

## Art. 1 Definitions

**Contract** means the contract between Company and Supplier for the sale and purchase of the Supply, formed by the terms set out in the Purchase Order and the General Terms and Conditions of Purchase set out herein.

**Company** means the company named as such in the Purchase Order.

**Consequential Loss** means:

- a. consequential or indirect loss under applicable law; and
- b. loss and/or deferral of production, loss of product, loss of use, loss of revenue, profit or anticipated profit (if any), in each case whether direct or indirect to the extent that these are not included in a. above;

and whether or not foreseeable at the time of entering into the Contract.

**Delivery Date** means the delivery date for the Supply specified on the Purchase Order or as otherwise agreed in writing between the parties.

**Force Majeure** means any event outside the control of the party affected (other than shortage or lack of money), provided that such party could not reasonably have foreseen the event at the time of entering into the Contract and could not reasonably have avoided or overcome it or its consequences.

**Guarantee Period** means a period of eighteen (18) months after the Supply has been taken into use by Company for its intended purpose, or a period of twenty four (24) months after Company has accepted delivery of the Supply, whichever is shorter.

**Purchase Order** means the Purchase Order Form and any documents described or referenced therein.

**Purchase Price** means the total compensation payable to Supplier for the Supply as specified in the Purchase Order, as the same may be varied in accordance with the Contract.

**Services** means the services (if any) described in the Purchase Order.

**Supplier** means the company or person named as such in the Purchase Order.

**Supply** means all items to be supplied by Supplier under the Contract, complete with any required drawings, certificates and other documentation.

**Variation Order** means a written order issued by Company in accordance with Article 6.

**Work** means all work which Supplier shall perform or cause to be performed in accordance with the Purchase Order.

## Art. 2 Acceptance and Modification

The Contract shall become binding between Company and Supplier upon Supplier's commencement of performance of the Purchase Order and shall constitute the entire agreement between Supplier and Company. The Contract shall have precedence over any conditions appearing on any acceptance form or other document issued by Supplier and such Supplier's conditions shall have no effect whatsoever except insofar as they confirm the Contract. No variation or amendment

to the Contract shall be binding unless agreed in writing by the authorised representatives of Company and Supplier.

**Art. 3 Delivery**

- a. the Supply shall be delivered to the address indicated on the Purchase Order;
- b. the Supply shall be delivered on or by the Delivery Date;
- c. any and all costs of transportation, delivery and insurance of the Supply whilst in transit shall be borne by Supplier;
- d. the Supply shall be labelled with the Purchase Order number, item number, manufacturer's part number, and brief description;
- e. the Supply shall be delivered under cover of a packing list showing the Purchase Order number and details of the Supply;
- f. all corrodible parts are to be protected before packing;
- g. where the Supply is ordered to a particular specification or code, appropriate documentation shall be supplied to evidence adherence to such specification or code.

**Art. 4 Representatives of the Parties**

Each of the parties shall in writing nominate a representative who shall be authorised to act on behalf of that party in all matters concerning the Purchase Order. Each of the parties may substitute a representative by notifying the other party in writing.

Supplier shall, during working hours, afford Company's representative access to the Work and any site where the Work is performed.

**Art. 5 Performance of the Work**

Art. 5.1 Supplier shall perform the Work in a professional and careful manner. As part of such performance Supplier shall:

- a. search for defects, discrepancies and inconsistencies ("errors") in the documents (if any) received from Company as the basis for the Work. Supplier shall without undue delay notify Company of any such "errors" discovered and initiate corrective action. Supplier shall be liable for any costs which arise from such "errors" that it should have discovered;
- b. keep itself informed of and comply with:
  - applicable laws and regulations
  - requirements and orders of classification societies and public authorities
  - current trade union and wage agreements
  - Company's guidelines including all requirements relating to health, environment, safety and quality when performing Work at Company's premises;
- c. actively contribute to the transfer of experience throughout the performance of the Work;
- d. ensure that tax deductions, duties and other payments are made in accordance with legislation and associated regulations;
- e. plan and execute his activities in such a manner that the Work is performed without loss of life, injury, or damage to property or the environment;
- f. obtain any necessary approvals and permits that are required for the Work;
- g. upon completion of the Work, return all items which Supplier has received from Company;
- h. ensure that its personnel are in possession of a all necessary training certificates. Personnel without such certificates may not be allowed access to Company's offshore premises;
- i. complete and promptly give to Company any forms, returns or other documentation in relation to the Work as may be required under applicable laws and regulations or as may be reasonably requested by Company.

- Art. 5.2 Supplier shall, upon Company's request, submit copies of or give access to personnel résumés and training and competency records for all personnel who will be performing the Work. Company reserves the right to approve such personnel and to have replaced immediately without cost to Company personnel who, in Company's opinion, fail to perform satisfactorily in the work situation, or fail to attain a satisfactory standard in executing the Work. Supplier shall not replace approved personnel without Company's prior approval in writing. Where tools and equipment are to be sent offshore to a Company installation or a Company shore base facility to perform Work, Supplier shall submit or give access to, certification and service records for all tools and equipment to be used to perform the Work. Company reserves the right to have replaced immediately without cost to Company any tools and equipment which do not have appropriate certification or service records.
- Art. 5.3 Supplier shall not subcontract all or any parts of the Work without prior approval from Company. Such approval shall not relieve Supplier of its responsibilities and obligations under the Contract. Supplier shall ensure that subcontractors comply with the Supplier's obligations set out in the Contract.
- Art. 5.4 Suppliers shall have established and in force a Quality Assurance System in accordance with ISO 9001/2/3 / ISO 14001 or equivalent applicable to the Supplier's trade. The Supply shall be manufactured in accordance with such system and Company shall have the right to audit the Supplier's compliance with it at any time during the term of the Contract.
- Art. 5.5 Supplier shall perform all inspections and tests described in the Purchase Order and in its Quality Assurance System. Company shall have the right at any time to inspect and test the Supply or any part thereof, and Supplier shall assist in the performance of the inspections and tests and shall furthermore provide samples and related certificates as required.
- Art. 5.6 Company shall also have the right to require Supplier to perform additional tests and inspections in addition to those described in the Purchase Order. The costs of such tests and inspections shall be borne by Company unless the results of the tests show that the Supply does not meet one or more of the requirements of the Contract, in which case the costs shall be borne by Supplier.
- Art. 5.7 Any inspections and tests by Company shall not in any way reduce or otherwise affect the liabilities and obligations of Supplier under the Contract.
- Art. 5.8 Supplier shall, if required, prepare a quality plan, and a health, environment and safety (HES) plan for the performance of the Work. The quality plan shall be prepared in accordance with ISO 9001 / ISO 14001. The HES plan shall be prepared in accordance with requirements given in the Purchase Order.
- Art. 5.9 Supplier shall, within two weeks after receipt of the Purchase Order, issue an Engineering, Procurement and Manufacturing Schedule as applicable. Supplier shall also on a monthly basis, or in a time frame as agreed in writing, issue a progress report detailing the progress of the Supply. This report should, as a minimum, include planned/actual progress, planned/actual costs including manhours, invoiced amount(s) if applicable, activities performed last month, activities planned for next month and a description of any areas of concern and/or challenges.
- Art. 5.10 In the event Supplier should have reason to believe that any part of the Supply may not be delivered within the Delivery Date, it shall immediately notify Company in writing giving necessary details of cause and effect, together with the actions Supplier will take in order to avoid, mitigate or recover the delay. Should Company consider the said actions are not adequate, it shall have the right to require Supplier to take such actions as specified to Supplier in writing which it deems necessary in order to avoid or mitigate the delay. All costs of such measures shall be for Supplier's account unless Supplier can establish that the delay is due to Force Majeure or Company has authorised such costs in writing pursuant to Article 6 hereof.
- Art. 5.11 If the Supply is delayed beyond the Delivery Date, Supplier shall pay to Company liquidated damages according to Article 11 or as otherwise stated in the Purchase Order.
- Art. 5.12 Title to and risk in the Supply shall pass to Company on the date upon which Company accepts delivery. Delivery shall be made in accordance with the Purchase Order, and Company shall take delivery of the Supply if no deficiency is discovered on the preliminary inspections of the Supply being made at the time of delivery.

Art. 5.13 Company shall have the right to reject the Supply if the Supply does not satisfy the requirements of the Contract. Should Company reject the Supply, Company may elect to terminate the Contract pursuant to Article 12.4 or by written notice require Supplier, without delay to take such steps, whether by repairing, replacing or otherwise, as are necessary in order to re-deliver the Supply within such grace period as may be specified by Company.

## **Art. 6 Variations**

Art. 6.1 Company shall have the right to order such variations to the Work as, in Company's opinion, are desirable and which cumulatively do not exceed that which the parties could have reasonably expected when the Purchase Order was entered into. Variations may include an increase or decrease in quantity, character, kind or execution of the Work, or part thereof, as well as changes to the Contract schedule.

Art. 6.2 Supplier shall without undue delay submit a written cost estimate, together with an indication of other consequences that the Variation Order may have for the performance of the Work. The variation work shall not commence until a Variation Order has been issued by Company. Upon receipt of a Variation Order, Supplier shall implement it without undue delay, even if the effect of the Variation Order on the provisions of the Purchase Order has not yet been agreed.

Art. 6.3 Compensation for variation work shall be determined in accordance with the following principles:

- a. By utilising rates for the Work stated in the Purchase Order or as otherwise agreed between the parties;
- b. Where comparable rates have not been determined, compensation shall be agreed between the parties reflecting the general level of pricing in the Purchase Order.

## **Art. 7 Cancellation**

Company may cancel the Purchase Order or parts thereof by giving Supplier written notice with the consequence that the performance of the Work ceases immediately. In such event Company shall pay Supplier for Work performed, together with reasonable documented costs connected with such cancellation.

## **Art. 8 Compensation**

Company shall pay the rates or compensation specified in the Purchase Order. Unless otherwise expressly agreed, all costs which are relevant to the performance of the Work shall be deemed to be included in the agreed rates, and these shall remain fixed for the duration of the Purchase Order. Company shall have the right to audit Supplier's records pertaining to reimbursable charges. The right of audit shall remain valid for a period of three (3) years after the Delivery Date.

## **Art. 9 Invoicing and Payment**

Unless otherwise prescribed in the Purchase Order, the following rules shall apply to invoicing:

- a. Supplier shall invoice Company on a monthly basis for that portion of the Work that has been performed during the preceding month. Claims which are submitted later **than sixty (60) days** after the completion of the Work will not be paid;
- b. The invoice shall be identified by the Purchase Order and Cost Code number and shall contain the documentation required to substantiate the invoiced amount. For reimbursable work, the invoice shall include approved timesheets/man hour reports;
- c. Company shall pay the approved invoice amount within thirty (30) days after receipt of a correct and properly supported invoice;
- d. Company may, by giving written notification, withhold payment of any disputed or undocumented amount.

Payment does not constitute approval of the invoiced Work.

## **Art. 10 Title**

Title to the results of the Work shall pass to Company progressively as the Work is performed. Equipment and materials that are procured or manufactured in connection with the Work are the property of Company, if paid for by Company or when delivered by Supplier to Company, whichever is the earlier. Supplier shall mark such equipment and materials with "Property of Dolphin Drilling" and shall maintain it. Company's equipment and materials shall not be used for purposes other than the performance of the Work without Company's prior written approval.

**Art. 11 Delay on the part of Supplier**

Art. 11.1 Delay occurs when the Work is not performed in accordance with the Contract schedule as stated in the Purchase Order.

Art. 11.2 If the Work is delayed in relation to the completion date for the Work or to specified delivery milestones, Supplier shall pay liquidated damages to Company. The daily liquidated damages shall be 0.35% of the Purchase Order value. Supplier's total liability for liquidated damages under the Purchase Order is limited to 10% of the Purchase Price unless otherwise agreed.

Art. 11.3 Company may, in accordance with Article 13, terminate the Purchase Order in the event that Company is entitled to the maximum amount of liquidated damages.

**Art. 12 Supplier's Defects and Guarantee Liabilities**

Art. 12.1 Supplier guarantees performance of the Work, and that the results of the Work are fit for their intended purpose and application according to the Purchase Order. The Guarantee Period shall commence upon acceptance of delivery or the date of taking into use by Company as specified in Article 1.

Art. 12.2 When Supplier is responsible for a defect, it shall rectify it as soon as possible at its own cost. If Supplier is unable to rectify a defect within reasonable time, then Company is entitled to rectify the defect or to engage a third party to do so. In such case, Supplier shall pay the necessary costs of rectification, provided Company acts in a reasonable manner. In addition, Company may claim damages for defects according to applicable law.

Art. 12.3 Supplier's total liability under this Article shall not exceed the Purchase Price.

Art. 12.4 Company is entitled to terminate the Purchase Order on the basis of any defects, in accordance with Article 5.13.

**Art. 13 Breach of Contract**

In the event that Supplier fails to fulfil its obligations according to the Contract, Company may choose to:

- a. cease all payments until obligations are fulfilled;
- b. terminate the Purchase Order with immediate effect, in the event that Supplier is in substantial breach of its obligations;
- c. claim compensation for losses to Company which are directly related to the breach of Contract. However, Supplier shall not be liable for any Consequential Losses.

**Art. 14 Force Majeure**

- Art. 14.1 Neither of the parties shall be considered to be in breach of an obligation under the Contract, to the extent the party can establish that fulfilment of the obligation has been prevented by Force Majeure.
- Art. 14.2 The party invoking Force Majeure shall, as soon as possible, notify the other party of the Force Majeure situation.
- Art. 14.3 In the case of Force Majeure, each party shall cover its own costs resulting from the Force Majeure situation.
- Art. 14.4 If a Force Majeure situation lasts without interruption for sixty (60) days or more, or it is evident that it will do so, then each party shall have the right to cancel the Purchase Order by written notice to the other party.

**Art. 15 Indemnification and Insurance**

- Art. 15.1 The parties shall indemnify each other against loss of or damage to their own property, injury to or death of their own personnel and their own Consequential Losses arising out of, connected with or relating to the performance of the Work. The parties shall indemnify each other against similar claims from their respective contractors, subcontractors and the employees of such contractors and subcontractors. The provision of this Article 15 shall apply irrespective of any circumstances that might condition either party's liability, including the negligence (in any form) or breach of duty of the indemnified party. Company shall be entitled to extend the indemnities given by Supplier pursuant to this Article 15 to its client(s), including their affiliates and co-venturers (if any), for whose benefit the Work is being performed.
- Art. 15.2 Supplier shall indemnify Company against any claim that might arise from the infringement of patent or other incorporeal rights arising out of, connected with or relating to the performance of the Work. Nevertheless, this does not apply where such infringement is the result of the use of Company's drawings, specifications or deliveries, or a third party's process licence nominated by Company.
- Art. 15.3 Supplier shall indemnify Company against any claim arising from the non-payment or insufficient payment of taxes, duties and all other claims which are based on law and associated regulations.
- Art. 15.4 Supplier shall, at its own cost and for the duration of the Purchase Order, maintain adequate insurance cover in respect of its responsibilities under the Purchase Order. Supplier's insurer shall waive any rights of subrogation against Company. Confirmation of Supplier's insurance shall be submitted to Company on request.

**Art. 16 Inventions and New Technology**

- Art. 16.1 Supplier shall promptly notify Company of any inventions or development of new technology that arise from Supplier's performance of the Work, and which are based on or derived from information:
- a. mainly provided by Company, or
  - b. provided by both parties, but where it is impossible to establish which of the parties has provided the majority of the information.

Any such inventions and/or new technology shall be Company's property.

Supplier shall perform all activities that are necessary in order that Company obtains patents for such inventions and/or new technology. Company shall reimburse Supplier for all reasonable expenses incurred in performing such activities.

- Art. 16.2 Supplier shall immediately notify Company of inventions or new technology which Supplier or his personnel may produce in connection with the Work and which are based on or derived from information mainly provided by Supplier. In such instances Supplier shall allow Company an

irrevocable, royalty-free, and non-exclusive licence to use such inventions or new technology for use in Company's normal operations.

**Art. 17 Confidentiality**

- Art. 17.1 Supplier shall not publish, advertise, or make known in any other manner, information, data or results relating to the Work without Company's prior written approval. This confidentiality obligation also applies in respect of Supplier's personnel who are not engaged in the Work.
- Art. 17.2 During the Purchase Order period, the parties may receive information relating to the other party's plans and business affairs. Each of the parties shall treat such information as confidential, unless written notice has been given to the contrary, or it can be proved that such information has been acquired from a third party who has a legitimate right to distribute such information, or such information is available in the public domain.
- Art. 17.3 Confidential information shall be handled in a secure manner, documentation shall be filed in locked storage and electronically stored information shall be inaccessible to unauthorised personnel. Each party shall notify the other, in writing, of the names of authorised personnel.
- Art. 17.4 Confidential information and all material to which Company has title, shall be kept separately from Supplier's files and data registers to which Supplier's employees have unrestricted access.
- Art. 17.5 Supplier shall incorporate within its subcontracts provisions imposing upon subcontractors similar obligations of confidentiality as apply to Supplier in accordance with this Article 17.
- Art. 17.6 Nevertheless, the provisions of this Article shall not prevent a party from disclosing confidential information to any government authority or regulatory body or stock exchange to the extent required by applicable law. The same applies in respect of a third party to the extent required by applicable law.
- Art. 17.7 The obligations to observe confidentiality set out in this Article 17 shall remain valid for a period of five (5) years after the Purchase Order is completed.

**Art. 18 Notifications**

All notifications, claims and other communications shall be submitted in writing to the relevant party's representative. All correspondence shall be identified with the Purchase Order number.

**Art. 19 Audit**

- Art. 19.1 Company is entitled to undertake audits of all routines and systems associated with the Work and the use of such routines and systems. The right of audit is limited to a period of three (3) years from the date on which the final payment is made. In the case of financial settlements, the entitlement to audit is restricted to those parts of the Work where payment is on a reimbursable basis.
- Art. 19.2 Supplier shall during audits provide reasonable assistance at no cost to Company.
- Art. 19.3 In the event that an error is revealed during an audit, the error shall be rectified without undue delay, irrespective of previous approval, payment, etc.

**Art. 20 Business Ethics**

- Art. 20.1 Supplier shall uphold the highest standards of business ethics in the performance of the Work.
- Art. 20.2 Supplier represents that it has not and shall not, directly or indirectly, be connected in any way with the giving or receiving of any fee, rebate, gift, entertainment or other payment or remuneration of significant value to or from any employee, director or agent of Company or its other contractors,

sub-contractors and suppliers, government officials or any other persons, which could be regarded as an improper inducement in connection with the Contract.

Art. 20.3 Supplier shall promptly notify Company if it becomes aware of any violation of Article 20.2.

#### **Art. 21 General Provisions**

Art. 21.1 The headings used in these General Terms and Conditions of Purchase are intended to be for convenience only and shall not form part of or be used in the construction or interpretation hereof.

Art. 21.2 Words importing the singular only shall also include the plural and vice versa where the context so requires.

Art. 21.3 No failure of either party to enforce all or any part of these General Terms and Conditions of Purchase shall be interpreted as a waiver of all or any part of these General Terms and Conditions of Purchase unless such waiver is expressly given in writing.

Art. 21.4 Any provision of these General Terms and Conditions of Purchase that is now or becomes hereafter prohibited, illegal or unenforceable in any applicable jurisdiction shall be ineffective to the extent of such prohibition, illegality or unenforceability without invalidating the remaining provisions hereof.

Art. 21.5 In the event any act required under these General Terms and Conditions of Purchase is inconsistent with, penalised by or prohibited under the laws of any country having jurisdiction over the Purchase Order and/or either of the parties hereto, the party obligated hereunder to perform such act shall be excused from such performance and these General Terms and Conditions of Purchase construed as if such obligation had not been set forth herein.

Art. 21.6 Subject to the provisions of Article 15, unless otherwise specifically stated in these General Terms and Conditions of Purchase, both Company and Supplier shall retain all rights and remedies under these General Terms and Conditions of Purchase that either party may have against the other. Supplier shall not be relieved from any liability or obligation under these General Terms and Conditions of Purchase by any review, approval, authorisation, acknowledgement or the like by Company.

Art. 21.7 Any exclusion or limitation of liability under these General Terms and Conditions of Purchase shall exclude or limit such liability under contract, in tort or otherwise at law.

#### **Art. 22 Governing Law and Disputes**

Art. 22.1 The Purchase Order shall be governed by and interpreted in accordance with the laws of the country in which the Purchase Order was issued. Any disputes arising in connection with the Purchase Order which cannot be resolved by mutual agreement between the parties shall be settled by court proceedings brought before the courts within the jurisdiction of the country in which the Purchase Order was issued.