General Conditions of Sale and Delivery ("AVL") Shell Global Solutions (Deutschland) GmbH (effective date 07/2019)

The following provisions of articles 1 to 13 and the "Data Protection Notice" shall apply to all customers.

1. General

(1) The following AVL shall apply to all goods and services provided by Shell Global Solutions (Deutschland) GmbH (hereinafter referred to as "Seller") now and in the future, in the absence of a written agreement to the contrary. Any changes to the AVL shall apply from the time that change is introduced. In the absence of a provision to the contrary in these AVL, the legal provisions shall apply.

(2) Our offers shall be subject to confirmation.

(3) Verbal ancillary agreements shall be valid only if confirmed by the Seller in writing.

(4) The contract shall be governed exclusively by the Seller’s AVL. No other conditions shall become terms of the contract, even if the Seller does not expressly contradict them.

2. Quality

The Seller shall be bound to provide only products of ordinary type and quality. The written agreement in the contract of sale or the delivery note shall be authoritative with regard to the description and nature of the item purchased. Quality features shall be determined by the Seller, and any data and specifications shall be deemed to be determined by the Seller in writing. The Seller gives no warranty with regards to the nature or durability of products.

3. Prices

(1) If no price has been agreed upon for the goods, they shall be charged on the basis of the Seller’s generally prevailing prices on the shipping date for the quantities and volumes delivered or accepted. In the absence of an agreement to the contrary, the prices quoted shall exclude value-added tax, which shall be charged separately at the applicable rate.

(2) If more than four months elapse between conclusion of contract and delivery of the goods or provision of the service, or if the underlying contract is a continuous one, the contract shall be governed by the laws in force at the later date. Any reduction resulting from legal changes shall be credited to the Buyer. The Seller shall be entitled to set a reasonable period for the Buyer to pay the difference resulting from such changes, and to withdraw from the contract if the Buyer does not make the payment within the period of grace.

4. Payment / default in payment / offsetting

(1) Purchase prices shall be due immediately. They shall be payable net cash on delivery. For every month or part thereof after expiry of the due date, a payment interest charge shall be calculated at the rate applicable at the date of the default, but not exceeding 18% per annum. In any event the Buyer shall be liable for the entire amount of the claim including interest and any compensation to be paid to the Seller for any incidental expenses incurred. The Buyer’s payment obligations arising from the business relationship in respect of the Seller, or its obligations arising from factoring arrangements with the Seller, are not offsettable.

(2) If the Seller’s own production is not sufficient to supply all customers, the Seller shall at its discretion be entitled to allocate the deliveries as a whole or in individual cases proportionally, taking account of the particular circumstances, instead of its rights arising from frustration.

(3) Goods and services shall be supplied ex works. The Seller reserves the right to select the delivery works or distribution warehouse.

(4) If delivery free of charge has been agreed, this shall be in tank wagons free to station and in road tanker/ truck free of charge to the Buyer’s address.

(5) The Seller shall use its customary methods to determine the quantities for billing.

(6) The Buyer shall be liable to the Seller for complying with the customs or petroleum tax regulations applicable to it or its customers, and for procuring and complying with the necessary official approvals. If approvals are not granted or are withdrawn again, especially relating to customs and/or tax-advantaged delivery, the Seller shall be entitled to amend the purchase price accordingly.

(7) If the Seller undertakes the delivery, it shall be entitled to select the means and type of transportation in good faith.

(8) Information provided by the Seller in respect of delivery dates or input temperatures shall not be binding.

(9) The Buyer confirms that the purchased products, components or materials are a) used in accordance with the safety precautions outlined in the material safety data sheets and b) not used in contradiction to existing laws, regulations, statutory ordinance and/or legal guidelines.

7. Conveyances / (loan) containers

(1) Where the goods are transported or held in conveyances or containers provided by the Buyer, these conveyances or containers shall be supplied to the delivery point in good time, carriage and charges paid, in a clean state ready for filling. The Buyer shall be responsible for checking the suitability of the conveyance / container for the product and/or its transport. The Buyer shall determine the capacity of the tanks before delivery, and indicate the quantity to be dispensed. It shall be liable for the conveyances or containers and their measuring equipment being in a technically faultless condition compliant with legal requirements. The Seller shall not be obliged to check their suitability, cleanliness etc. There shall be no compensation for loss or damage due to the containers or their measuring equipment being in a defective state, arising from inaccurate or incorrect information of the Buyer, or caused by contamination or mixing. Any action initiated by the Seller in such cases shall not constitute acknowledgement of any obligation to pay compensation. The containers shall be dispatched at the Buyer’s risk. The Buyer shall be liable for any damage to the loading equipment caused by its containers or conveyances, unless it can show that the loss or damage was caused by the Seller’s negligence.

(10) The Buyer shall be entitled to set a reasonable period of grace, and to withdraw from the contract if it expires without result.

11) If the realisable value of the securities to which the Seller is entitled exceeds the total claim to be secured arising from the business relationship by more than 20%, and this is not just temporary, the Seller shall be obliged to transfer it back.

6. Deliveries

(1) The Seller shall be entitled to provide only goods from its own production. The Seller may at its discretion supply goods it has bought additionally.

(2) If the Seller’s own production is not sufficient to supply all customers, the Seller shall at its discretion be entitled to allocate the deliveries as a whole or in individual cases proportionally, taking account of the particular circumstances, instead of its rights arising from frustration.

(4) Goods and services shall be supplied ex works. The Seller reserves the right to select the delivery works or distribution warehouse.

(4) If delivery free of charge has been agreed, this shall be in tank wagons free to station and in road tanker/ truck free of charge to the Buyer’s address.

(5) The Seller shall use its customary methods to determine the quantities for billing.

(6) The Buyer shall be liable to the Seller for complying with the customs or petroleum tax regulations applicable to it or its customers, and for procuring and complying with the necessary official approvals. If approvals are not granted or are withdrawn again, especially relating to customs and/or tax-advantaged delivery, the Seller shall be entitled to amend the purchase price accordingly.

(7) If the Seller undertakes the delivery, it shall be entitled to select the means and type of transportation in good faith.

(8) Information provided by the Seller in respect of delivery dates or input temperatures shall not be binding.

(9) The Buyer confirms that the purchased products, components or materials are a) used in accordance with the safety precautions outlined in the material safety data sheets and b) not used in contradiction to existing laws, regulations, statutory ordinance and/or legal guidelines.
Where conveyances, containers or tanks are provided by the Seller, the fees customarily charged by the Seller shall be payable. The Buyer shall be responsible for proper and careful treatment of all conveyances and/or containers the Seller provides to it or to a third party named by it. It shall be liable for any loss of or damage to conveyances or containers supplied or provided, and for any damage caused by the conveyance, the container or its contents, unless the Buyer can show that no blame attaches to it or to third parties nominated by it.

3) The Buyer shall completely discharge and/or empty and return the conveyances / (loan) tanks / containers provided by the Seller. Failure to do so shall entitle the Seller to charge at least the costs incurred in connection with the conveyance, the container or its contents, unless the Buyer can show that no blame attaches to it or to third parties nominated by it.

4) In the case of ships, transport surcharges for high or low water, ice drift or other reasons for which the Seller is not responsible shall be borne by the Buyer. This shall also apply to demurrage charges incurred by exceeding the required lay days. Steam for unloading purposes unless necessary for unloading the goods shall be provided by the Buyer at its expense.

5) The Buyer shall be responsible for complying with the legally stipulated safety precautions when discharging from road tankers / trucks (take-off equipment / receiving tank). If the goods are collected by the Buyer or its authorized representatives, the rules and instructions regarding safety and systems of work declared for the Seller's particular location or its selected delivery point must also be complied with. The Seller shall be entitled to apply appropriate sanctions commensurate with the degree of fault to enforce compliance with these rules in the event of infringements, for example by refusing refilling or even by permanent banning in the case of serious or repeated infringements. The Buyer shall be liable to the Seller for any loss or damage arising from non-compliance, unless it can show that it is not to blame.

8. Collection
Purchased goods shall be collected immediately. If there is provision for part deliveries, collections shall be distributed evenly according to time and quantity.

9. Liability
(1) Irrespective of any other claims of the Buyer arising from the same circumstances, the Seller shall be liable for damages only in the event of intentional or grossly negligent behaviour of its executive bodies, servants or vicarious agents. Its executive bodies, servants and vicarious agents shall also themselves be liable only for damages in cases of intent and gross negligence, notwithstanding other claims by the Buyer arising from the same circumstances. Clauses 1 and 2 shall not apply to loss or damage attributable to infringement of duties essential to implementation of the contract, performance of which the Buyer may therefore rely on.

(2) Indirect loss (such as lost profit) and consequential loss shall specifically not be compensated, unless it is based on a deliberate or grossly negligent behaviour by the Seller’s executive bodies, servants or vicarious agents.

(3) Damages payable by the Seller, if it is liable, shall be restricted to the typical loss that could be foreseen when the contract was concluded.

(4) The maximum damages payable by the Seller, if it is liable, shall be restricted to a sum corresponding to three times the value of the delivery.

(5) The limitations of liability under the above clauses 9 (1), (2) (3) and 9 (4) shall not apply in the case of injury to life, limb or health, to claims under the German product liability legislation (Produkthaftungsgesetz), to claims arising from guarantees undertaken by the Seller, or in cases in which the law forbids such limitations of liability.

10. Trade Controls and Restricted Jurisdictions
(1) Each Party confirms that it is knowledgeable about Trade Controls laws applicable to the performance of the Agreement including the lists of Restricted Parties. Each Party further confirms that it shall comply with all applicable Trade Controls laws in the performance of this Agreement and in particular it shall not do anything which may cause the other Party to be in breach of Trade Controls laws.

(2) Neither Party shall directly or indirectly export, re-export, transfer divert, trade, ship, import, transport, store, sell, deliver or re-deliver any of the products provided by the Seller to, or for use in, the Restricted Jurisdiction.

(3) Neither Party shall be entitled to apply appropriate sanctions commensurate with the degree of fault for unloading purposes and the hoses necessary for unloading the goods shall be provided by the Seller at its expense.

11. Anti bribery / Anti money laundering
(1) Each Party agrees and undertakes to the other that, in connection with this Agreement, it is knowledgeable about and will comply with all laws, regulations, rules and requirements relating to anti bribery or anti money laundering applicable to its performance of this Agreement.

(2) Buyer represents and warrants to Seller that its payments to Seller shall not constitute the proceeds of crime in contravention of anti money laundering laws.

(3) Seller may terminate this Agreement immediately upon written notice to the Buyer, if in its reasonable judgment supported by credible evidence, the Buyer is in breach of any of the provisions of this clause and has failed to provide information demonstrating such compliance.

(4) Only the customer shall pay the invoice from Shell. No party other than the customer shall pay the invoice without the prior consent of Shell.

12. Termination for good cause
Both parties shall have the right of extraordinary termination for good cause. Repeated infringement of material contractual obligations despite repeated and urgent warning, delay in performance by the Seller for or in connection with the Buyer’s order, or an attachment of claims arising herefrom shall in particular constitute good cause. Both contracting parties undertake to immediately inform the other contracting party about application for insolvency proceedings.

13. Legal relationship between Seller and Buyer
The legal relationship between the Seller and the Buyer shall be governed by the current version of the Seller’s AVV, the current version of which can be accessed on www.shell.de/avv.

14. Assignment
The Seller shall be entitled to transfer at any time its rights and duties, especially those arising from contracts, to an associated company as defined by the German Stock Corporation Act (Aktiengesetz), and to third parties as suitable as the Seller to perform the contract.

The following additional provisions shall apply only to entrepreneurs or to business people if expressly determined.

15. Public utterances, recommendations or promotion
Public utterances, recommendations or promotion shall not constitute information as to the quality and condition of the item purchased as defined in article 2.

16. Seller’s right to price increases
The Seller’s right to all price increases as defined in article 3 clause (2) shall exist regardless of whether more than four months elapse between conclusion of contract and delivery/provision of the service, and of whether the underlying contract is a continuous obligation.

17. Future claims
Future claims shall also be claims as defined in article 5 clause (1).

18. Complaints and warranty
(1) In the event of partial or incomplete delivery or if there is a material defect, the Buyer shall have the right to refuse delivery or to receive defective delivery at the sole discretion of the Buyer. The Buyer shall inform the Seller immediately about any defect. The Buyer shall be entitled to claim redress, including the right to rescind the contract or to substitute performance, repudiation, or a reduction in the purchase price, further warranty claims being excluded.

(2) Any complaints about a delivery must be lodged with the Seller in writing. The Buyer shall complain of observable defects immediately. It shall moreover immediately take or process samples to satisfy itself that the delivery is correct. This shall be done within 14 days of delivery at the latest. Defects that can be detected by taking/processing samples shall be notified to the Seller within 14 days of detection.

(3) Complaints to the Seller shall be permissible only if a batch sample of at least 1 kg (or 1 litre) is provided to the Seller for verification. The sample shall be taken according to the DIN standard that applies to the product concerned. The Seller shall be given an opportunity to take the sample itself, or to satisfy itself that the sample was taken correctly.

19. Place of jurisdiction / applicable law
(1) Any and all disputes out or in connection with this contract which the parties cannot settle by mutual agreement are subject to the administration of justice in the German jurisdiction. The place of jurisdiction for business people shall be Hamburg.

(2) All contracts shall be subject to the law of the Federal Republic of Germany, with the exception of that domestic international private law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

Data Protection Notice
Comprehensive information on data protection can be found on the Internet at www.shell.de/datenschutz.

On request, these can be provided to customer in paper form.

The customer is entitled to contact the data protection officer of SGSD in data protection matters. Contact details are within the privacy policy.