

SECTION B

General Terms and Conditions

Definitions and Interpretation

“**Agreement**” means the terms and conditions contained in Sections A (including without limitation those under the heading “Introduction”) and B and any schedules or annexures referred to in such document, all as amended, varied or supplemented from time to time.

“**Business Day**” means a day, other than a Saturday or Sunday, on which banks are open for ordinary banking business at the place where delivery is executed under this Agreement;

“**Commencement Day**” shall have the meaning given to it under the heading Duration in Section A, if mentioned in this clause, if mentioned in this clause.

“**Day**” shall mean a Business Day unless expressly otherwise stated in the Agreement.

“**Due Date**” shall have the meaning given to it under the heading Duration of Section A, if mentioned in this clause.

“**Force Majeure**” means any matters arising beyond the reasonable control of either Shell or Buyer and which such Party, by the exercise of reasonable diligence, is unable to prevent, avoid or remove, and shall include, but not be limited to, strikes, lock-outs, labour disputes, acts of God, acts of terrorism, war, riot, civil commotion, malicious damage, compliance with any law or governmental order or restriction, or any compliance with any order or request of any national, supra-national, provincial, port or any other public authority or any person purporting to act for such authority, accident, breakdown of plant or machinery, fire, flood, storm, difficulty or increased expense in obtaining workmen, materials, goods or raw materials in connection with the performance of this Agreement;

“**General Conditions**” means the terms and conditions set out in Schedule B of this Agreement;

“**Party**” or “**Parties**” means Shell and/or Buyer as the case requires, their successors and permitted assigns;

“**Price**” means the price payable by Buyer for the Product supplied under this Agreement as specified under the heading Price of Section A and, where appropriate, in combination with the Main Schedule;

“**Product**” shall have the meaning given to it under the heading Product of Section A.

“**Schedule**” means the Main Schedule or a Schedule and their relevant Annexes.

“**Subsidiary**” and “**Subsidiaries**” means any company or companies being at the relevant time a subsidiary or subsidiaries of Buyer.

“**Week**” The term week shall mean a calendar week unless otherwise stated in this Agreement.

“**Year**” The term year shall mean a full calendar year unless otherwise stated in this Agreement.

Any reference to a specific statute includes any statutory extension or modification, amendment or re-enactment of such statute and any general reference to “statute” or “statutes” includes any regulations or orders made under such statute or statutes.

Words importing the singular include the plural and vice versa. The reference to one gender shall include the other gender(s).

1. APPLICABILITY OF GENERAL TERMS AND CONDITIONS

The General Terms and Conditions as amended from time to time in their most recent version shall apply to all present and future deliveries and services by Shell. Any modifications of the General Terms and Conditions shall be valid from the day of their introduction. Buyer accepts that the General Terms and Conditions shall apply by accepting a delivery or a service, even if no specific reference is made to them.

2. ORDER

An order placed by Buyer shall only be valid if it has been accepted by a Shell representative duly authorized to accept such order.

3. QUANTITY

3.1 Shell shall deliver Product of average kind and quality as marketed by Shell at the time and place of delivery and as set out in Shell literature in relation to such Product. Product will be fit for the purpose set out in such Literature and not for any other purpose whatsoever.

3.2 Quality characteristics of specimens or samples, analysis information or specifications shall be considered quality descriptions of the Product only if stipulated in writing. Shell does not extend any guarantees for quality or Product.

3.3 Shell may at any time change the grade, specifications, characteristics, delivery package, brand name, or other distinctive designation of any Product, and such Product as so changed shall remain subject to this Agreement.

3.4 Product should be handled and stored in accordance with the guidelines set out in either the Product Data Sheet or any other guideline provided by Shell. Buyer shall make itself familiar with the Product Data Sheet and such guidelines. If Buyer fails to comply with such requirements, Shell shall not be liable for any loss or damage incurred result unless Shell has acted wilfully or gross negligently.

4. PRICES

4.1 If a price for the Product has not been stipulated, the Product shall be invoiced according to the prices generally charged by Shell on the delivery date for the delivered or accepted quantities and Product.

4.2 If the prices hereunder are to be determined by reference to Shell’s price postings, listings or schedules, Shell reserves the right to change the prices so posted, listed or scheduled prices and will notify the Buyer of those changes within a reasonable time.

5. PAYMENT

- 5.1 Invoices are due and payable immediately.
- 5.2 Shell may at any time withhold and set off any sum due from Shell to Buyer against any sum due from Buyer or any of Buyer's Affiliates to Shell under this Agreement or otherwise and for the purpose of this clause the price of all Product supplied under this Agreement is due on delivery whether or not payment might otherwise be deferred under any clause. (See 5.1 – invoices due and payable immediately.)
- 5.3 In case of non-fulfilment of the terms of payment applicable under this Agreement and/or if at any time the reliability or the financial responsibility of the Buyer (or of any guarantor or other person furnishing security in support of the Buyer) should, in Shell's opinion, be or become impaired or unsatisfactory or should the Buyer exceed the Credit Limit, Shell shall be entitled (at Shell's option) either to receive upon demand an immediate payment in cash in advance of the due date or to receive from the Buyer on demand any security satisfactory to Shell, in respect of each or any delivery, collection or lifting or any proportion thereof.
- 5.4 At Shell's sole discretion the Credit Limit may be withdrawn or reduced at any time, without prior notification to Buyer.
- 5.5 In the event that any payment for Product is not made by the due date Shell may at its absolute discretion either recover Product or maintain an action for the price and/or damages/ or require payment in advance of delivery, notwithstanding that title in Product has not passed to the Buyer.
- 5.6 If at any time, payment of the whole or any part of any amount owed to Shell by the Buyer is not made by the due date for payment, all amounts then owing by the Buyer to Shell, and any amount that has not yet become due in respect of deliveries made before the relevant due date, shall become immediately payable by the Buyer to Shell.
- 5.7 If at any time a difference of opinion arises between the Parties as to the amount payable by Buyer to Shell for any Product delivered or deliverable under this Agreement or as to any other charges, Shell may suspend all deliveries of Product until the difference of opinion is settled to the satisfaction of Shell. Shell is not obligated to compensate or otherwise make up deliveries so suspended.

6. TAXES

Any tax, license fee, inspection fee, or other charges imposed by any agency or governmental authority and required to be paid on, or measured by gross receipts from (a) any Product sold pursuant to this Agreement (b) or on the production, manufacture, sale, use, delivery or other handling of such Product or any component thereof, existing at the time of any delivery hereunder, shall be added to the price specified on the face hereof shall be paid by Buyer.

7. DELIVERY

- 7.1 Product shall be delivered to the Buyer or procured to be delivered on days, between hours and in loads of minimum and/or maximum quantity as may from time to time be prescribed reasonably by Shell. The Buyer will request deliveries in accordance with this Agreement and shall allow reasonable time for Shell, its Affiliates and contractor(s) to deliver. Failure by the Buyer to meet the terms of the Agreement could result in suspension of deliveries by Shell.

- 7.2 The Buyer shall lift or collect or procure lifting or collection from Shell's premises on such days and between such hours as may from time to time be reasonably prescribed by Shell and in either case in accordance with Shell's operating and scheduling procedures.
- 7.3 Should Shell's own production not suffice to supply all of Shell's customers, then Shell shall have the option to allocate the deliveries as a whole or proportionately in individual cases, in lieu of Shell's rights arising from subsequent impossibility of performance under consideration of the respective circumstances.
- 7.4 When a delivery to the Buyer cannot be made or is otherwise aborted as a result of the Buyer's non observance of any term of this Agreement the Buyer shall, on request, reimburse Shell its costs for the aborted delivery.
- 7.5 Shell reserves the right to effect delivery by means of a contractor and to refuse to deliver using public or private roadways which it considers unsafe.
- 7.6 Without prejudice to any clause obliging the Buyer to indemnify Shell, the Buyer shall be responsible for and shall indemnify and hold Shell, its employees and agents harmless against all claims, losses, liabilities, proceedings, costs (including legal costs), damages and expenses which arise directly or indirectly as a result of the Buyer's non observance of the delivery conditions in this Agreement or otherwise out of or in connection with the delivery, lifting or other collection of Product except where such claims, losses, liabilities, costs and damages and expenses are caused as a direct result of the negligence of Shell, its employees or agents.
- 7.7 On completion of the delivery of Product the Buyer or the Buyer's accredited representative shall give Shell a signed receipt in the form required by Shell.

8. RETURN OF PRODUCTS

- 8.1 If a defect, missing consignments, short delivery or excess delivery becomes apparent on examination or in the case of a missing consignment on the second day following the last day on which delivery was to be made. Buyer shall advise Shell immediately by the quickest mean available and in addition by facsimile of such event.
- 8.2 Where Shell has accepted a Product return to or has agreed to uplift it, then Shell reserves the right to charge the costs for the return of the Product, including transport costs associated therewith, and costs of disposal of the Product, if any. Any return of Product is subject to the Product complying with all quality requirements and in case of packaged goods that the packaging is in proper condition and complies with all requirements for sale of the Product.

9. MEANS OF TRANSPORTATION

- 9.1 Any measures initiated by Shell shall not be construed as an acknowledgment of an obligation to pay damages.
- 9.2 Buyer shall be responsible for the proper and diligent handling of any and all means of transportation and/or containers made available by Shell to Buyer or a third party designated by Buyer.
- 9.3 Without prejudice to any other provision on HSSE, the Buyer shall ensure that its means of transport and/or third parties engaged for the transport by Buyer or its customers comply with all relevant law and regulations related to health, safety and environment and in particular with Shell guidelines on health, safety and environment for the transport of goods. The Buyer shall

indemnify Shell, its directors and employees for all claims, costs and expenses arising from a failure to comply therewith.

10. RISK AND TITLE

10.1 Except where specifically provided otherwise in this Agreement, the risk in Product shall pass to Buyer as follows (i), in the event of delivery at a refinery, depot etc. when in the case of bulk Product it passes the flange connection of the delivering facility to the means of transport and in the case of barrel, drum or other package deliveries it is loaded on the means of transport, and (ii) in the event of a bulk delivery outside a refinery, depot etc., when in the case of bulk delivery on discharge it passes the discharge outlet of the means of transport and in the case of barrel, drum or other package delivery it is offloaded from the means of transport.

10.2 Title to Product supplied shall pass to the Buyer on payment of all debts due and owing by the Buyer to Shell.

11. AVAILABILITY

11.1 Shell reserves the right to withdraw any or all Product from sales, and may from time to time make changes to any specification to comply with any safety or statutory requirements, or for any reason if the changes do not materially affect Product quality or fitness for purpose, in relation to any Product.

11.2 Shell may make changes to the packaging of Product, including changes to its design, size or weight and may cease to make available Product in bulk.

12. MEASUREMENT

Shell shall measure the quantity of Product in accordance with generally accepted measurement principles.

13. NOMINATION

Nominations for lifting have to be made 3 Business Days prior to the date of delivery stating the grade and the volume of each grade.

14. CURRENCY

The Currency applicable to this Agreement, in particular for payment, shall be the currency officially valid at the place of loading.

15. EMPLOYEES OF BUYER

15.1 All acts and omissions of Buyer's employees are acts and omissions of Buyer.

15.2 Buyer shall ensure that its employees comply with all law and public regulations in the country where this Agreement is being performed.

15.3 Buyer shall be solely responsible for ensuring that all of its employees, whether nationals or expatriates, are in all respects entering, working and/or residing legally in the country where any activity under this Agreement is being performed.

15.4 Buyer's employees shall not be deemed to be employees of Shell or its Affiliates, and neither the Buyer, nor its employees shall have any right or authority to conduct business for, or on behalf of Shell or its Affiliates, to assume or create any obligations of any kind, expressed or implied, on behalf of or on the part of Shell or its Affiliates or to make any promise or representation with

regard to any matter in the name of or on behalf of the Shell or its Affiliates in any way whatsoever.

16. HEALTH, SAFETY AND ENVIRONMENTAL COMPLIANCE

- 16.1 Shell is committed to the promotion of health and safety and to proper regard for the environment in respect of all its activities.
- 16.2 The Buyer shall ensure that all installations and equipment used with Product is installed, maintained and operated in such manner to avoid accidents which could have reasonably been anticipated and shall do everything necessary to prevent Product, used or unused, from entertaining drainage, sewage systems, water courses or soil.
- 16.3 The Buyer is required to co-operate, so far as reasonably possible, with Shell in implementing measures designed to improve health, safety and environmental performance.
- 16.4 Shell issues health and safety data sheets for Product and the Buyer shall be responsible for ensuring that its Affiliates, employees, contractors and customers read and observe the instructions and recommendations in these.

17. ETHIC STANDARDS

- 17.1 Buyer and Shell will base their relationship on mutual respect, honesty, and integrity. Neither party may accept or solicit gifts, entertainment, or other social favors to influence business decisions. Courtesies of nominal value and social invitations customary and proper under the circumstances are not unethical as long as they imply no business obligation whatsoever or do not involve significant or out-of-the-ordinary expense.
- 17.2 The Buyer and its officers, employees and agents shall use their best endeavors to ensure that their performance of this Agreement shall not cause Shell or its Affiliates to be in breach of the SGBP and HSEP.

18. LIABILITY AND INDEMNITY

- 18.1 To the extent permitted by law, buyer shall indemnify and defend shell, its members, subsidiaries, affiliates and joint venture partners, and their respective directors, officers, employees, and agents (“indemnified parties”) against all claims, demands, causes of action, suits, damages, judgments, liens, penalties, and expenses, including, without limitation, attorneys’ fees and litigation costs, whether incurred for an indemnified party’s primary defense or for enforcement of its indemnification rights (collectively, “claim”), including, without limitation, any claim for harm, injury, or death to any person, or damage to property or to the environment arising out of or in connection with any of the following matters:
- (i) buyer’s performance or non-performance under this agreement;
 - (ii) any action or omission of buyer or buyer’s employees, agents, contractors, assigns, or third parties; and
 - (iii) the operation of buyer’s business.
- 18.2 To the extent permitted by law, Shell shall have no liability under or in connection with this Agreement, whether for breach of this Agreement, 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 Product; or
- (v) indirect losses or expenses or consequential damages whatsoever; whether suffered by Buyer or any third party.

18.3 The Parties agree that, in the event of the termination of this Agreement for cause by Shell or for any reason by Buyer prior to the end of the term, Shell will be damaged and entitled to compensation for such damages.

19. FORCE MAJEURE

19.1 Neither Shell nor Buyer shall be responsible for any failure to fulfill any term or condition of this Agreement if fulfillment has been delayed, hindered or prevented by any circumstances whatsoever whether in existence before, on or after the Commencement Date which are not within the reasonable control of Shell or Buyer as the case may be including without limitation any strike, lockout or labour dispute to which Shell or Buyer as the case may be is or may be a party (whether or not the settlement thereof shall be at the discretion of the party in question) or the apprehension of any such strike, lockout or labour dispute or any Government order or restriction or compliance with any order or request of any national, supra national, provincial, port or any other public authority or any person purporting to act for such authority or by the failure, wholly or in part, whether before, on or after the Commencement Date of any of Shell's or Shell's suppliers' existing or contemplated sources of supply of crude petroleum, the Product or any of them, or any other petroleum Product or the means of delivery thereof howsoever such failure is caused.

19.2 The Parties acknowledge that without prejudice to other cases and without limitation the closure or standstill of production facilities, depots or other delivery facilities of Shell shall be considered as an act of force majeure.

19.3 The Parties acknowledge that an inability to pay any sums due or other economic distress, shall not be a force majeure event.

19.4 The performance whether before, on or after the Commencement Date of any obligation arising out of any contract or arrangement by which any authority, body or person as aforesaid is entitled to require crude petroleum or petroleum products shall be deemed to be compliance with an order or request as aforesaid.

19.5 Any additional quantities, which Shell does acquire from other suppliers or from alternative sources may be used by Shell at its complete discretion and need not be taken into account by Shell for the purpose of determining the extent to which it is to withhold, reduce or suspend deliveries under this Agreement.

19.6 Shell reserves the right to increase the price charged for any Product or Service (whether the price was originally determined by reference to Shell's prices or separately agreed in writing) if there is any increase in the costs incurred or to be incurred by Shell in making the relevant supply due to factors which are beyond the control of Shell.

20. TERMINATION

20.1 Without prejudice to any other rights or remedies Shell shall be entitled to terminate this Agreement summarily on written notice if the Buyer:

- (i) is an individual, and is declared bankrupt or insolvent, or a receiver or manager is appointed in respect of his assets, or a receiving order is made against him, or he enters into any composition or arrangement with creditors generally, or he is unable to pay his debts as they fall due; or
- (ii) is a company and it makes a composition or arrangement with its creditors, or a winding up order is made or a resolution for voluntary winding up is passed in respect of it, or a provisional liquidator, receiver, administrator or manager of its business or undertaking is appointed, or an application is presented applying for an administration order to be made in respect of it, or it is unable to pay its debts as they fall due or possession is taken of any of its assets on behalf of the holders of any debentures of such company which are secured by a floating charge, of any property comprised in or subject to the floating charge; or
- (iii) is a company and there is a change of ownership of its shares resulting in 50 per cent or more of the issued share capital of the company becoming legally or beneficially the property of a new owner.

20.2 Without prejudice to any other rights or remedies either party shall be entitled to terminate this Agreement summarily by written notice to the other if the other has committed a breach of any of its obligations under this Agreement or any other agreement between the Buyer and Shell and the other party has failed to remedy such breach within 30 days of a notice having been served on it by the first party specifying the breach and requiring its rectification.

20.3 On termination of this Agreement all sums owed to Shell shall become immediately due and payable and Shell shall be entitled to recover and resell Product the property in which remains vested in Shell and Shell may enter upon the Buyer's premises for that purpose.

21. ASSIGNMENT

21.1 This Agreement shall not be assigned or transferred in whole or in part by Buyer directly or indirectly without the prior written consent of Shell.

21.2 Shell shall be free to assign this Agreement either in whole or in part to any of its Affiliates.

22. NO EMPLOYMENT

Nothing in this Agreement or its implementation or its execution shall constitute or be construed so as to constitute an employer - employee relationship between Shell and Buyer or an employee of Buyer or any other person engaged by Buyer in relation to this Agreement or otherwise.

23. SHELL TRADE MARKS, CONFIDENTIALITY AND FORMULATIONS

23.1 In this clause the 'Shell Trade Marks' shall mean the name 'Shell', Shell pecten symbol, and/or any trade mark, trade name, distinctive colour scheme or other marketing indicia or item of intellectual property owned by Shell or any of its Affiliates.

23.2 The Buyer shall use Shell Trade Marks only in such a manner as Shell may direct from time to time and nothing in this Agreement shall give the Buyer any proprietary interest in or title, claim or right whatsoever to any of Shell Trade Marks.

23.3 The Buyer agrees that Product bearing Shell trademarks will be sold by the Buyer in the form in which it is received and, in particular, the Buyer will sell such Product without addition, adulteration, alteration or contamination of any kind whatsoever.

- 23.4 The Buyer further agrees not to alter the decoration or visible design of packaged Product in any way or to remove, obliterate or otherwise deface the Shell Trade Marks appearing thereon.
- 23.5 The Buyer will not sell, advertise or display for sale Product under or by reference to Shell Trade Marks other than Product supplied by Shell or its contractors under the terms of this Agreement and shall immediately discontinue any use of Shell Trade Marks on termination of this Agreement.
- 23.6 Neither the Buyer nor Shell will make use of or disclose the other's formulations, specifications or technical data without prior written permission of the other
- 23.7 In the case of supply in bulk nothing in this Agreement, except as may be expressly provided, shall be deemed to confer any right on the Buyer to apply any of Shell Trade Marks to any Product or to use Shell Trade Marks in relation to the Product.

24. CONFIDENTIALITY

- 24.1 Shell and Buyer will not, without the prior written consent of the other, either (a) disclose the other's proprietary or commercially sensitive information ("Confidential Information") in furtherance to anyone other than those officers, employees, agents, or subcontractors who need to know it in connection with this Agreement and have agreed to be bound by these obligations of confidentiality or (b) use the other's Confidential Information for any purpose other than in furtherance of this Agreement.
- 24.2 For the purposes of this Agreement, all data, maps, reports, drawings, specifications, records, technical information, and computer programs/software concerning Shell's operations, processes or equipment which are provided by Shell and/or acquired or handled by Shell in connection with this Agreement shall be deemed Confidential Information of Shell.

25. PERSONAL DATA

Shell may use the information provided by Buyer and/or the person who signs this Agreement (hereinafter "Applicant") (1) to operate Buyer's account and any agreement with Shell, (2) to confirm, update and enhance Shell's records; (3) to establish Buyer and/or Applicant's identity; (4) to make a company search; (5) for general statistical analysis; (6) to consider Buyer and/or Applicant's criminal convictions or alleged commission of an offence; and (7) to assess Buyer's and/or Applicant's credit status (for this purpose, credit scoring techniques will be used and checks may be carried out with a credit reference agency and a fraud detection system, which will maintain a record of any such enquiry.)