

Purchase Conditions of Goods or Services of Shell Companies in France
March 2010

General

These Conditions apply in respect of an agreement between Shell and the Seller, which may e.g. be in the form of a purchase order or a work statement (“the Agreement”). These Conditions are binding between Shell and the Seller and supersede and replace any previous agreements for the Goods and/or Services in scope. In case of contradiction between these Conditions and Seller terms and conditions, these Conditions shall prevail. In the event any special terms are agreed between the parties, those special terms shall take precedence over the terms contained in these Conditions. Each party acknowledges that it only relies on, statements, representations, assurances or warranties expressly set out in this Agreement. Amendments or modification to the Agreement require written form. The concept of severability of clauses applies.

1. Definitions

In these Conditions:

“Affiliate” means a company which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with a party to this Agreement. For this purpose control means the direct or indirect ownership of in aggregate fifty per cent or more of voting capital.

“Background Information” means any information or data proprietary to the Seller, or licensed to the Seller with the right to grant sub-licences to third parties, which are created independently of the performance of the Services as can be adequately proved by Seller, from which the Services or any Work Product is derived, or which are otherwise required for the effective exploitation of any Work Product;

“Goods” means the products or equipment to be provided by the Seller to Shell in accordance with the Agreement;

“Intellectual Property Rights” means patents, copyright, designs, trade or service marks, semiconductor topography rights, database rights, rights in know-how, moral rights or other similar rights in any country, in each case whether or not registered, and any applications for registration of any of the foregoing, and all rights to apply to register any of the foregoing;

“Services” means the services to be provided by Seller to Shell in accordance with a purchase order or work statement;

“Shell” means Société des Pétroles Shell SAS (RCS Nanterre 780 130 175) or any of its Affiliates stated as the buyer of the Goods and/or the Services in the Agreement;

“Shell Information” means any information which is disclosed to the Seller by or on behalf of Shell in connection with the Agreement, including without limitation any information about the business of Shell or any Affiliate of Shell;

“Work Product” means the Goods and any and all results, conclusions and findings of the Services including, but not limited to software, documentation, designs, visual materials in whatever form or sound recordings, produced or generated in the course of performing the Services.

2. Provision of Goods and/or Services, Warranty, Remedies, Title and Risk

2.1 Without prejudice to representations or warranties applied by law or otherwise given by the Seller, Goods shall be fit for the intended purpose and the Services shall be provided in accordance with the highest industry standard. Seller shall operate a quality assurance system in accordance with best industry standards.

2.2 Seller shall comply with all applicable laws and government rules, regulations and orders, including but not limited to, health, safety and environment, employment rights and data protection, and obtain at its own cost the required permits and shall provide Shell the data reasonably requested by Shell. The Seller confirms to have obtained all requisite information for the performance of the Agreement, in particular, but not limited to, as to the Shell site, access and transportation thereto, local conditions and facilities and any other relevant matters of whatever nature. Seller will attend induction training as required by Shell from time to time.

2.3 The Seller acknowledges that it is familiar with and will comply with all applicable laws and regulations, including the regulations of the United States Department of Commerce and other government agencies, concerning the export or re-export of goods, software and technical data, or the direct Service thereof, to unauthorized persons or destinations. If applicable, the Seller will obtain at its own cost any required U.S. or other government authorization, including but not limited to export licenses. Without prejudice to the foregoing, where requested to do so, the Seller will provide Shell with the Export Control Classification Number (ECCN) for Services shipment.

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2.4 Title to the Goods vests in Shell upon the earlier of acceptance or payment by Shell. Risk of any loss or damage to the Goods remains with the Seller until delivery to or acceptance by Shell whichever is the later.

2.5 The warranty commences on the latter day of delivery or acceptance by Shell and is valid for the longer of twelve (12) months or the length of the Seller's, or, the manufacturer's standard warranty period.

2.6 Without prejudice to any other rights hereunder or at law, in the event of defective Goods or Services or a breach of warranty Seller at its own cost will replace the Goods and re-perform the Services and bear costs incurred by Shell as a result thereof.

2.7 Any inspection shall not relieve the Seller of any obligations of liability under the Agreement.

3. Method of Payment and Taxes

3.1 The Seller shall submit to Shell invoices in accordance with the Agreement. Shell shall pay the Seller within forty five (45) days (unless otherwise stated by Shell) from the invoice date subject to receipt by Shell of a correctly prepared and properly supported invoice to the address specified in the Agreement.

3.2 All amounts under Agreement include all taxes and duties, except VAT or GST (Goods Services Tax) or equivalent which shall come into addition, as well as packaging, marking, handling, freight and delivery, insurance and any other applicable costs and charges.

4. Liability and Insurance

4.1 The Seller shall indemnify and hold Shell harmless from and against all losses, actions, proceedings, costs, expenses, damages, claims and liabilities incurred by Shell or its Affiliates arising out of:

- a) the breach by the Seller of any of the agreements and undertakings set out in Article 2;
- b) the performance of the Agreement and/or the provision of the Goods and/or Services which are caused by the negligence, error, omission, breach of statutory duty, tort or other default of the Seller, Seller Personnel, its subcontractors, servants or agents;
- c) personal injury, including death or disease, to Seller Personnel (including personnel of any subcontractor), or loss or damage to the Goods and/or Services or to the property of the Seller, Seller Personnel or any subcontractor arising from

or relating to the performance of the Agreement whether or not such injury, death, disease, loss or damage is caused or contributed to by the negligence or other default of Shell or its Affiliates;

- d) any injury, including fatal injury and disease, to third parties and/or loss of or damage to the property of third parties arising from or relating to the performance of the Agreement whether or not such injury, death, disease, loss or damage is caused or contributed to by the negligence or other default of Shell or its Affiliates.

The liability of the Seller to indemnify and hold Shell harmless under Article 4.1 (d) above shall, for any one incident or series of incidents arising from one event, be subject to a combined limit of three million five hundred thousands euros (3 500 000€) and shall be unlimited as to the number of occurrences. In excess of this level, the indemnity contained in Article 4.1(d) will not apply and the risk will be borne by the party legally liable to the third party.

4.2 Shell shall indemnify and hold harmless the Seller from and against all losses, actions, proceedings, costs, expenses, damages, claims and liabilities incurred by the Seller in respect of:

- a) loss of or damage to the property of Shell, or its Affiliates or their respective employees, agents and subcontractors arising from or relating to the performance of the Agreement, but excluding the Work, and whether or not loss or damage is caused or contributed to by the negligence or other default of the Seller, its subcontractor(s) or Seller personnel; and
- b) personal injury including death or disease to any person employed by Shell or its Affiliates or their respective employees, agents and subcontractors arising from or relating to the performance of the Agreement whether or not such injury, death or disease is caused or contributed to by the negligence or other default of the Seller, its subcontractor(s) or Seller personnel.

4.3 Neither party shall be liable to the other for any liabilities, costs, expenses, damages and losses, including any direct or indirect consequential losses, loss of profit, loss of reputation or all interest, penalties and legal and other reasonable professional or consultancy costs (each a "Loss") and expenses arising out of or in connection with the Agreement even if such Loss was reasonably foreseeable or might reasonably have been contemplated by the Parties and whether arising from breach of contract, negligence or otherwise.

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4.4 The Seller shall arrange as a minimum the insurances set out in Article 4.5 and ensure that they are in full force and effect throughout the term of the Agreement. All such insurances shall be placed with reputable insurers, and shall for all insurances (including insurances provided by Subcontractors), to the extent of the liabilities assumed by the Seller under the Agreement, be endorsed to provide that the underwriters waive any rights of recourse, including in particular subrogation rights against Shell, and its Affiliates in relation to the Agreement. The provisions of this Article 4.4 shall in no way limit the liability of the Seller under the Agreement.

4.5 The insurances required to be effected under Article 5.4 shall be as follows (to the extent that they are relevant to the Goods and/or Services to be provided):

a) General Liability Insurance with a limit of indemnity of not less than three million five hundred thousands euros (3 500 000€) for any one event or series of events attributable to one source or cause.

b) Third Party and Passenger Liability Insurance, to comply with statutory requirements in respect of motor vehicles used by the Seller in connection with the performance of the Services or delivery of the Goods subject to a minimum limit of not less than three million five hundred thousands euros (3 500 000€).

4.6 The Seller shall ensure that any subcontractors engaged in connection with the performance of the Agreement maintain similar policies of insurance as set out in Article 4.5.

4.7 The Seller shall on request provide to Shell a copy of the certificate(s) of insurance and confirmation from the insurers that for the duration of the Agreement no insurance will be cancelled or materially changed without thirty (30) days prior written notice from the insurers to Shell.

4.8 Neither party excludes or limits its liability for fraud arising from its negligence or any liability to the extent the same may not be excluded or limited as a matter of law. This Article shall not affect the indemnities given in the Agreement.

4.9 Any indemnity or relief from or limit on liability in favour of Shell or the Seller under the Agreement shall extend to and apply for the benefit of their respective Affiliates, directors, employees, officers, servants and agents.

4.10 If either party becomes aware of any incident likely to give rise to a claim under the above

indemnities, it shall notify the other and both Parties shall co-operate fully in investigating the incident.

5. Termination, Suspension, Variations

Shell shall have the right by written notice to order:

- (a) the termination; or
- (b) the suspension; or
- (c) any variation

to the Services or provision of Goods that is within the capability and resources of the Seller.

If Shell terminates the Services or provision of Goods, Shell shall only be liable to pay for Services and/or Goods satisfactorily performed and delivered. Any increase or decrease in the cost of the Services and/or Goods resulting from the suspension or variation shall be determined by Shell in accordance with the rates and other information shown in the Agreement, or, in the absence of any appropriate rates and information, a fair and reasonable evaluation shall be made.

6. Force Majeure

6.1 Neither party shall be liable for any breach of its obligations under the Agreement if and to the extent that such breach is caused by any circumstances arising beyond that party's reasonable control that prevent or delay that Party from performing any of its obligations (other than an obligation to make any payment) under the Agreement ("Force Majeure").

6.2 Each party shall use its reasonable endeavours to give notice to the other upon becoming aware of an event of Force Majeure.

7. Confidential Information

7.1 The Seller undertakes:

- a) to use Shell Information solely for the purpose of providing the Services or supplying the Goods; and
- b) not, without the prior written consent of Shell, to disclose Shell Information to any third party.

7.2 The provisions of Article 7.1 shall not apply to any Shell Information if Seller can prove that it was or has become lawfully known to the Seller without binder of secrecy or publicly available through no act or omission on the part of the Seller.

7.3 At the request and option of Shell, the Seller shall either destroy or return promptly to Shell, or its nominee, all tangible records containing Shell

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Information which are in the possession of the Seller.

7.4 The Seller shall not mention Shell's name or the existence of the Agreement in any publicity material or other communications to third parties without Shell's prior written consent.

7.5 The obligations in Article 7 shall survive any termination of the Agreement for a five-years period.

8. Intellectual Property Rights

8.1 All right, title and interest in the Work Product shall vest exclusively in Shell and shall be assigned to Shell promptly upon creating or generating the same by Seller. Seller shall execute all instruments, deeds or actions necessary to vest such rights in Shell.

8.2 The Seller hereby grants to Shell a non-exclusive, royalty-free, irrevocable and worldwide licence and right for Shell with sub-licensing rights to possess, disclose and use and/or have possessed, disclosed or used, the Background Information or any part thereof as necessary to use, copy, modify, distribute and exploit freely any Work Product in accordance with this Agreement.

8.3 The Seller shall at its own expense defend, hold harmless and indemnify Shell, its Affiliates, its sub-licensees and its and their employees, officers and agents from and against all claims, proceedings, judgements, liabilities, losses, damages, costs (including legal costs), fines penalties, assessments and expenses arising out of any allegation or claim that the possession, disclosure, use by Shell, an Affiliate of Shell and/or any third party under sub-licence of Shell of any Background Information in accordance with the licence provided pursuant to Article 8.2 or the possession, disclosure, use or exploitation of any Work Product in accordance with this Agreement infringes any Intellectual Property Rights of a third party.

8.4 The provisions of this Article 8 shall survive any termination of this Agreement.

9. Shell's General Business Principles

Seller confirms having received a copy of the Shell General Business Principles (currently www.shell.com/sgbp), the Shell Code of Conduct, (currently www.shell.com/codeofconduct) and the Shell Life Saving Rules. Seller fully accepts that observance by Seller of the Shell General Business Principles when doing business with Shell, is a condition for Shell, and commits therefore not to violate any of the Shell General Business Principles when performing Services or delivering Goods. In

the event that the Seller supplies staff that work on behalf of Shell or represent Shell, Seller also commits that such staff will behave in a manner that is consistent with the Shell Code of Conduct and the Shell Life Saving Rules. Without prejudice to any other rights that Shell may have, Shell may terminate the Agreement or any supply of Services/Goods immediately upon notice in writing should Seller violate the provisions of this Article 9.

10 Assignment and Subcontracting

The Seller must obtain the prior written approval of Shell to assign or subcontract the Agreement or any part thereof. Approval to assign or subcontract shall not relieve the Seller from any of its obligations under the Agreement, or impose any liability upon Shell to an assignee or a subcontractor.

11. No Agency Or Partnership

The Seller is acting solely as an independent contractor and is not an agent or partner of Shell or an Affiliate of Shell.

12. Applicable Law and Dispute Resolution

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of France with the exception of its private international law. The parties irrevocably agree that the commercial courts of Paris, France shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).