

# INTERNATIONAL DRILLING SERVICES LIMITED

## TERMS AND CONDITIONS OF SALE

### IMPORTANT: CONDITIONS 7, 13 AND 14 PROVIDE THAT CERTAIN RISKS ARE BORNE BY THE BUYER AND MAY AFFECT HIS INSURANCE ARRANGEMENTS

1. **DEFINITIONS:** "the contract" means the agreement between International Drilling Services Limited" (hereinafter referred to as) "the company" and the customer for the supply of goods or services; "the Buyer" means the purchaser of the goods or services; "the goods or services" means the subject matter of the contract; "the price" means the price of the goods or services and/or any other payment contracted to be made by the Buyer to the company.
2. **GENERAL:** The contract is entered into and all quotations are given subject to these conditions which may only be varied or waived by written agreement between the company and the Buyer. No contract shall be made until the company has accepted in writing an order placed by the Buyer. If these conditions differ from those of any offer made or order placed by the Buyer, any subsequent communication by the company constitutes a counter-offer and not acceptance of such terms. Any company quotation is not intended as a formal offer and may be varied or withdrawn without notice.
3. **DESCRIPTIONS:** All photographs, drawings, descriptions and details in the company catalogues, price lists and/or other documents are only indicative of a type of product or service and do not constitute warranties, conditions or representations. No report, representation, advice, communication or statement made by a representative of the company shall be binding unless expressly contained herein. The company reserves the right to incorporate improvements in the general development of its products or services and to make and charge for mandatory modifications to the same.
4. **PRICE**
  - 4.1 Unless otherwise agreed in writing, all prices quoted are nett, ex-works, trade packed and apply only in relation to the services, total quantities, dates and rates of delivery quoted. All prices are subject to the addition of all other duties and taxes (including where applicable Value Added Tax at the rate ruling at the relevant tax point).
  - 4.2 The invoiced amount may be adjusted to take account of increases in costs of components or equipment not manufactured by the company, services not performed by the company, raw materials, general commodities freight or insurance, rates of currency exchange, duties, taxes or surcharges or improvements or mandatory modifications made under clause 3 above.
5. **PAYMENT:** Unless otherwise agreed in writing, all payments shall be made, in full without deductions or withholding, in cash in pounds sterling by the end of the month following the month of the date of invoice and free of setoff, or counterclaim. Failure by the Buyer to make payment in accordance with the terms agreed, shall without prejudice to any other remedies the company may have, render the Buyer liable to pay interest upon the total sums outstanding calculated at the rate of 3% above Barclays Bank Plc base rate from time to time in force calculated from the date of delivery, such interest accruing on a daily basis and being payable on demand. Time for payment is of the essence of the contract.
6. **DELIVERY**
  - 6.1 Unless otherwise agreed and stated in writing, all deliveries shall be made ex-works and shall be deemed to have been effected when the company has notified the Buyer the goods are ready for collection.
  - 6.2 Any periods quoted for delivery or despatch are estimates only and the company shall not be liable for failure to meet such periods (whether due to their negligence or otherwise) nor shall the Buyer be entitled to reject any consignment of the goods or services or to treat the contract as repudiated in the event of any such failure.
  - 6.3 Delivery of the goods to a carrier for transmission to the Buyer or the delivery of goods to the stipulated place of delivery shall constitute delivery to the Buyer and risk therein shall upon such delivery pass to the Buyer. Section 32(2) and (3) of the Sale of Goods Act 1979 shall not apply.
  - 6.4 The company shall be entitled to make partial deliveries or deliveries by instalments and these conditions shall apply to each partial delivery.
  - 6.5 Where the goods are ready but cannot be despatched for any reason beyond the control of the company or though the fault or delay of the Buyer, the company shall be entitled to make a reasonable charge in respect of insurance and storage of the goods.
7. **PROPERTY AND RISK**
  - 7.1 The Property in the goods or services shall remain in the company until it has received payment in full for the same. Risk in the goods or services shall pass to the Buyer on delivery.
  - 7.2 Whilst property in the goods or services remains in the company, it shall have the right, without prejudice to the obligations of the Buyer to purchase the goods or services, to re-take possession of the same (and for that purpose go upon any premises occupied by the Buyer). If so required by the company, the Buyer shall insure, mark and store the goods identifying them as the property of the company.
  - 7.3 The company shall have the right to maintain an action for the price notwithstanding that property in the goods may not have been passed to the Buyer.
8. **TRANSIT:** Claims for damages to goods occurring in transit or for shortage in delivery of goods received from carriers will be considered by the company if the carriers and the company receive written notification of such damage or shortage within seven days of arrival or in the event of loss of goods in transit, within 21 days of the date of the consignment. Where delivery is taken of goods without being checked they will be deemed to have been accepted by the Buyer unless the carrier's delivery book is signed "Not Examined".
9. **INSPECTIONS**
  - 9.1 Unless otherwise agreed in writing the company will carry out such tests and inspection as it usually carries out on such goods or services. Any additional tests or inspection required by the Buyer will be to the Buyers account.
  - 9.2 The goods shall be manufactured and released in accordance with the relevant requirements of such public or responsible body or bodies in the United Kingdom to whose jurisdiction, control or regulation the goods may from time to time be subject and in addition such of the goods as are manufactured by the company shall be inspected and released under its own system of inspection as approved by any such body as above and such inspection and release shall constitute acceptance by the Buyer of all the goods.
10. **INTELLECTUAL PROPERTY RIGHTS (IPR)**
  - 10.1 The Buyer shall indemnify the company against any claim alleging infringement of trade marks, trade names, patents, copyrights, registered designs or any other IPR which arises as a result of the company's compliance with the Buyer's specifications, designs and instructions.
  - 10.2
    - (i) They Buyer shall notify the company forthwith of any claim that the sale or use of the goods or services supplied by the company infringes any IPR and give authority, information and every reasonable assistance to the company for the defence of any such claim and shall not itself admit, handle, deal with or compromise any such claim except with the written consent of the company;
    - (ii) They buyer shall comply with all instructions of the company and all legislation in relation to the sale, processing, storage and use of the goods or services supplied. The company may without liability cancel or suspend any supply services, delivery or manufacture of any goods, which have become the subject of a claim by a third party alleging infringement of any IPR.
  - 10.3 The contract does not grant the Buyer or any other third party any licence, express or implied, under any IPR of the company for goods or services or any product, process, design or machine of which the goods or services form part, nor does the sale of the goods or services supply of supporting information imply the goods or services do not infringe a third party's IPR.

11. **COPYRIGHT:** Copyright in the goods or services and copyright and property in all drawings, descriptions, specifications and other documents supplied by the company to the Buyer shall remain in the company.
12. **WARRANTY:** The company will at its option either replace or repair or issue credit for the price to the Buyer for any goods or services found to be defective by the sole reason of faulty materials or poor workmanship (fair wear and tear excluded) within 6 months from the date of delivery or within 10 hours of use (whichever shall first expire) provided that:
- (i) The company is notified in writing within 7 days of the discovery of any such defects by the Buyer and the defective goods are returned to the company within 30 days of that date or an agreed period for overseas clients, transportation charges being prepaid by the Buyer;
  - (ii) examination by the company of such goods shall establish to its satisfaction that such defects exist and have not been caused by misuse, neglect, improper installation or repair, alteration, accident or improper storage;
  - (iii) this warranty shall not extend to any products or parts thereof not manufactured by the company. In the case of products not so manufactured, the company will as far as possible pass to the Buyer the benefit of any warranty or guarantee to the company by the manufacturers.
- 12.2 In the case of a consumer transaction as defined in the Consumer Transactions (Restrictions on Statements) Order 1976 (as amended) this condition shall not affect the statutory rights of the Buyer.
13. **EXCLUSION OF LIABILITY**
- 13.1 Save as expressly provided in clause 12 above, the company shall be under no liability (including liability for indirect or consequential loss or damage) of whatsoever kind, howsoever caused, whether or not due to the negligence or wilful default of the company or its servants or agents arising out of or in connection with the goods or services provided. All conditions, warranties or other terms express, implied, statutory or otherwise are hereby excluded.
- 13.2 If paragraph 13.1 above is held to be wholly or partially ineffective in relation to any claim, the Buyer shall not be entitled to reject the goods or services and any damages recovered by the Buyer shall be limited to the price or if lower to the reasonable cost of remedying the breach of duty, provided that the company shall be first afforded the opportunity to carry out such remedial work itself.
- 13.3 Except where the contract is an international supply contract within section 26 of the Unfair Contract Act 1977 ("the Act") nothing contained in this condition shall exclude or restrict:
- (i) any liability of the company for death or personal injury (as defined in the Act) resulting from negligence (as defined in the Act)
  - (ii) any liability of the company for breach of the implied undertakings as to title contained in section 12 of the Sales of the Goods Act 1979; and
  - (iii) where the Buyer deals as a consumer within the meaning of the Act, any liability of the company for breach of its implied undertakings as to conformity of the goods with description or sample or as to their quality or fitness for a particular purpose contained in sections 13, 14 and 15 of the Sale of Goods Act 1979.
14. **FORCE MAJEURE**
- 14.1 The company shall not be liable for delay in performance or for non-performance in whole or in part of its obligations under the contract directly or indirectly resulting from causes beyond control either of the company or its suppliers including, but not limited by, reference to, Acts of God, acts of the Buyer or a third party, hostilities, embargoes, sabotage, civil disturbance, Government regulations, strikes, lockouts or other industrial action, illness, flood, fire, impact, explosion, adverse weather, delay in delivery to the company or its supplier or shortages of any services, products or materials.
- 14.2 In any such event the company may without liability vary the terms of the contract including, but not limited to, extending the time for performance of the contract. If the contract is frustrated or cancelled, the company shall be entitled to such reasonable remuneration as it may specify.
15. **BREACH AND FINANCIAL CONDITIONS**
- 15.1 If any of the Buyers obligations to the company under any contract are not fulfilled or, if the Buyer's financial condition at any time does not in the company's unfettered judgement justify continuance of the contract on the terms of payment specified, the company may, without prejudice to any other rights it may have, by notice in writing cancel any outstanding order or suspend any deliveries of, or work on, any of the goods or services, unless the Buyer makes payment as the company may require.
- 15.2 In addition to any rights of lien to which the company may by law be entitled, whilst any amount remains due to it from the Buyer, the company shall be entitled to a general lien for such amount on all property of the Buyer in the company's possession (whether paid for by the Buyer or not).
16. **HEALTH AND SAFETY AT WORK ETC., ACT 1974**
- 16.1 If the goods are articles for use at work within the meaning of Health and Safety at Work etc. Act 1974 the Buyer hereby agrees that he is responsible for taking all necessary steps to ensure that the goods are safe and without risks to health when properly used including:
- (i) regularly and properly testing, inspecting and maintaining, properly installing, storing and housing the goods;
  - (ii) disseminating adequate detailed information regarding their safe and proper use to the persons using the goods, and ensuring that the goods are adequately manned, and the Buyer's order for the goods shall be deemed to be its written undertaking therefore pursuant to the said Act.
17. **BUYERS PROPERTY:** Any property of the Buyer received by the company, whether for incorporation in goods or services of the company or for repair or otherwise, will be held by the company at the Buyer's risk as regards to loss or damage howsoever arising (whether due to the company's negligence or otherwise).
18. **PROPER LAW AND JURISDICTION:** The contract shall be governed by the construed in accordance with English Law and the Courts of England shall have non-exclusive jurisdiction to hear all disputes arising in connection with the contract.
19. **CONFIDENTIALITY:** Any information or data given in confidence or any confidential drawings or other general commercial intelligence which may be received by the Buyer or any representative of the Buyer shall not be divulged to any third party and may be used by the Buyer only in connection with the goods or services supplied and not in any other connection whatsoever. In the event that the Buyer or any such representative so divulge any such drawings, data, information or intelligence to the detriment of the company, the Buyer shall indemnify the company in full against all costs, expenses, damage or loss directly or indirectly occasioned thereby.
20. **EXPORTS:** In the case of the export contracts the following additional conditions shall apply.
- 20.1 It is hereby declared and agreed that the Uniforms Laws on International Sales Acts 1967 and any statutory modification or enactment thereof shall not apply.
- 20.2 The company shall not be taken as indemnifying the Buyer or as being liable for IPR infringement where the goods or services are sold or used outside of the UK or their usual function.