



COMPLETIONS, DRILLING AND DOWNHOLE, TERMS AND CONDITIONS

1. Acknowledgement. Sale or lease of any goods or equipment (collectively “**Products**”) or the performance of services is expressly conditioned on Buyer’s acceptance of these Terms and Conditions (“**Terms and Conditions**”). Any additional or different terms proposed by Buyer in any document, including but not limited to terms shown on Buyer’s sales order or any other Buyer’s document, are objected to, null and void, and rejected and will not be binding upon Seller unless agreed to in writing by Seller. These Terms and Conditions supersede all prior terms and conditions and shall be the sole Terms and Conditions which apply to any sale, lease, or other furnishing of Products or services. Seller’s performance of any work shall constitute acceptance by Buyer of these Terms and Conditions (sometimes “**Agreement**”). No modifications to this Agreement shall be effective unless such modification is made in writing and signed by an authorized representative of Seller.

2. Prices and Quotations. All prices charged will be the prices that are in effect on the invoice date. Prices are subject to change without notice. Except as provided herein or otherwise agreed to by the Parties in writing, prices include packing for Products destined within continental limits of the United States, Canada, and Mexico. Additional charges may be required for crating and for export packing and crating. Price quotations by Seller will not be binding unless otherwise agreed upon in writing. The submission of a quotation by Seller in response to the Buyer’s request does not constitute an expression of acceptance of any term or condition which may have been set forth in purchaser’s request. The Terms and Conditions of sale set forth herein are the only terms and conditions applicable to the sale of the products described on the face hereof, notwithstanding prior invoices.

3. Payment.

(a) Unless otherwise agreed, payment is due within thirty (30) days of the date of invoice to those with an established credit standing with Seller. Seller is not required to accept sales on open account and may choose, at any time prior to actual shipment date, to request C.O.D. payment. No discount will be allowed for prompt payment. Payment shall be made to the address listed on the invoice; and shall not be considered paid until Seller receives United States Legal Tender at the address listed therein. Notwithstanding the foregoing, Seller may, in its sole discretion require a substantial deposit for special or non-stock purchases.

(b) Buyer shall pay interest at the rate of one and one-half percent (1.5%) per month (18% per annum), or, if lower, the highest rate permitted by law on past due accounts. Seller shall have the right to suspend the fulfillment of any current, incomplete or future orders until Buyer has paid all past due amounts. If Buyer fails to pay for leased Products, Seller may repossess such Products without notice or legal process. If unpaid amounts are collected through legal proceedings or through an attorney, Buyer shall pay reasonable costs and attorneys’ fees associated with such collection procedures or efforts.

4. Cancellation. Orders cannot be suspended or cancelled by Buyer under any circumstances without Seller’s written consent after the date of the sales confirmation. Buyer agrees to pay a minimum charge of 25% of the order amount on standard items. Higher suspension or cancellation charges may apply. Special orders may not be suspended or cancelled. The suspension or cancellation fee for items made to order will be determined on a case by case basis in Seller’s sole discretion, and Buyer agrees to pay up to 100% of the order amount if such suspension or cancellation is allowed. In addition, Buyer shall also reimburse Seller for any extraordinary cost and other expenses attributable to such suspension or cancellation.

5. Taxes/Other Charges.

(a) Any sales, use or other similar type taxes imposed on this sale or on this transaction are not included in the price. Buyer shall pay any federal, state, local, sales, use, excise or similar taxes, duties, fees or other charges, which Seller may be required to pay or collect, under any existing or future law upon or applicable to the sale, purchase, lease, furnishing, manufacture, processing, transportation, delivery, storage, use or consumption of Seller’s product or services. Such taxes shall be billed separately to the Buyer.

(b) Seller will accept a valid exemption certificate from the Buyer if applicable; however, if an exemption certificate previously accepted is not recognized by the governmental taxing authority involved and the Seller is required to pay the tax covered by such exemption certificate, Buyer agrees to promptly reimburse Seller for the taxes paid.

(c) If Buyer delivers equipment to Seller for inspection and repair and Buyer elects not to repair, if requested by Seller, Buyer shall remove such equipment from Seller’s premises within ninety (90) days of delivery to Seller. Buyer agrees to pay Seller’s storage charges for any equipment remaining on premises after the expiration of such ninety (90) day period.

6. Delivery/Risk of Loss/Title. All sales are either “Ex Works” or FOB point of shipment, at Seller’s sole discretion, whether or not Seller pays freight. This means Seller fulfills its obligation of delivery when it has made the Products available at either (i) its premises (i.e. works, factory, warehouse, etc.); or (ii) upon delivery to the common carrier, and shall constitute full and final delivery as provided in INCOTERMS, unless otherwise agreed in a writing signed by Seller and Buyer. Title and risk of loss shall pass to Buyer upon delivery. Seller shall retain title to all leased Products. Notwithstanding the foregoing, in case of Products sold hereunder, Seller retains title, for security purposes only, to all Products until paid for in full in cash, and Seller may, at Seller’s option, repossess the same, upon Buyer’s default in payment hereunder, and charge Buyer with any deficiency. If Buyer fails to take delivery, or otherwise delays delivery when Seller tenders delivery, Seller reserves the right to immediately place such goods in storage and charge Buyer storage fees at a rate of \$500.00 per day. Buyer accepts the risk, including loss, and the title of the Products purchased and built to Seller’s specifications during the storage time.

7. Shipping/Delay. Shipping dates and schedules are subject to prior orders received, availability of adequate labor and equipment and to other unavoidable contingencies as set forth in Section 11. Dates of delivery are estimates only, and are dependent upon prompt receipt by Seller of materials and information necessary, in Seller’s sole discretion, to proceed with the work. Seller does not warrant or, in any other way, guarantee delivery dates. Seller reserves the right to choose the facility from which it ships Products to Buyer. Partial shipments of the orders will be made unless the Buyer specifically prohibits partial delivery in the conditions of the request for quotation and the final purchase order.

8. Acceptance. Upon delivery, Buyer shall immediately inspect the products for conformity and visible defects. All Products and parts thereof purchased or rented hereunder shall be finally inspected and accepted within ten (10) days after receipt at point of delivery. All claims whatsoever by Buyer (including claims for shortages), excepting only those provided under the Section 10 herein, must be asserted in writing by Buyer within said ten (10) day period if they are waived. If this Agreement involves partial performances, all such claims must be asserted within said ten (10) day period for each partial performance.

9. Return of Products.

(a) **Non-Defective Products.** Products may not be returned without prior written agreement of Seller and after passing an inspection by Seller to determine if the Products are returnable. As a condition to return all returns must be requested within thirty (30) days of delivery and be undamaged, appropriate for re-sale, and in new condition. In the event Seller agrees to a return, Buyer agrees to make Seller whole, and to pay a minimum restocking charge of twenty-five percent (25%) of the invoice amount. Higher return fees may apply. Under no circumstances may any Products be returned that are used, damaged, specially ordered or manufactured, or not regularly stocked by Seller. If Seller agrees to the return, a credit for the unused Products will be issued to Buyer.

(b) **Rejected Products.** If the Products are rejected on inspection by Buyer, Seller must be notified in writing within ten (10) days from the receipt of the Products or Seller shall have no obligation to correct such defect. Seller shall then have the option of re-inspection at the Buyer’s plant or its own before allowing or disallowing Buyer’s claim. Defects that do not impair service shall not be a cause for rejection, or recovery under the warranty. **No Products shall be returned to Seller (whether due to cancellation of a purchase order or for any other reason not the fault of Seller) without prior written authorization from Seller.** There shall be no revocation of acceptance. Rejection may be only for defects substantially impairing the value of Products or parts thereof, and Buyer’s remedy for lesser defects shall be those provided for under Section 10 herein. If Buyer wrongfully rejects or revokes acceptance of Products tendered under this Agreement, or fails to make a payment when due, or repudiates this Agreement, Seller shall have the right to recover as damages the price of the Products, and upon recovery of the price, the items involved shall become the property of Buyer.

(c) **Shipping.** Unless otherwise agreed, freight and handling charges on returns shall be at Buyer’s expense to Seller’s location. Buyer shall be responsible for any loss or damage to Seller’s Products, or material of supplies, transported by Buyer or by any carrier or conveyance arranged for by Buyer.



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10. Limited Warranty.

(a) Seller's Products.

Subject to the limitations set forth in this Agreement, Seller warrants: (i) all goods are sold new and shall be free from defects in workmanship or material for twelve (12) months from delivery ("**Standard Warranty**"); (ii) its elastomer goods sold new shall be free from defects in workmanship or material for six (6) months from delivery; (iii) leased goods will be in good condition upon delivery; and (iv) repairs on equipment to be free from defects in workmanship or material for six (6) months from delivery (but only as to the material or component repaired by Seller), or the remaining initial warranty period, whichever expires later. Seller's sole and exclusive liability for breach of this warranty is expressly limited to, at Seller's sole option, the repair or replacement, Ex Works Seller's facility or on location, of the good which proves to be defective during the warranty period, or a refund of the consideration paid for the defective good. Buyer shall pay for repairs due to damage to equipment caused by Buyer and all freight charges and mileage.

(b) Power End Frame Extended Warranty. For power end frames sold with new power end assemblies only, Seller warrants that such goods shall be free from defects in workmanship for an additional twelve (12) months from the date of the expiration of the Standard Warranty ("**Extended Warranty**"). Provided, however, Seller's sole and exclusive liability for a breach of the Extended Warranty, is a credit for the purchase of a new power end frame from Seller (or its affiliates). The amount of such credit will be equal to the product of (i) the Seller's list price of the goods at the time Buyer provides notice of the defect and (ii) the quotient equal to the number of months remaining in the Extended Warranty at the time notice of the defect is provided (rounded down to the nearest whole month) divided by twelve (12). For the avoidance of doubt, defects in power end frames sold with new power end assemblies reported within twelve (12) months of delivery shall be resolved under the same warranty as all other new goods (e.g. repair or replace), and Buyer will only be limited to a credit for defects reported after the expiration of the Standard Warranty but before the expiration of the Extended Warranty.

(c) Commissioning Services. If part of the Work agreed to, Seller will use reasonable efforts to provide competent commissioning personnel. Seller does not guarantee the results of these services because of the nature of the work and unpredictable conditions. Seller warrants the commissioning services performed hereunder for a period of thirty (30) days. Seller's liability for breach of this warranty is expressly limited to, at Seller's sole option, the re-performance of services which prove to be defective during the warranty period or a refund of the consideration paid for the services.

(d) Other Products. Products furnished by Seller but not manufactured by Seller will carry only the warranty of the manufacturer of the product, if any. Seller does not warrant any product not manufactured by Seller.

(e) Conditions. These warranties and remedies are conditioned upon: (i) the proper storage, installation, operation, and maintenance of the product, in accordance with the manuals and information provided by or available from Seller or its suppliers or vendors; (ii) Buyer keeping accurate records of the operation and maintenance of the product during the warranty period and providing such records to Seller on request if buyer maintains such records in the normal course of their business; (iii) modification or repair of any product only as authorized by Seller, (iv) Buyer promptly notifying the Seller of any defect in writing within ten (10) days of Buyer's discovery of any defects during the warranty period, and (v) Buyer keeping such goods in a condition that can be examined by Seller and, upon request by Seller, returning the product to a facility designated by Seller for testing and inspection (vi) for power end frame warranty only, all components of such power end frame must be Seller provided components.

(f) Exceptions. These warranties shall not apply (i) if the product had been subject to misuse, negligence, modification, or use other than as specified by Seller, (ii) if Buyer uses the goods with components which are not manufactured or approved by Seller, (iii) if requires replacement due to normal wear and tear, excluding any consumable items, and (iv) if the design or any part of it was provided by Buyer or Buyer's behalf to Seller.

(g) Disclaimer. As Seller has no control over the methods of use, installation and environments that its Products will be used in, in supplying services or Products, Seller MAKES NO REPRESENTATIONS, WARRANTIES, OR GUARANTEES, EXPRESS OR IMPLIED. Under no circumstances shall Seller be responsible or liable in any way for any damage to any reservoir or productive formations, downhole damage or other underground damage, damage to any rig or platform, or consequential or incidental loss, damage or injury including but not limited to, that resulting from direct or indirect water, air, land or other pollution, blowout, cratering, explosion, fire or productive formations or other underground or aboveground damage. BUYER SHALL BE LIABLE FOR AND INDEMNIFY, DEFEND AND HOLD HARMLESS SELLER GROUP (as defined in section 13(d)) FOR ANY DAMAGES, EXPENSES, LOSSES, FINES, PENALTIES, COSTS, EXPERT FEES AND ATTORNEYS' FEES RELATED THERETO, REGARDLESS OF WHETHER OR NOT ANY LOSS OR DAMAGES WERE CAUSED IN WHOLE OR IN PART BY THE SOLE, JOINT, OR CONCURRENT, ACTIVE OR PASSIVE, ORDINARY OR GROSS NEGLIGENCE OF SELLER GROUP OR ANY OTHER PERSON OR ENTITY.

(h) Exclusive Warranty. THIS SECTION PROVIDES THE EXCLUSIVE REMEDY FOR ALL CLAIMS BASED UPON A FAILURE OF OR DEFECTS IN PRODUCTS OR SERVICES, WHETHER THE FAILURE OR DEFECT OCCURS DURING THE WARRANTY PERIOD, AND WHETHER A CLAIM IS BASED UPON CONTRACT, WARRANTY, INDEMNITY, TORT, EXTRA-CONTRACTUAL LIABILITY (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE. THESE WARRANTIES ARE EXCLUSIVE AND ARE IN LIEU OF ANY OTHER WARRANTIES OF ANY KIND, WRITTEN, ORAL, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.

(i) Limitation on Action. Any action for breach of the Limited Warranty provided herein must be commenced within one (1) year after the cause of action has accrued.

11. Force Majeure. Seller shall not be liable for any delay, inability to accept delivery or other failure of performance, or any loss or damage, where such delay, failure of performance, loss or damage results from any cause beyond Seller, its suppliers, or contractor's control, including, but not limited to, the elements, weather, lack of or inability to obtain materials, fuel, transportation or supplies, acts of Buyer, acts of civil or military authorities, acts of terrorism, insurrection, or war, pandemic, government orders, or other shutdowns, Acts of God, power or utility failures, breakdown of equipment, machinery, tools, or production facilities, differences with workmen, strikes, boycotts, fire, flood, or other casualty, labor shortages, government regulations or requirements, whether similar or dissimilar to those enumerated, and whether or not foreseeable.

12. Limitation of Liability.

(a) The total liability of Seller for any loss or of any kind to Buyer, Buyer's property, or any other person or person's property, from Seller's product or services' failure to conform to any specification, breach of warranty, negligence or other failure to conform to any standard of care, strict liability, or patent infringement, shall not exceed the amount received by Seller from Buyer for such Products and services. If Seller uses goods and/ or equipment of other manufacturers or suppliers in Seller's Products, and such goods and/or equipment are defective, Seller's liability shall exist only to the extent that Seller is able to recover from such manufacturer or suppliers for such defects. This limitation of liability shall apply regardless of whether a loss or damage is caused by the sole, joint, or concurrent, active or passive, ordinary or gross negligence or fault of Seller Group (as defined in Section 13(d)) or third parties or is based upon contract, warranty, indemnity, tort/extra-contractual liability (including negligence), strict liability, or otherwise.

(b) IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR LOST PROFITS (DIRECT OR INDIRECT) INDIRECT, INCIDENTAL, CONSEQUENTIAL (DIRECT OR INDIRECT), PUNITIVE OR SPECIAL DAMAGES (INCLUDING WITHOUT LIMITATION ECONOMIC LOSS, PHYSICAL HARM, LOSS OF PROFITS OR LOSS OF BUSINESS OPPORTUNITIES), ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO THE PERFORMANCE UNDER THIS AGREEMENT, WHETHER OR NOT SUCH LOSSES ARE THE RESULT IN WHOLE OR IN PART FROM THE SOLE, JOINT, CONCURRENT, OR COMPARATIVE NEGLIGENCE OF ANY PERSON OR PARTY, OR ANY DEFECT IN THE PREMISES, PRE-EXISTING CONDITIONS, PATENT OR LATENT, BREACH OF STATUTORY DUTY, STRICT LIABILITY OR ANY OTHER



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THEORY OF LEGAL LIABILITY UNLESS SUCH LOSSES ARE CAUSED BY THE GROSS NEGLIGENCE, FRAUDULENT CONDUCT OR WILLFUL MISCONDUCT OF SELLER.

(c) This Section shall survive the termination of the Agreement for any reason.

13. INDEMNITY/RELEASE.

(a) **Intent to Release and Indemnify.** It is agreed and understood that it is in the best interests of the Parties that certain risks of the enterprise in which they are engaged should be identified and allocated. Therefore, for the risks identified in the entirety of this Section 13, it is the intent of this Agreement to provide for release, defense and indemnity to the maximum extent permitted by law and supported by liability and contractual liability insurance coverages.

(b) **Notification of Claims.** If a Claim is asserted against one of the Parties to this Agreement which may give rise to a Claim for indemnity against the other Party hereto, the Party against whom the Claim is first asserted must notify the potential indemnitor in writing and give the potential indemnitor the right to defend or assist in the defense of the Claim.

(c) **BUYER ACKNOWLEDGES THAT IT IS A SOPHISTICATED USER, BUYER'S USE OF THE PRODUCTS IS SUBJECT TO THE SOLE DISCRETION AND CONTROL OF BUYER, AND BUYER IS IN THE BEST POSITION TO KNOW IF THE PRODUCT IS APPROPRIATE FOR USE UNDER THE CIRCUMSTANCES.**

(d) **EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT, BUYER HEREBY ASSUMES (AND SELLER DISCLAIMS) ANY LIABILITY FOR BUYER'S OR ITS PARENT, SUBSIDIARY, AFFILIATED COMPANIES, SUPPLIERS AND CONTRACTORS, AND ITS AND THEIR AGENTS, SERVANTS, EMPLOYEES, OFFICERS, DIRECTORS AND INVITEES ("BUYER GROUP") USE OF THE PRODUCTS. BUYER RELEASES SELLER AND AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS SELLER AND ITS PARENT, SUBSIDIARY, AFFILIATED COMPANIES, SUPPLIERS AND CONTRACTORS, AND ITS AND THEIR AGENTS, SERVANTS, EMPLOYEES, OFFICERS, DIRECTORS AND INSURERS ("SELLER GROUP"), FROM ALL DEMANDS, CLAIMS, PROCEEDINGS AND SUITS OF ANY KIND, INCLUDING BUT NOT LIMITED TO INJURY, DISEASE, OR DEATH TO PERSONS, PROPERTY DAMAGE INCLUDING UNDERGROUND OR SURFACE, (HEREAFTER "CLAIMS"), AND ALL DAMAGES, JUDGMENTS, LIABILITIES, FINES, PENALTIES, ASSESSMENTS AND LOSSES OF ANY KIND INCLUDING, WITHOUT LIMITATION, ATTORNEYS FEES, EXPERT WITNESS FEES, EXPENSES AND OTHER COSTS OF LITIGATION (HEREAFTER "LOSSES") ASSERTED AGAINST OR INCURRED BY SELLER GROUP BY REASON OF, ARISING OUT OF, OR IN ANY WAY RELATED TO BUYER GROUP'S USE (OR ANY SUBSEQUENT END USER'S USE) OF SELLER'S GOODS, SERVICES OR PRODUCTS, REGARDLESS OF WHETHER OR NOT THE CLAIMS OR LOSSES ARE CAUSED BY OR RESULTS FROM THE ACTUAL OR ALLEGED NEGLIGENCE, STRICT LIABILITY, PREEXISTING CONDITIONS, IMPERFECTION OF MATERIAL, DEFECT OR FAILURE OF EQUIPMENT, BREACH OF STATUTORY DUTY, FAULT OR OTHER WRONGFUL CONDUCT OF SELLER AND/OR ANY OTHER PERSON, OR ENTITY, IN WHOLE OR IN PART, WHETHER SOLE, JOINT, ACTIVE OR PASSIVE, ORDINARY OR GROSS AND EVEN IF BUYER IS WITHOUT ANY LEGAL FAULT OF ANY KIND ("REGARDLESS OF FAULT").**

(e) **SELLER'S POLLUTION RESPONSIBILITY.** UNLESS OTHERWISE PROVIDED HEREIN, SELLER SHALL ASSUME ALL RESPONSIBILITY FOR, INCLUDING CONTROL AND REMOVAL OF, AND PROTECT, RELEASE, DEFEND, INDEMNIFY AND SAVE BUYER GROUP HARMLESS FROM AND AGAINST ALL CLAIMS ARISING FROM SUDDEN AND ACCIDENTAL POLLUTION OR CONTAMINATION (INCLUDING NATURALLY OCCURRING RADIOACTIVE MATERIAL) ORIGINATING ABOVE THE SURFACE OF THE LAND OR WATER AND WHICH EMANATES FROM SELLER GROUP'S EQUIPMENT AND/OR FACILITIES (E.G. SPILLS OF FUELS, LUBRICANTS, MOTOR OILS, PIPE DOPE, PAINTS, SOLVENTS, BALLAST, BILGE AND GARBAGE) WHILE IN SELLER GROUP'S CARE, CUSTODY AND CONTROL **REGARDLESS OF FAULT.** THE AFOREMENTIONED INDEMNITY SHALL NOT APPLY TO ANY POLLUTION OR CONTAMINATION THAT ORIGINATES FROM BUYER GROUP PROPERTY WHICH MAY BE SET UPON SELLER GROUP'S EQUIPMENT AND/OR FACILITIES.

(f) **BUYER'S POLLUTION RESPONSIBILITY.** BUYER SHALL ASSUME ALL RESPONSIBILITY FOR, INCLUDING CONTROL AND REMOVAL OF, AND PROTECT, RELEASE, DEFEND, INDEMNIFY AND SAVE SELLER HARMLESS FROM AND AGAINST ALL CLAIMS ARISING DIRECTLY OR INDIRECTLY FROM ALL OTHER POLLUTION OR CONTAMINATION WHICH MAY OCCUR DURING THE CONDUCT OF OPERATIONS HEREUNDER, INCLUDING, BUT NOT LIMITED TO, THAT WHICH MAY RESULT FROM FIRE, BLOWOUT, CRATERING, SEEPAGE OR ANY OTHER UNCONTROLLED FLOW OF OIL, GAS, WATER OR OTHER SUBSTANCE, AS WELL AS THE USE OR DISPOSITION OF OIL EMULSION, OIL BASE OR CHEMICALLY TREATED DRILLING FLUIDS, CONTAMINATED CUTTINGS OR CAVINGS, LOST CIRCULATION AND FISH RECOVERY MATERIALS AND FLUIDS, **REGARDLESS OF FAULT.**

(g) **WILD WELL RESPONSIBILITY.** BUYER SHALL BE LIABLE FOR AND INDEMNIFY, DEFEND AND HOLD HARMLESS SELLER GROUP FOR ANY DAMAGES, EXPENSES, LOSSES, FINES, PENALTIES, COSTS, EXPERT FEES AND ATTORNEYS' FEES ARISING OUT OF A FIRE, BLOW OUT, CRATERING, SEEPAGE OR WILD WELL, INCLUDING REGAINING CONTROL THEREOF, DEBRIS REMOVAL **REGARDLESS OF FAULT.**

(h) **UNDERGROUND RESPONSIBILITY.** BUYER SHALL RELEASE SELLER GROUP OF ANY LIABILITY FOR, AND SHALL PROTECT, DEFEND AND INDEMNIFY SELLER GROUP FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITY AND EXPENSES RESULTING FROM OPERATIONS RELATED TO THE WORK UNDER THIS AGREEMENT ON ACCOUNT OF INJURY TO, DESTRUCTION OF, OR LOSS OR IMPAIRMENT OF ANY PROPERTY RIGHT IN OR TO OIL, GAS OR OTHER MINERAL SUBSTANCE OR WATER, IF AT THE TIME OF THE ACT OR OMISSION CAUSING SUCH INJURY, DESTRUCTION, LOSS OR IMPAIRMENT SAID SUBSTANCE HAS NOT BEEN REDUCED TO PHYSICAL POSSESSION ABOVE THE SURFACE OF THE EARTH, AND FOR ANY LOSS OR DAMAGE TO ANY FORMATION, STRATA, OR RESERVOIR BENEATH THE SURFACE OF THE EARTH, **REGARDLESS OF FAULT.**

(i) **THIRD PARTY RESPONSIBILITY.** IF BUYER IS SUPPLYING SELLER'S PRODUCTS OR SERVICES TO A THIRD PARTY, BUYER SHALL PROVIDE THESE TERMS AND CONDITIONS TO THE THIRD PARTY AND REQUIRE THE THIRD PARTY TO AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS. IF BUYER DOES NOT OBTAIN THIS AGREEMENT, BUYER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS SELLER GROUP FROM AND AGAINST ANY AND ALL CLAIMS AND LOSSES (AS DEFINED IN (d) ABOVE), WHICH SELLER GROUP MAY INCUR AS A RESULT OF BUYER'S FAILURE TO TRANSMIT THE TERMS AND CONDITIONS OR OBTAIN SUCH AGREEMENT, **REGARDLESS OF FAULT**

(j) **Operation of Law.** It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation in this paragraph, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

(k) **Enforceability.** The foregoing indemnities set forth in this Agreement are intended to be enforceable against the parties hereto in accordance with the express terms and scope hereof notwithstanding Texas' Express Negligence Rule or any similar directive that would prohibit or otherwise limit indemnities because of the negligence (whether sole, concurrent, active or passive) or other fault or strict liability of Seller or Buyer.

(l) This Article shall survive the termination of the Agreement for any reason.

14. Insurance. Buyer agrees to maintain comprehensive general liability insurance in the amount of \$1,000,000 each occurrence, \$2,000,000 general aggregate, and Workers Compensation insurance per statutory requirements providing coverage for the indemnity obligations in this Agreement. Such insurance shall be endorsed to provide (i) it is primary to the Seller Group's (as defined in Section 13(d)) insurance and (ii) it waives subrogation against the Seller Group. The insurance to be provided by Buyer shall be endorsed to name Seller Group as an additional insured (except employers' liability and worker's compensation).



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15. Change by Seller.

(a) Seller expressly reserves the right to (i) change or modify the design and construction of any of its Products without obligation to furnish or install such change or modification on Products previously sold and (ii) make substitutions and modifications to its product or services, so long as the changes do not adversely affect the performance of those items.

(b) Seller reserves the right to discontinue models or change specifications at any time without notice. No discontinuance or change will create any liability on the part of Seller in respect to (i) its Products in the hands of Seller; (ii) or Products on order not incorporating such changes even though delivered after such change.

16. Safety Requirements. The Buyer assumes all liability for the installation and operations of such Products and should provide suitable guarding, employee training and otherwise comply with all applicable safety codes.

17. Patents.

(a) Seller agrees to indemnify and hold harmless Buyer from and against all claims, suits, and costs of patent infringement related to Products or services provided by Seller, expressly subject to the following conditions: (i) Buyer must promptly notify Seller in writing upon receipt of any claim for infringement or service of any suit for infringement, (ii) Buyer must make no admission of liability and must unconditionally afford Seller the opportunity, at Seller's sole option and expense, to answer such claim or suit, assume control of the defense, and settle, compromise, or try such matter as Seller sees fit, (iii) Buyer must provide Seller with full disclosure and assistance that may reasonably be required to defend and claim or suit.

(b) This indemnity shall not apply to (i) any product not manufactured by Seller, (ii) any product specially made, in whole or in part, to Buyer's design specifications, (iii) any Products used in combination with other goods, equipment or materials in such a manner that the combination (and not the product manufactured by Seller) is the basis for the claim of infringement, (iv) any product for which Seller has offered an update or change, which would prevent the claim or suit, and (v) any product that has been altered, modified, or revised by Buyer.

(c) Seller's liability under this indemnity shall not exceed the amount received by Seller for such product or services claimed to be infringing.

(d) Seller may, at its option, (i) procure for Buyer the right to continue using the product or service, (ii) modify or replace it in whole or in part to avoid infringement, or (iii) take back the product or discontinue service and refund any fees received by Seller for the infringing product or services.

(e) This indemnity is in lieu of any other warranty or indemnity, express or implied, with respect to infringement and states Seller's entire liability for indemnification for patent, trademark, copyright, and trade secret infringement for Products and services.

(f) The sale of any Products hereunder does not convey any license by implication, estoppel or otherwise covering combinations of the Products with other equipment data or programs. Seller retains the copyright in all documents, catalogs and plans supplied to Buyer pursuant to or ancillary to the contract. Unless otherwise agreed in writing, Buyer shall obtain no interest in any tooling used in the production of any Seller product.

18. Intellectual Property.

(a) The Buyer shall not have any right of use, other than for the purposes of the Agreement, whether directly or indirectly, of any patent, copyright, proprietary right or confidential know how, trademark or process provided by the Seller Group (whether or not owned by the Seller Group or a third party) in relation to the Agreement and the intellectual property rights in such shall remain with the party being the owner of such patent, copyright, proprietary right or confidential know how, trademark or process.

(b) All patent rights, copyrights, trademarks, design rights, database rights or other intellectual or industrial or proprietary rights of whatever nature (in any part of the world) and all rights to apply for any of the foregoing, in all inventions, designs, drawings, logos, equipment, know-how, data or other materials (of whatever nature) created or generated by or on behalf of the Seller whether solely or jointly with the Buyer in the course of or otherwise in connection with the performance of the Agreement (the "IPR") shall vest in the Seller. For the avoidance of doubt, in the cases of deliveries of Products manufactures to Buyer's specifications, "IPR" includes all tools, models, plans, blueprints and other devices and/or documents used and/or developed by Seller in order to fill any order are and remain the property of the Seller, even if the cost of development and/or manufacturing of such items was wholly or partially borne by the Buyer.

(c) The Buyer hereby assigns and, insofar as it is not competent for the Buyer currently to assign, hereby undertakes and agrees to assign, any and all such IPR to the Seller. The Buyer shall promptly do all such things as the Seller may require and execute all documentation on such terms as the Seller may require in order to enable the Seller or its nominee to obtain, defend and enforce such IPR.

(d) The Buyer hereby waives any and all moral rights (and/or equivalent or similar rights the Buyer may have in any jurisdiction insofar as it is competent for the Buyer to do so) in the IPR.

(e) The Buyer shall not (and shall procure that its officers, employees and contractors shall not) do or omit to do any act or thing which constitutes an infringement of any patent rights, copyrights, trade marks, design rights or other intellectual, industrial or proprietary rights (in any part of the world) vested in the Seller or any such right which is vested in any third party and licensed to the Seller.

(f) The Buyer shall save, indemnify, defend and hold harmless the Seller Group from any and all Claims for, or arising out of, any alleged infringement of any patent or proprietary or protected right arising out of or in connection with the performance of the obligations of the Buyer under the Agreement or the use by Seller of technical information or materials or equipment supplied by the Buyer.

(g) Notwithstanding Section 18(a) above, the Buyer hereby appoints the Seller as the Buyer's attorney in the Buyer's name and on the Buyer's behalf to execute and deliver any instrument or thing and generally to use the Buyer's name for the purpose of giving to the Seller the full benefit of the provisions of this Section 18 but for no other purpose whatsoever.

(h) This Section shall survive the termination of the Agreement for any reason.

19. Confidentiality. Information regarding Seller's services, equipment, Products, and materials will be held by Buyer in confidence, and may be released to others only upon written approval of Seller or when required by law. Buyer shall not (and shall procure that any member of Buyer Group shall not) disclose any information of a confidential or commercially sensitive nature relating to the Seller Group or their respective businesses, technology or other affairs to any third party (or any officer or employee or contractor of the Buyer except to the extent that such officer or employee or contractor requires knowledge of the same for the proper performance of the Agreement) or use any such information for any purpose other than the proper performance of the Agreement. The Buyer shall, if so required by the Seller at any time, promptly return to the Seller all copies of any such information which may be in the Buyer's or its officers' or employees' or contractors' possession or under their control. This Section shall not apply to information which is, or becomes, through no fault of the Buyer Group, part of the public domain or to any disclosure which the Buyer is required by law to make. This Section shall survive the termination of the Agreement for any reason.

20. Non-Solicitation.

(a) During the term of the Agreement and for a period of six (6) months following its expiry or termination (howsoever terminated), the Buyer shall not (and shall ensure that no member of the Buyer Group), without the Seller's prior written consent, directly or indirectly solicit, interfere with or endeavor to entice away from the Seller (or any operator or member of the Seller Group) or induce or cause a third party to induce any employee of the Seller (or any operator or member of the Seller Group) with whom the Buyer (or a member of the Buyer Group) has had contact in connection with the Agreement to enter into an agreement for services or an agreement of employment with any member of the Buyer Group, or any third party.

(b) Notwithstanding Section 20 (a) (and without limiting any other rights of the Seller under the Agreement), the Parties agree that if the Buyer (or a member of the Buyer Group) acts in breach of Section 20 (a) then the Buyer shall pay to the Seller a fee equal to one-hundred percent (100%) of the relevant individual's annualized remuneration at the date such individual leaves the employment of the Seller or relevant member of the Seller Group to compensate Seller for its considerable investment of time, effort and money to train and maintain such individual.



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21. Liens. Buyer grants Seller a purchase money security interest in the Products for any portion of the purchase price not paid at delivery and Seller shall retain this interest until Seller has been paid in full.

22. Choice of Law and Jurisdiction. This Agreement (including all schedules, exhibits, attachments and Purchase Orders), and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, are governed by and construed in accordance with, the laws of the State of Texas (including its statute of limitations), excluding any choice of law rules or principles which would refer the matter to the laws of another jurisdiction, and shall be performable in Harris County Texas. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. **IN CONNECTION WITH ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT (INCLUDING ALL SCHEDULES, EXHIBITS, ATTACHMENTS OR PURCHASE ORDERS), WHETHER SOUNDING IN CONTRACT, TORT, OR STATUTE, EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF—AND AGREES TO BRING ANY ACTION, LITIGATION, OR PROCEEDING ONLY IN—THE COURTS OF THE STATE OF TEXAS IN HARRIS COUNTY, TEXAS AND THE FEDERAL COURTS IN AND FOR THE SOUTHERN DISTRICT OF TEXAS SITTING IN HOUSTON, TEXAS.**

23. Export Laws. It is the Buyer's responsibility to comply with applicable export control regulations and comply with any restrictions in the Seller's export license for Products shipped from and to the United States and/or United Kingdom. The Buyer shall be responsible for and shall save, indemnify, defend and hold harmless the Seller from and against all Claims in connection with any failure by the Buyer to comply with applicable export control regulations or the Seller's export license arising from, relating to or in connection with this Agreement. The Buyer represents that it is knowledgeable and has expertise regarding all export control laws, regulations, procedures, international sanctions, embargoes and restrictions, prohibited party lists and international shipping practices applicable to the Seller, including but not limited to the laws of the United Kingdom and the laws of the United States of America ("Export Controls"), and confirms its obligations to the Seller to monitor and screen all customers, suppliers, subcontractors and other parties and entities, including banks and vessels, which the Buyer interfaces with, selects, or uses in connection with the Agreement for compliance with the requirements of all Export Controls. The Buyer shall promptly alert the Seller to any violations or suspected violations of Export Controls and shall obtain all necessary licenses, permits, forms and applications required pursuant to Export Controls. The Buyer further represents that it is not currently aware of and shall continually monitor any transactions it or its customers, suppliers or subcontractors are involved in for possible violations of Export Controls and shall report any questionable transactions or suspicious circumstances immediately to the Seller insofar as they relate to this Agreement. The Buyer agrees to keep records of its export control related activities for a period of five (5) years and records pertaining to export licenses, re-export licenses, and project licenses for a period of five (5) years from the expiration date of such license. The Buyer shall make such records available to the Seller upon request for inspection and copying.

24. Rental Equipment & Seller's Products.

(a) **Rental Equipment.** Daily rental rates shall be as shown in Seller's daily rental schedule. Minimum rental charges will apply to all basic accessories and extra equipment. Rental charges commence when the leased Products leave Seller's premises and continue until the leased Products are returned to the same premises. Buyer agrees to pay Seller additional charges for the purpose of restoring the leased to their condition prior to rental. When Seller must acquire special rental Products from other sources, Seller will, at its option, either pass on such rental charges to Buyer or else charge Buyer 20% of the retail price for the first day and 10% of the retail price for each day or portion of a day thereafter.

(b) **Special Tooling.** Notwithstanding any tool, die or pattern charges or amortization in connection herewith, all special tooling and related items shall be and remain the property of Seller.

(c) **Lost Products.** If rental equipment is lost or damaged beyond repair (as determined in Seller's sole's discretion), Buyer shall pay Seller the Seller's U.S. list sales price for such equipment; if repaired, Buyer shall pay all costs of repair, including shipping charges. Upon payment of list price, Buyer's rental payment shall cease. If Buyer has agreed to daily rental, Buyer shall pay the rental payment until repairs are complete. If leased for a term as stated in the quote, Buyer shall pay rental for the term. If Seller is unable to recover Seller's Products used in servicing Buyer's operations, then Buyer agrees to pay Seller the regular price for such lost Products, in addition to any rental charges accrued to the time of loss.

(d) Equipment leased and installed hereunder, and conditions in and about the installation and the well are at all times subject to the control and supervision of the Buyer and are not subject to inspection or correction by Seller. It is therefore agreed that: (i) Seller warrants only that equipment leased hereunder shall be free from defect in materials and workmanship. Liability under this warranty is limited to replacement or repair of defective equipment at the sole option of Seller. (ii) Equipment leased thereunder shall be used solely by Buyer and at risk of Buyer. (iii) Buyer will hold Seller harmless from any liability or claim thereof for any damage to person or property arising out of or in connection with the installation. Use or non-use or equipment leased hereunder. (iv) Any recommendations or advice given by Seller on the installation or use of Seller equipment is advisory only and may be accepted or rejected at the sole discretion of the Buyer, and Buyer expressly agrees to hold Seller harmless from any injury or damage associated with any such recommendations or advice.

(e) **Title.** Title to equipment leased hereunder shall at all times remain in Seller's possession. Seller's equipment is not to be repaired or modified without Seller's consent.

(f) Should Buyer fail to perform any of its undertakings hereunder or should it become insolvent, make an assignment for the benefit or creditors be adjudicated or bankrupt, should a receiver of its assets be appointed or should the property leased hereunder be seized on any execution or attachment, Seller may, at its option forthwith take possession of the leased property wherever found without notices and with or without legal process, and without prejudice to any of its rights hereunder or any other available remedy.

(g) The provisions contained in other sections of these Terms and Conditions shall apply to rental Products and Seller's Products, where appropriate.

25. General Clauses.

(a) **Independent Contractor.** Seller is an independent contractor and not an employee, agent, joint venturer, or partner of Buyer.

(b) **Assignment.** These Terms and Conditions and applicable work order shall not be assigned by Buyer without the prior written consent of Seller.

(c) **Notices.** Any notices required by this Agreement shall be considered given when received by the other party.

(d) **Waiver.** Any delay or failure to enforce any of these Terms and Conditions shall not bar any subsequent enforcement of the Terms and Conditions or be deemed a waiver of any subsequent breach.

(e) **Severability.** All parts of these Terms and Conditions are severable. The invalidity of any part shall not affect the validity of any other part. If any Section is determined to be unenforceable, the remaining Terms and Conditions shall be enforced to the maximum extent permissible.

(f) **Entire Agreement.** This is the entire Agreement of the parties and supersedes all prior oral or written agreements. Buyer acknowledges that it has not relied on any representations other than those in this Agreement. There are no understandings or agreements which are not expressed herein. This document, together with any additional writings signed by Seller, represents a final, complete and exclusive statement of the Agreement between the parties and may not be modified, supplemented, explained or waived by parole evidence, Buyer's purchase order, a course of dealing, Seller's performance or delivery or in any other way except in writing signed by an authorized representative of Seller. These terms are intended to cover all activity of Seller and Buyer hereunder, including sales and use of Products and parts thereof. Any references by Seller to Buyer's specifications and similar requirements are only to describe the product and work covered hereby, and no warranties or other terms therein shall have any force or effect. Catalogs, circulars and similar pamphlets of the Seller are issued for general information purposes only and shall not be deemed to modify the provisions hereof.

(g) **Conspicuousness.** SELLER AND BUYER EXPRESSLY AGREE THAT, TO THE EXTENT REQUIRED BY APPLICABLE LAW TO BE EFFECTIVE, THE INDEMNITIES AND DISCLAIMERS OF WARRANTIES CONTAINED HEREIN ARE "CONSPICUOUS."

26. Anti-Corruption. Buyer agrees to comply with the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"), U.K. Bribery Act 2010 ("UKBA"), U.K. Criminal Finances Act 2017 ("UKCFA") and all other anti-corruption and/or anti-bribery laws applicable in the jurisdiction in which Buyer is purchasing or using the



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goods sold by Seller. Buyer hereby declares that it has read and understood the provisions of the FCPA, UKBA, UKCFA and, on that basis, it further represents and covenants that neither it nor any of its employees or agents have taken or will take any action to cause Buyer to be in violation of any of these. Specifically, Buyer hereby certifies that it has not paid, nor offered or agreed to pay, nor has caused to be paid, or offered or agreed to be paid, directly or indirectly, in respect of this Agreement, any political contributions, fees or commissions to any public or governmental employee or official anywhere for the purpose of influencing such official's act or decision to provide business to Buyer or Seller nor has it facilitated the evasion of any taxation by another party. Buyer hereby agrees to indemnify and hold Seller harmless from any and all claims, demands, or damages incurred by Seller arising from Buyer's failure to comply with this section and governmental regulations and requirements.