delay is due to a strike or other industrial action, compliance with a government request, any actions taken by Shell or its employees, agents or contractors in response to public health concerns (including health epidemics or pandemics), a shortage of supply or any cause beyond the reasonable control of Shell. During a supply shortage, Shell may, in its absolute discretion, withhold, suspend or reduce supply of Goods to the Customer, and will not be required to purchase or otherwise make good any resulting shortages of supply to the Customer. Nothing in these terms and conditions requires Shell to settle any strike or other industrial action on terms unacceptable to it.

### 10. Termination

Shell may withdraw or terminate the supply arrangements set out in these terms and conditions, including any credit facility granted to the Customer, immediately without prior notice or explanation to the Customer. Shell disclaims all liability to the Customer for any loss, damage or injury resulting from such withdrawal or termination.



## 11. Limitation of Liability

- (a) It is acknowledged by the Customer that the Customer has made its own investigations and its own assessment of the suitability of the Goods (including any services) for the use to which they will be put. To the extent permitted by law, all terms, conditions, warranties or undertakings whether express or implied, statutory or otherwise, oral or written relating in any way to the supply of the Goods (including any services) or to these terms and conditions are excluded including, without limitation, any warranties of merchantability or fitness for purpose.
- (b) To the extent permitted by law, Shell's liability under these terms and conditions (whether on the basis of breach of contract, breach of an express or implied warranty, negligence or otherwise) for loss or damage suffered by the Customer or any third party is limited (at Shell's option) to:
- (i) in the case of goods:
- A. replacement of the goods or the supply of equivalent goods; or
  - B. payment of the cost of replacing the goods or of acquiring equivalent goods,
- (ii) in the case of services:
- A. the supplying of the services again; or
  - B. the payment of the cost of having the services supplied again.
- (c) In addition, to the extent permitted by law Shell shall have no liability under or in connection with these terms and conditions, whether for breach of these terms and conditions, negligence or any other tort, breach of statutory duty or otherwise, for any:
- (i) loss of profits, income, revenue, contracts or production;
  - (ii) business interruption or increased costs in operations;
  - (iii) damage to goodwill or reputation;
  - (iv) damage to plant, equipment or machinery as a result of any late delivery of Goods;
  - (v) indirect losses or expenses or consequential damage whatsoever, even if such loss, expense or damage may reasonably be supposed to have been in the contemplation of both parties as a probable result of the relevant default, whether suffered by the Customer or any third party.
- (d) In addition, to the extent permitted by law Shell disclaims all liability to the Customer for loss, damage or injury (including death) resulting from the use of the Goods for a purpose other than its intended purpose or otherwise than in accordance with its directions for use.
- (e) In addition, to the extent permitted by law Shell disclaims all liability to the Customer for loss, damage or injury (including death) resulting from the provision of services by Shell, except to the extent of any negligence on the part of Shell.

## 12. Privacy

- (a) In this clause, 'Personal Information' has the meaning given in the Privacy Act 1988 (Cth).
- (b) Where Shell receives, collects or handles Personal Information in the course of processing and administering the Customer's account, Shell will ensure that it has taken and continues to take all reasonable technical and organisational measures against the unauthorised or unlawful processing or disclosure of the Personal Information.
- (c) All Personal information collected by Shell will be treated in accordance with Shell's Privacy Policy set out at [www.shell.com.au](http://www.shell.com.au) as amended from time to time.
- (d) The Customer acknowledges that it has consented to the use by Shell of its Personal Information in accordance with the Privacy Declaration below.

## 13. Direct Debit Arrangements

### Drawing Arrangements

- (a) The Customer acknowledges that, by completing the bank account details and signing the Application, moneys due to Shell will be drawn from the Customer's bank account. Shell will only initiate a drawing when a payment is due from you under these terms and conditions.
- (b) If the Due Date falls on a non-business day, Shell will draw the amount on the first business day before the Due Date, or as agreed in writing by Shell.
- (c) Shell reserves the right to cancel the drawing arrangements at any time and to arrange with the Customer an alternate payment method.

### Customer's Rights

- (d) Subject to the Customer having arranged a suitable alternative payment method under paragraph (f)(iv) below, the Customer may, by giving written notice to Shell
- (i) terminate the drawing arrangements;
  - (ii) stop payment of a drawing; or
  - (iii) request changes to the amount or frequency of the drawing, providing Shell receives such notice at least 5 days prior to the Due Date.
- (e) The Customer shall immediately give notice to Shell if a drawing has been completed incorrectly.

### Customer's Responsibilities

- (f) It is the Customer's responsibility to ensure that
- (i) Sufficient funds are available in the bank account to meet a drawing on the Due Date;
  - (ii) The authorization given to draw on the bank account as completed in the Application is identical to the account signing instructions held by the financial institution where the account is held;
  - (iii) Shell is advised if the bank account is transferred or closed; and
  - (iv) A suitable alternate payment method is arranged if the drawing arrangements are cancelled either by the Customer, the nominated financial institution or Shell.

## 14. Change in Customer details

The Customer must immediately notify Shell in writing of any change to the Customer's name, address and other account details provided in the Application, including any change of director, other office-holder or GST status.

## 15. Commissions

The Customer acknowledges that Shell may give or receive commissions, volume discounts, fees and other benefits in connection with the supply of Goods to the Customer.

## 16. Assignment

- (a) Shell may, at any time, assign any of its rights, or transfer by novation any of its rights and obligations under these terms and conditions to any person or persons, and must give notice of any such assignment or novation to the Customer as soon as reasonably possible thereafter. At the request of Shell, the Customer must do anything necessary, including the execution of documents, to effect any such assignment or novation by Shell.
- (b) The Customer must not transfer or assign any of its rights or obligations under these terms and conditions without the prior written consent of Shell, which can be withheld at Shell's discretion.

## 17. Variation

Shell reserves the right to vary these terms and conditions at any time, at its sole discretion, without notice. For Shell Terms & Conditions refer the Shell website [www.shell.com.au](http://www.shell.com.au)

## 18. Governing Law

These terms and conditions are governed by, and interpreted in accordance with, the laws of the state or territory in which the Goods are delivered to the Customer, and the parties submit to the non-exclusive jurisdiction of the courts of that state or territory and the Federal Court of Australia.

## PRIVACY DECLARATION

By applying to The Shell Company of Australia Limited ('Shell') for a Shell account or to act as guarantor in relation to a Shell account, the Customer/Guarantor, as applicable ('we') will be providing personal information to Shell. We acknowledge that this personal information, and any other personal information Shell collects, or has collected about us ('personal information') will be used by Shell to enable it to assess our application for a Shell account or to act as guarantor in relation to a Shell account, and if the application is approved, for the subsequent administration of the Shell account. We consent to Shell using and disclosing our personal information for this purpose and acknowledge that without this information Shell may be unable to process or accept the application or administer the Shell account.

We consent to Shell (and any of its Australian and overseas related bodies corporate) using or disclosing our personal information for each of the following additional purposes

- performing administrative tasks and managing business operations;
- telling me about products or services of Shell, Shell Direct businesses and other organisations; and
- product development and research; and
- risk assessment, management and modelling.

We understand that Shell may disclose our personal information, to

- its related bodies corporate;
- other organisations that are branded with Shell trademarks (i.e. Shell Direct businesses and Shell franchisees);
- credit reporting agencies and credit providers;
- organisations providing processing and other support functions to credit providers;
- service providers (including delivery companies, mail houses and debt collectors);
- any programme managers, bonus partners and rewards suppliers involved in any loyalty program associated with Shell; and
- other organisations to which Shell is required by law, or authorised by us, to disclose our personal information;

and subject to the Privacy Act 1988, we consent to the disclosure, use and transfer of our personal information between these organisations, which may be overseas, but only for use in connection with any of the purposes that Shell are authorised to use our personal information.

Subject to the Privacy Act 1988, we acknowledge that we may have access to our personal information collected and held by Shell (and its related bodies corporate). We acknowledge that we can enquire as to the organisations to which Shell discloses our personal information and may contact Shell for access to our personal information held by Shell by contacting:

By email: [TellShell-au@shell.com](mailto:TellShell-au@shell.com)  
 In writing: Shell Privacy Officer,  
 GPO Box 872K, Melbourne Vic 3001  
 Telephone: 13 16 18 Facsimile: 03 8823 4800

We authorise Shell to make any enquiries (including obtaining a credit report) concerning our credit worthiness or as to the accuracy of the information provided in this application. We consent to any credit report concerning us being made available to Shell for the purposes of assessing this application for a Shell account. We authorise Shell to use that report or any information derived from that report in assessing this application and for any purposes permitted under the Privacy Act 1988. Further, we authorise Shell to disclose and receive Personal Information to and from a credit reporting agency, and make such additional checks that Shell deems necessary, for the continued assessment of our creditworthiness.