

**GENERAL TERMS AND CONDITIONS  
APPLICABLE TO SUPPLY OF  
SHELL BRANDED LUBRICANTS PRODUCTS**

- A. All Products are supplied subject to Shell's General Terms and Conditions detailed below and (where relevant) the Delivery Promise and any agreement to which these General Terms and Conditions are attached and incorporated by reference (together, this "**Agreement**"). In the event of conflict, the terms of any agreement to which these General Terms and Conditions are attached and incorporated by reference shall prevail.
- B. Shell has no obligation to accept any order from the Buyer and the Buyer has no obligation to place orders with Shell. Shell reserves the right to recover any loss it suffers as a result of the Buyer cancelling or amending an order after it has been submitted to and accepted by Shell.

**1. Definitions**

Capitalized terms used in these General Terms and Conditions shall have the meaning as specified hereunder.

**Affiliate** means in reference to a Person, any other Person which: (i) directly or indirectly controls or is controlled by the first Person; or (ii) is directly or indirectly controlled by a Person which also directly or indirectly controls the first Person; and for the purposes of this definition, a Person controls another Person if such Person has the power to direct or cause the direction of the management and policies of the other Person, whether directly or indirectly, through one or more intermediaries or otherwise, and whether 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.

**Affiliate of Shell** means any Affiliate of Royal Dutch Shell plc.

**Agreement** means Shell's General Terms and Conditions detailed below and (where relevant) the Delivery Promise and any agreement to which these General Terms and Conditions are attached and incorporated by reference. In case of a conflict between these General Terms and Conditions and the Delivery Promise, the terms of the Delivery Promise shall, to the extent of any conflict, prevail.

**Branded Material** means any advertising materials, signs or other items or materials bearing Shell Trade Marks.

**Delivery Promise** means Shell's brochures (as may be updated and issued to Buyer from time to time) relating to supply of the Products and setting out details of such matters as ordering processes, delivery times, minimum orders, charges and discounts.

**Intellectual Property Rights** means the Shell Trade Marks, and all patents, copyrights and database rights, rights in know-how, moral rights or other similar rights in any country in or connected with the Products or any of them or any

literature, manuals, materials or information supplied in connection with this Agreement, 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.

**Person** means any individual, partnership, limited partnership, firm, trust, body corporate, government, governmental body, agency or instrumentality, unincorporated body of persons or association.

**Product** means all lubricants products sold by Shell under this Agreement.

**Shell** means Shell Eastern Petroleum (Pte) Ltd

**Shell Group** means Shell and its Affiliates.

**Shell Trade Marks** means the name "Shell", the Shell pecten symbol and any trade mark, trading name, house mark, mark of ownership, unregistered mark, service name, package shapes, colour schemes, styles of labelling, emblems, registered and unregistered designs, retail and other formats, slogans, signage, communications materials, and other manifestations as specified from time to time by Shell, characteristic of companies of the Shell Group, their goods, services and activities.

## **2. Quality**

- 2.1 Any Product shall conform with any specification or description set out in Shell literature published in relation thereto as current from time to time. Product will be fit for the purpose set out in such literature and not for any other purpose whatsoever and all other warranties (express or implied), terms or conditions are expressly excluded.

## **3. Price and Payment**

- 3.1 Unless agreed otherwise, the price to be paid by Buyer for Products will be calculated as follows:

Shell's price as shown on Shell's published price list (the "List Price") for the Product, grade and quantity in question applicable on the date Product is ordered (unless the required date of delivery exceeds 10 days from the date of the order in which case prices will be those prevailing at the date of delivery) **less** any discount agreed with Buyer.

Any Product uplifted will be credited at the prices charged on the date of delivery.

- 3.2 Subject to Clause 3.4 below, Buyer shall pay Shell any invoiced amount in accordance with the payment terms provided in this Agreement.
- 3.3 Shell will notify Buyer in writing of the amount of Buyer's credit limit (inclusive of GST) following a request by Buyer or if Shell deems it necessary. The credit limit may be reduced or withdrawn by Shell at its sole discretion at any time and without prior notification to Buyer.

- 3.4 If at any time the reliability or the financial responsibility of Buyer (or of any guarantor or other person furnishing security in support of Buyer) should, in Shell's opinion, be or become impaired or unsatisfactory or should Buyer exceed its credit limit, then Shell may in its absolute discretion, vary the manner and/or terms on which Buyer shall make payment for Product or demand (additional or another form of) security from Buyer.
- 3.5 Time shall be of the essence in relation to all payment or repayment terms in the Agreement and any variations to those terms. If Buyer fails to make any payment under the Agreement on the date it falls due then Shell may suspend any outstanding deliveries and/or terminate the Agreement with immediate effect at any time by notifying Buyer in writing.
- 3.6 A late payment charge of 1.5 % per month calculated on a daily basis shall be levied on the Buyer's total overdue amount until full settlement.
- 3.7 Buyer acknowledges that Shell's withholding or termination of credit privileges does not constitute a constructive termination of this Agreement, nor does it relieve either party of any duties or obligations under this Agreement.
- 3.8 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, collected or lifted under this Agreement or as to any other charges, Shell may suspend all deliveries, collections or liftings 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, collections or liftings so suspended.
- 3.9 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, collections or liftings made before the relevant due date, shall become immediately payable by the Buyer to Shell.
- 3.10 For the avoidance of doubt, in the event of any dispute as to the outstanding amount owed by the Buyer to Shell, the Buyer shall pay the entire invoiced amount within the aforesaid credit term and upon resolution of the dispute, Shell shall, if applicable, refund any excess amounts to the Buyer free of any interest by way of a credit note.

#### **4. Taxes**

Prices charged by Shell are in principle exclusive of Goods and Services Tax (GST). Only in cases advised by Shell will prices be inclusive of GST. Prices are exclusive of all other taxes, imports and duties leviable by any fiscal authority having authority. GST and any applicable taxes, imports and duties payable on the Products shall be added to the invoice prices of the Products. Buyer warrants and undertakes that Product supplied under this Agreement will not be used in contravention of applicable laws.

#### **5. Delivery**

- 5.1 Product shall be delivered to 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, and Buyer will request deliveries in accordance with this Agreement and shall allow reasonable time for Shell or its contractors to deliver. Failure by Buyer to meet the terms of the Agreement could result in suspension of deliveries by Shell.
- 5.2 Buyer warrants and undertakes:
- 5.2.1 that at each bulk delivery point suitable bulk storage installation and safe facilities will be provided (including assistance and suitable hose connections) which comply with all applicable legal and regulatory requirements for Product delivery without risk to property and persons;
- 5.2.2 that for each delivery there will be sufficient ullage for Product at the delivery point and that any connecting hose will be properly and securely fitted to the filling point for the safe and proper reception of the quantity of Product ordered. Buyer accepts responsibility for any loss, leakage or contamination of any Product deliverable under this Agreement which may occur at the delivery point as a result of a breach by Buyer of its obligations under this Agreement;
- 5.2.3 that in the case of highly inflammable products and where otherwise applicable, it will observe strictly any regulations laid down by any competent authority in respect of the avoidance of smoking, naked lights, fires, stoves or heating appliances of any description in the vicinity of any Product storage facility and the fill, dip and vent pipes connected thereto; and
- 5.2.4 that all storage installations will be clearly and correctly labelled with the description of the grade of Product stored and the tank capacity.
- 5.3 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.
- 5.4 Any delivery, lifting or collection made under this Agreement is subject to such terms and conditions of sale as are specified on the back of the delivery ticket relating to such delivery, lifting or collection. In the event of any conflict between the provisions of this Agreement and of the said terms and conditions of sale, the provisions of this Agreement shall prevail.
- 5.5 Shell shall be responsible for the safe off-loading of its vehicles for the delivery of Product. Where Product is delivered in pallets Buyer must provide all necessary equipment for Product safe off-loading.
- 5.6 When a delivery to Buyer cannot be made or is otherwise aborted as a result of Buyer's non-observance of any term of this Agreement Buyer shall, on request, reimburse Shell its costs for the aborted delivery.

- 5.7 When uplifts of Product which has been delivered by Shell are requested by Buyer or necessitated by Buyer's default Buyer may be asked to reimburse Shell's uplift costs.

## **6. Shell Containers and /or Pallets**

- 6.1 If the Product is available and supplied in containers and/or on pallets Buyer shall ensure that appropriate facilities are available for off-loading and loading the containers and/or pallets. Buyer shall be responsible for the safe storage and handling of the containers and/or pallets whilst in its possession and shall not use them for any purpose other than the storage of Product supplied by Shell.
- 6.2 If so agreed with Shell, Buyer shall notify Shell promptly when the containers and/or pallets are ready for collection and shall ensure that they are empty and safe to handle. Shell reserves the right to invoice Buyer for the costs to Shell of replacing lost or damaged containers or pallets at the costs prevailing at the time of loss or damage.

## **7. Risk and Title**

- 7.1 The risk in Product delivered under this Agreement shall pass to Buyer as follows:
- In the case of barrel, drum or other package deliveries the risk in any Product contained in any such packages shall pass to Buyer at the time of offloading when the package is removed from the craft, vessel, wagon or car provided by Shell for delivery of such package.
- 7.2 Title to Product supplied shall pass to Buyer on payment of all debts due and owing by Buyer to Shell as long as Buyer is not in default of this Agreement. Although Product supplied remains the property of Shell under this sub-clause, Buyer may use the Product in the ordinary course of business as long as Buyer is not in default of this Agreement.
- 7.5 When any payment is overdue Shell will be entitled to enter Buyer's premises and secure or uplift and remove Product supplied. All costs and expenses reasonably so incurred by Shell shall be paid by Buyer.
- 7.6 Until such time as title in Product passes to Buyer, Buyer shall hold Product as Shell's fiduciary agent and bailee, and shall keep Product properly protected and insured and identified as Shell's property.
- 7.7 Buyer shall not provide the Product as a security or collateral nor pledge it or use it as a lien.

## **8. Product Discrepancy**

- 8.1 Packed Products: Buyer should inspect the Product and packaging **on delivery** to verify quantity and check for damage in the packaging. Buyer will be required to sign a delivery note indicating that it has inspected and accepts the Products as described on the delivery note. Shell will not accept any returns of packed Products following signature of the delivery note for whatever reason unless

delivery comprised mixed packed pallets which could not reasonably be inspected at delivery ("qualifying mixed pallets") in which case Buyer will have two working days to inspect the Products and notify Shell of any fault and submit a return request. All return requests/ faults must be submitted to Shell by telephone. To the extent permitted by law, Shell will not be liable to rectify damaged Product/ short deliveries where Buyer has signed a delivery note or, in the case of qualifying mixed pallets, notified Shell outside the two working days time limit.

Notwithstanding the above, if Product is proved to be off-specification through no fault of Buyer the limitations on returns set out in this paragraph shall not apply but the Product must be returned before the expiry of its "use by" date.

- 8.2 Bulk Products: Bulk Product returns will be accepted by Shell if there has been a contamination of the Product by Shell or its agents. Buyer shall be entitled at its own cost to sample the Product prior to offloading. Bulk lubricants may be accepted for return in exceptional circumstances only (at Shell's discretion) if there has been a contamination by Buyer. All return requests must be submitted by telephone and agreed by Shell before returning to the authorized depot. Buyer will incur a return order surcharge where the contamination arose as a result of Buyer's default.

## **9. Availability**

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. Shell reserves the right at any time to discontinue supplying any such Product covered by this Agreement or to substitute a different Product or grade(s) of Product. In the event any substitution is made, any maximum and minimum quantities applicable to the substituted Product shall apply to such replacement Product or grade(s) of Product and the price shall be Shell's applicable price for such replacement Product. Thereafter, Shell shall be relieved of any further liability or obligation to furnish the discontinued Product or grade(s) of Product. For the avoidance of doubt, it is understood between the parties that Shell may, at its sole discretion, change the shape, size or format of any packaging or labels at any time and that such change is not considered to be a change of quality. Shell may at its option notify Buyer in advance of such change.

## **10. Measurement and quantity**

Shell shall be responsible for measurement of the quantity of Product delivered for the purposes of preparing accounts which shall be conclusive and binding in the absence of manifest error on the part of Shell. Buyer is entitled to be represented at the taking of measurements for bulk deliveries if it so requests. Shell does not accept any responsibility whatever for discrepancies in Buyer's tanks, dip rods or measuring devices or any discrepancy arising there from.

The quantity of bulk Product actually delivered may vary by up to 10% (either way) from the quantity ordered by Buyer. Shell will charge the price for the quantity delivered but any load concessions agreed with Buyer for which the order might otherwise have qualified will still be applied.

## **11. Health, Safety and Environment**

- 11.1 Shell is committed to the promotion of health and safety and to proper regard for the environment in respect of all its activities. Shell issues health and safety data sheets for Product and Buyer shall be responsible for ensuring that its employees, contractors and Buyers read and observe the instructions and recommendations in these. Replacement health and safety data sheets may be obtained by visiting the relevant website at [www.epc.shell.com](http://www.epc.shell.com) or by contacting the Shell representative.
- 11.2 Buyer shall ensure that all installations and equipment used with Product are 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, to enter drainage, sewage systems, water courses or soil.

## **12. Shell Trade Marks, Specifications and Formulations**

- 12.1 All Intellectual Property Rights, and any Branded Materials or literature supplied by Shell in connection with this Agreement, shall be and remain the property of Shell or the relevant Shell Affiliate, and Buyer shall not be entitled to or claim, and shall procure that its Affiliates or agents do not claim, ownership of or any rights in the same. Buyer further acknowledges that any use or display of the Shell Trade Marks pursuant to this Agreement shall be deemed to be use by Shell or the relevant Affiliate of Shell, and furthermore that any goodwill attaching to the Shell Trade Marks and arising out of such use or display shall accrue to and be for the benefit of, Shell or the relevant Affiliate of Shell. Nothing in this Agreement shall give Buyer, its Affiliates or its agents any proprietary interest in or title, claim or right whatsoever to any of the Shell Trade Marks.
- 12.2 Without prejudice to Clause 12.6, the only trade marks or trade names (other than Buyer's name) which may be displayed in advertising or promoting the Products shall be those Shell Trade Marks designated or authorised by Shell, and Buyer shall comply strictly with Shell's instructions relating to the context, scale and manner of use of such trade marks or trade names in all such advertising or promotion.
- 12.3 In the case of supply of bulk Products nothing in this Agreement, except as may be expressly provided or required by Shell, shall be deemed to confer any right on Buyer to apply any of the Shell Trade Marks to any Product or to use the Shell Trade Marks in relation to the Products.
- 12.4 Buyer shall, and shall procure that its resellers and agents shall, only use the Shell Trade Marks as Shell may direct from time to time and only in such manner as Shell may direct from time to time.
- 12.5 Buyer agrees that it will not perform any act that may affect or harm the good reputation of Shell or any Affiliates of Shell, or of any of its or their products or brands. Buyer agrees that Product bearing Shell Trade Marks will be sold by Buyer in the form in which it is received and, in particular, Buyer will sell such Product without addition, adulteration, alteration or contamination of any kind whatsoever.

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 trade marks appearing thereon. For the avoidance of doubt and without prejudice to the generality of the foregoing, Buyer shall only use the Product containers and packaging material as provided by Shell, and shall return any used containers and advertising and packaging material to Shell if so requested and not repackage any Product supplied in bulk.

- 12.6 Buyer shall not, and shall procure that its resellers and agents do not, without the prior written consent of Shell in its absolute discretion:
- 12.6.1 negotiate, renew or enter into any sponsorship, advertising or similar arrangement which would involve use or display of any of the Shell Trade Marks; or
  - 12.6.2 engage any brand service provider (e.g. advertising or media agency or market research company) in connection with activities which would involve use or display of any of the Shell Trade Marks; or
  - 12.6.3 commission, release, display or use any advertising or promotional materials in any media in connection with Shell or the Products and involving use or display of any of the Shell Trade Marks, other than those materials and templates provided or made available by Shell; or
  - 12.6.4 erect or otherwise display any signage or advertising hoardings displaying any of the Shell Trade Marks, other than as may be supplied or approved by Shell.
- 12.7 Buyer shall immediately discontinue any use of the Shell Trade Marks on expiration or termination of this Agreement.
- 12.8 Where any specification has been supplied by Buyer for Product manufacture by or to the order of Shell Buyer warrants that the use of that specification for the manufacture, processing, assembly or supply of Product to be sold under this Agreement shall not infringe the rights of any party.
- 12.9 No warranty or condition, express or implied, shall be given by Shell in respect of the merchantability or fitness for purpose of any Product supplied that has been manufactured in accordance with Buyer's product specification.
- 12.10 Buyer shall promptly notify Shell on becoming aware of any infringement or suspected or apparent or threatened infringement of, or any actions, claims or demands or proceedings in relation to, any Intellectual Property Rights and shall render to Shell all the assistance Shell may require in connection therewith, incidental thereto or arising thereunder, including the prosecution (at Shell's expense) of any actions that Shell may deem necessary to commence for the protection or defence of any of its rights.

### **13. Liability**



- 13.1 Notwithstanding any other provision in this Agreement, neither party shall be liable to the other party under or in connection with this Agreement for loss of actual or anticipated profit, losses caused by business interruption, loss of goodwill or reputation, or any indirect, special or consequential cost, expense, loss or damage EVEN if such cost, expense, loss or damage was reasonably foreseeable or might reasonably have been contemplated by the parties and whether arising from breach of contract, negligence or other tort, breach of statutory duty or otherwise.
- 13.2 Notwithstanding anything to the contrary in this Agreement and to the maximum extent permitted by the applicable law, Shell's total liability to Buyer in respect of losses or claims arising under or in connection with this Agreement in respect of an event or a series of related events, whether as a result of breach of contract, breach of warranty, breach of statutory duty, negligence or other tort, shall not exceed the purchase price of the relevant delivery or lifting of the Product (at the time of the delivery or lifting), or if the above breach of contract consists of a failure to deliver, the price of the Product had it been delivered and invoiced.
- 13.3 Any indemnity or relief from or limit of liability in favour of Shell or Buyer shall extend to and apply for the benefit of their respective Affiliates, directors, and employees.

#### **14. Force Majeure**

- 14.1 Neither Shell nor Buyer shall be responsible for any failure to fulfil any term or condition of this Agreement if fulfilment has been delayed, hindered or prevented by a "Force Majeure Event" meaning any circumstance which is not within the reasonable control of Shell or Buyer as the case may be including, without limitation, any (or the apprehension of any) strike, lockout or labour dispute (whether or not the settlement thereof shall be at the discretion of the party in question) 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 failure, total or in part 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 products or the means of delivery thereof howsoever such failure is caused. The parties acknowledge that an inability to pay any sums due or other economic distress shall not be a Force Majeure Event.

The performance 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.

- 14.2 If by reason of any such circumstances or by failure as aforesaid the availability from any of Shell's or Shell's suppliers' sources or contemplated sources of supply (wherever situated) of crude petroleum, the Products or any of them or other petroleum products is so curtailed or interfered with as either to delay or hinder Shell in or to prevent Shell from supplying the quantity of the Products and also at the same time maintaining in full its other business in the Products and other petroleum products (whether produced and whether for delivery at the same place or places as is or are specified in this Agreement) then Shell shall be at liberty to

withhold, reduce or suspend deliveries under this Agreement to such extent as Shell may in its absolute discretion think fit and Shell shall not be bound to acquire by purchase or otherwise additional quantities from other suppliers.

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.

14.3 Buyer shall be free to purchase from other suppliers any deficiencies of deliveries caused by the operation of this Clause but Shell shall not be responsible for any additional cost thereby incurred by Buyer.

14.4 Shell reserves the right to increase the price charged for any Product (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. These factors include without limitation any increased taxes, duties, the making of any law, order, bye-law or other regulation affecting the cost of any imported items.

## **15. Termination**

15.1 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 material breach of any of its obligations under this Agreement between Buyer and Shell and the other party has failed to remedy such breach within 14 days of a notice having been served on it by the first party specifying the breach and requiring its rectification.

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

15.2.1 is an individual and is declared bankrupt, 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

15.2.2 is a company and is declared bankrupt, or 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 a petition 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

15.2.3 in the circumstances set out in Clause 3.5 above or if Buyer refuses to pay in advance or to provide security within a period of 7 days after such demand is made; or

15.2.4 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.

15.3 On termination of this Agreement:-

15.3.1 all sums owed to Shell shall become immediately due and payable any and all obligations of Shell hereunder for the sale of Product to Buyer shall cease; and

15.3.3 orders for Product which have been accepted but have not been fulfilled by Shell shall be cancelled at Shell's option without any liability on behalf of Shell.

15.4 Where Buyer is a partnership, reference in this Clause 15 to Buyer shall mean any one or more of the partners.

15.5 Upon termination of the Agreement, the rights and obligations of the parties under the Agreement shall terminate and be of no further effect, except for those provisions that by their nature are intended to survive termination.

## **16. Assignment**

16.1 This Agreement shall not be assigned or transferred in whole or in part by Buyer and Buyer shall not subcontract any of its obligations under this Agreement without the prior written consent of Shell.

16.2 Shell shall be free to assign this Agreement either in whole or in part or to subcontract any of its obligations under this Agreement to a third party by written notice to Buyer.

## **17. Waiver**

The failure or delay of either party in exercising any right, power or remedy provided by law or under this Agreement shall not affect that right, power or remedy or operate as a waiver of it. The single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

## **18. Amendment / Modification**

No amendment or modification of any of the provisions of this Agreement or the rights or obligations of the parties shall be valid unless it is agreed in writing by and is signed on behalf of each of the parties, and specifically refers to this Agreement.

## **19. Invalidity**

If at any time any provision of this Agreement is or becomes illegal, invalid, void or unenforceable under the laws of any jurisdiction, the legality, validity and enforceability of the remainder of this Agreement in that jurisdiction shall not be affected, and the legality, validity and enforceability of the whole of this Agreement in any other jurisdiction shall not be affected.

## **20. Entirety**

This Agreement constitutes the whole agreement between Shell and Buyer and supersedes any and all prior agreements, pre-contractual statements, representations, arrangements, terms and understanding whether oral or written between the parties with regard to its subject matter unless otherwise provided for herein.

Each party acknowledges that it has not relied upon any pre-contractual statement, representation or promise in agreeing to enter into this Agreement. Except in the case of fraud, no party shall have any right of action against any other party arising out of or in connection with any pre-contractual statement, representation or promise except to the extent that it is repeated in this Agreement.

## **21. Third Party Rights**

21.1 Where any Clause in this Agreement confers a benefit or benefits on an Affiliate of either Buyer or Shell (each a "Third Party Beneficiary") the parties intend that each Third Party Beneficiary shall be entitled by virtue of the Contracts (Rights of Third Parties) Act (Cap. 53B) to enforce the benefits conferred on it by such clauses.

21.2 Except as provided in Clause 21.1, the parties do not intend that any term of this Agreement should be enforceable by virtue of the Contracts (Rights of Third Parties) Act (Cap. 53B) by any person who is not a party to this Agreement.

21.3 No variation or termination of this Agreement, even if that variation or termination affects the benefit conferred on a Third Party Beneficiary, shall require the consent of any Third Party Beneficiary.

## **22. Notices**

Any notice shall be sufficiently given if sent by first class prepaid post, registered post, recorded delivery post or special delivery post, or delivered in person, or sent by fax transmission to the other party at the addresses or numbers specified in this Agreement or at the addresses or numbers subsequently specified from time to time by the party to whom the notice is addressed. Where so given notices sent by fax shall be deemed received upon successful transmission evidenced by the sender's printed transmission report, and notices sent by post shall be deemed received on the second postal delivery day after posting. Notices sent by other means such as electronic mail are permitted if they are not given by instant messaging and the sender bears the risk of non-receipt of any such notice.

## **23. Confidentiality**

- 23.1 Shell and Buyer will not, without the prior written consent of the other and except as required by applicable law, either (a) disclose the other's proprietary or commercially sensitive information, including but not limited to data, maps, records, reports, drawings, specifications, formulations, technical information, and computer programs/software concerning either party's operations, processes or equipment ("Confidential Information") to anyone other than those officers, employees, agents, Affiliates or subcontractors who need to know it in connection with this Agreement and who 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.
- 23.2 The obligations of Clause 23.1 shall be applicable for a period of three (3) years after the Confidential Information in question has been disclosed to or obtained by the receiving party or until such information:
- (i) has become part of the public knowledge or literature without default on the part of the receiving party; or
  - (ii) is lawfully known by the receiving party without binder of secrecy at the time of receipt thereunder; or
  - (iii) has been disclosed to the receiving party by a third party (other than one disclosing on behalf of the other party) whose possession of such information is lawful and who is under no secrecy obligation with respect to the same; or
  - (iv) is developed by the receiving party independently from Confidential Information received or obtained hereunder.
- 23.3 In the event the receiving party is required by applicable law or governmental process to disclose any Confidential Information of the other party, the receiving party shall provide prompt notice to the disclosing party of such requirement to allow the other party the opportunity to seek an appropriate protective order.
- 23.4 Upon expiration or termination of this Agreement the receiving party shall deliver to the disclosing party all copies in its possession of any Confidential Information obtained from or supplied by (or on behalf of) the disclosing party.
- 23.5 In the event that either party acquires information about the other or the other's Affiliates, customers or products made or supplied by or on behalf of such party or such Party's Affiliates' in the course of visits or otherwise, such information shall be considered Confidential Information and shall be subject to the terms of this Clause.
- 23.6 The parties wish to keep the existence and terms of this Agreement confidential and to this end each party will, subject to applicable law or stock exchange requirements, use its reasonable endeavours not to disclose the existence of this Agreement to a third party other than its Affiliates, professional advisors and financiers.

## **24. Governing Law and Jurisdiction**

This Agreement and any dispute or claim of whatever nature, whether contractual or non-contractual, arising out of or in connection with it shall be governed by the law of the Republic of Singapore, and this Agreement shall be construed in accordance with Singapore law. In relation to any legal action or proceedings arising out of or in connection with this Agreement (whether arising out of or in connection with contractual or non-contractual obligations), each of the Parties irrevocably submits to the jurisdiction of the Singapore courts.

## **25. Information**

Data supplied, whether personal or otherwise, by a Buyer and/or which relates to a Buyer's account will be held and processed by computer or otherwise by Shell to operate Buyer's account(s); to confirm, update and enhance Shell's Buyer records; for statistical analysis; to establish any identity or otherwise as required under applicable legislation; to assess each Buyer's credit status on an ongoing basis; and otherwise as considered necessary or appropriate by Shell. In each case the processing may continue after this Agreement has ended. Alternatively, Buyer may be requested to complete or fulfil other checks as may be necessary to satisfy credit assessments, money laundering or fraud detection requirements.

Shell may disclose data relating to Buyer and/or a Buyer's account(s) to (a) a credit reference agency where it may be accessed by other financial institutions to assist assessment of any application for credit made to Shell and for debt tracing and fraud prevention; (b) to any agent or sub-contractor of Shell performing services in connection with Buyer's account; (c) to any person to whom Shell proposes to transfer any of its rights and/or duties under this Agreement; (d) to any guarantor or person providing security in relation to Buyer's obligations under this Agreement; (e) as required or permitted by law or any regulatory authority; (f) as otherwise considered necessary or appropriate by Shell.

Without prejudice to any other provisions for termination contained in this Agreement, all monies due and owing by Buyer to Shell shall become due and payable forthwith if Shell discovers that any information provided by Buyer to Shell is materially inaccurate.

## **26. Export regulations**

26.1 Buyer undertakes to: (i) obtain any and all import licences and government approvals that may be necessary to permit the sale by Shell and the purchase by Buyer of the Products, together with any approvals and consents required for the resale of Products hereunder; (ii) comply with all applicable registration requirements; (iii) obtain such approvals from banking and any governmental authorities as may be necessary to guarantee payment of all amounts due hereunder to Shell in the agreed currency; and (iv) comply with any and all governmental laws and regulations that may be applicable to Buyer by reason of its execution of this Agreement and including any laws, regulations or orders that govern or affect the ordering, export, re-export, diversion, trade, use, shipment, import, transportation, storage, sale (including government procurement) delivery or redelivery of the Products and any requirement to be registered as a re-seller of the Products with any governmental authority.

26.2 Notwithstanding Clause 26.1 above, not to export, re-export, divert, trade, ship, import, transport, store, sell, deliver or re-deliver any of the Products to/in any

Prohibited Country and not to sell, deliver or re-deliver any of the Products to, or for end use by, any entity controlled by the government of any Prohibited Country.

- 26.3 Buyer shall furnish Shell with such documentation as Shell may request to evidence Buyer's compliance with this Clause and that controls are in place which actively support such compliance and agrees that it shall not engage in any course of conduct that, in Shell's reasonable belief, would cause Shell to be in violation of the laws of any jurisdiction. In this Clause 26, "Prohibited Country" means a country on the following list of countries: Crimea Region of Ukraine (including Sevastopol), Cuba, Iran, North Korea, Sudan (North) and Syria, as such list may be amended by Shell from time to time by notice to Buyer.

## **27. Shell's Principles and Policies and Compliance with Laws**

- 27.1 The Shell Statement of General Business Principles ("SGBP") and the Shell's Health, Safety, Security and Environment policy ("HSEP") are displayed on Shell's website [www.shell.com/sGBP](http://www.shell.com/sGBP) (see "our commitments and standards"). 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 or HSEP.
- 27.2 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.
- 27.3 The Parties shall comply with all applicable (including without limitation, health, safety, security and environment) laws, governmental rules, regulations and orders.
- 27.4 Each Party represents and warrants that, in connection with this Agreement and the business resulting therefrom, it is knowledgeable about and will comply with all laws, regulations, rules and requirements relating to anti-bribery or anti-money laundering.
- 27.5 Buyer represents and warrants to Shell that its payments to Shell shall not constitute the proceeds of crime in contravention of anti-money laundering laws.
- 27.6 Shell may terminate this Agreement immediately upon written notice to Buyer, if in its reasonable judgment supported by credible evidence, Buyer is in breach of any of the provisions of this clause and has failed to provide information demonstrating such compliance. Nothing in this Agreement shall require a Party to perform any part of this Agreement or take any actions if, by doing so, the Party would not comply with anti-bribery or anti-money laundering laws.
- 27.7 Only Buyer shall pay the invoice from Shell. No party other than Buyer shall pay the invoice without the prior consent of Shell.

**28. Survival**

Expiration or termination of this Agreement shall not relieve either party from its obligations arising hereunder prior to such expiration or termination. Rights and obligations which by their nature should survive shall remain in effect after termination or expiration of this Agreement. For the avoidance of doubt (and without prejudice to the generality of the foregoing), the provisions of Clauses 12 (Shell Trade Marks, Specifications and Formulations), 13 (Liability), 17 (Waiver), 19 (Invalidity), 20 (Entirety), 22 (Notices), 23 (Confidentiality), 24 (Governing law and Jurisdiction), 25 (Information), 26 (Export regulations) and 28 (Survival) shall remain in effect after the termination or expiration of this Agreement.