



CDS Oil & Gas Services Limited trading as CDS Energy Services (hereinafter "CDS")

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## GENERAL CONDITIONS OF PURCHASE (the "General Conditions")

### 1. CONSTRUCTION OF CONTRACT

- a) In these General Conditions the following definitions shall have the following meanings:

"**Buyer**" means the CDS entity as specified within the Purchase Order;

"**Contract**" means the contract entered into between the Buyer and the Seller for the purchase and sale of the Goods and/or Services, and includes the supply, installation, protection, painting, marking and delivery of the Goods and/or Services;

"**Goods**" means any goods described in the Purchase Order, including any goods supplied in connection with the supply of Services to the Buyer;

"**Intellectual Property Rights**" means patents, utility models, rights to inventions, copyright and related rights, moral rights, trade secret rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, licenses or rights to use intellectual property, legal and contractual rights to use and protect the confidentiality of confidential information (including know-how and trade secrets), semiconductor topography rights, and all other intellectual property rights, in each case whether registered or unregistered;

"**Mandatory Policies**" means the Buyer's Code of Ethics, Code of Conduct and any other Group Policy, as amended by notification to the Seller from time to time;

"**Purchase Order**" means the Buyer's written order and related instruction to supply the Goods and/or, including any technical specifications or other delivery requirements incorporating the General Conditions;

"**Seller**" means the person, firm or company to whom the Purchase Order is addressed and who accepts such Purchase Order subject to these General Conditions; and

"**Services**" means any services described in the Purchase Order and all work carried out by the Seller for the Buyer.

- b) In the event of any conflict between these General Conditions and the provisions in the Purchase Order, the latter shall prevail.
- c) Any phrase introduced by the General Conditions including, "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

### 2. ACCEPTANCE OF CONDITIONS

- a) This Contract sets forth the entire agreement between the Buyer and Seller and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- b) All Goods and/or Services purchased by the Buyer are subject to these General Conditions only. No conditions or terms contained in the quotations, offers, acknowledgements, or other communications of the Seller shall annul, vary or supplement any of these General Conditions and the instructions contained in the Purchase Order unless expressly agreed by both parties in writing.
- c) Each Purchase Order shall be deemed to be an offer by the Buyer to buy Goods and/or acquire the Services pursuant to the terms of these General Conditions. The offer shall be deemed accepted on the earlier of: i) the Seller issuing a written acceptance of the Purchase Order; and ii) the Seller performing any act consistent with fulfilling the Purchase Order, at which point the Contract shall come into existence.

### 3. WARRANTIES

- a) The Seller assumes all warranties implied by law and, in addition, expressly warrants that the Goods and/or Services shall conform to the description, quantity and specifications referred to in the Purchase Order. Seller warrants that all Goods, when delivered, shall be of satisfactory quality and shall be free from contaminants that are not identified in the Seller's specifications for such Goods.
- b) The Seller warrants that the design, manufacture, quality, packing and labelling of the Goods shall comply in all respects with all relevant requirements of any statute, regulation, statutory rule or order or other instrument having the force of law, which may be in force at the time when the Goods are supplied, including, without limitation, health, safety and environmental requirements.
- c) The Seller warrants that the Goods: shall be fit for their normal purpose and any specific purpose the Buyer has made known to the Seller or for any other purpose of the Buyer which the Seller ought reasonably to have been aware of; and free from defects in design, material and workmanship.
- d) The Seller warrants that the Goods shall not infringe any Intellectual Property Right of any third party and the manufacture, sale to and use by the Buyer of the Goods shall not result in the infringement of any Intellectual Property Right of any third party.
- e) Any Services supplied by the Seller shall be: performed efficiently, safely and competently and in conformity with any applicable industrial code of practice by suitably qualified and experienced personnel; and of the quality which would reasonably be expected from a highly skilled and experienced operator providing substantially similar services.
- f) It is the responsibility of the Seller to provide relevant Product and Health, Safety and environmental information for all Goods and/or Services. Seller shall provide any and all information relating to the Goods that is required by the Buyer for regulatory compliance purposes.
- g) The above warranties shall apply to the Goods as delivered and for a period of twelve (12) months following delivery, or, if longer the shelf life of the Goods.

### 4. INDEMNITIES

Without prejudice to any other rights and remedies of the Buyer, the Seller shall indemnify and keep indemnified the Buyer and its associated companies in full against all liability, loss (including, without limitation, loss of profits whether direct or indirect, loss of business, depletion of goodwill, or losses arising



out of product recalls) damages, judgments, costs and expenses (including but not limited to reasonable attorneys' fees and costs of legal proceedings) and any claims (including third party claims) which may result directly or indirectly from: a) any defect in the Goods or Services; b) any breach of the Contract; c) any act or omission of the Seller or its employees, agents or sub-contractors in supplying, manufacturing, storing, transporting, or delivering the Goods and/or Services; d) any breach of 3d); and/ or e) any damage to the Buyers property. The Seller's obligations under this Section 4 shall survive termination of the Contract.

#### **5. DELIVERY AND TITLE**

- a) The Seller must comply with the time and place of delivery set out in the Purchase Order and during our normal business hours. Time for delivery of the Goods and/or Services shall be of essence of the Contract and the Seller hereby acknowledges and accepts that if the Goods and/ or Services are not delivered in accordance with the terms of the Purchase Order, then the Buyer may incur additional costs.
- b) The Seller shall ensure that any delivery vehicle, or other bulk container is clean and suitable prior to loading.
- c) The title in the Goods shall pass on payment of the price invoiced for the Goods, or on delivery, whichever first occurs.
- d) Notwithstanding paragraph (c) above, the Goods will remain at the Seller's risk until delivery (including unloading and stacking) as provided in the Purchase Order.
- e) Where delivery takes place at the Buyer's premises or the Buyer's client, the Seller shall comply with the Buyer's or the Buyer's client security and safety regulations from time to time.
- f) Unless otherwise specifically agreed between the parties, all packages, containers, pallets, crates etc. will be supplied at no additional cost to the Buyer and will be non-returnable. Additionally, all Goods will be packaged as to protect them adequately before, during and after delivery from damage and deterioration.
- g) The signature of any of the Buyer's employees on any delivery note or similar shall be evidence only of the number of packages/ pallets received, not that the Goods delivered are in accordance with the specification or that we accept any change to the terms of the Contract that may be included in such delivery note.
- h) The Buyer may adjust the rate of delivery of the Goods or the time at which the Services will be performed without incurring liability to the Seller.
- i) The Buyer shall be entitled to test and reject any Goods delivered which are not in accordance with the Contract, and Goods shall not be deemed accepted until the Buyer has had reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent. The Buyer shall provide a notice of rejection and shall return the Goods to the Seller at the Seller's sole risk and expense and the Seller shall refund the entire purchase price.

#### **6. MARKING AND PACKING**

The Goods shall be packed and marked in a proper manner and in accordance with the Buyer's instructions and the requirements of the carriers. All containers of hazardous Goods (and all documents relating thereto) shall bear prominent and suitable warnings. Any loss or damage arising from failure to observe these conditions will be charged to the Seller.

#### **7. WEIGHT AND VOLUME OF GOODS, ETC.**

Any count, weighing or measuring of the Goods by the Buyer upon delivery shall be conclusive of the count, quantity, weight or measurement of the Goods so delivered. In the event of a dispute, the Seller shall be given reasonable access for verifying the accuracy of the Buyer's weighing and measuring equipment and/ or the Buyer's count/ quantities.

#### **8. PRICE**

- a) The price stated on any Purchase Order is fixed, unless otherwise stated. No increase or extra charges submitted in respect of any Purchase Order shall be accepted without the specific written authority of the Buyer.
- b) Unless otherwise stated the price shall be exclusive of any applicable value added tax ("VAT") but inclusive of all other charges for packaging, packing, shipping, carriage, insurance, delivery and any duties or levies other than VAT.
- c) In the event that the Seller recovers a refund of or credit for taxes paid by the Buyer to the Seller in connection with any Purchase Order, the Seller agrees to pay the Buyer the amount of such refund or credit.
- d) Unless the Purchase Order specifies otherwise, the Buyer shall pay the price in accordance with the agreed payment terms.
- e) The Buyer may set off against the price any sums due to the Buyer from the Seller under the Purchase Order or any other contract between the Buyer or associated company and the Seller.

#### **9. PAYMENT**

- a) The Seller shall issue its application for payment or pro forma invoice on the last day of the month ("Month End") in which the Goods and/ or Services are delivered. If the Seller fails to issue its application for payment or pro forma invoice on or before the Month End in which the Goods and/ or Services are delivered, then payment in respect thereof shall not be considered for payment until the next payment period.
- b) The Buyer shall review the application for payment or pro forma invoice and shall confirm the approved amount within 10 days of the Month End.
- c) Upon receipt of the Buyer's confirmation as to the approved amount in respect of the Seller's application for payment or pro forma invoice, the Seller shall issue to the Buyer its invoice for the approved amount within 15 days for the Month End.

- d) Unless later disputed by the Buyer, the Buyer shall pay the Seller's invoice within 35 days of the Month End.

**10. INTELLECTUAL PROPERTY AND CONFIDENTIAL INFORMATION**

- a) The Seller shall assign and transfer free of charge with full title guarantee, any Intellectual Property Rights, documents, specifications, plans, drawings, samples, information or Goods prepared by the Seller specifically for the Buyer. Any Intellectual Property Rights, documents, specifications, plans, drawings, samples, information of Goods supplied by the Buyer shall remain the Buyer's property. At its own expense, the Seller shall, and shall use all reasonable endeavors to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to the Contract or for the purpose of complying with any applicable laws or regulations.
- b) The Seller shall not disclose to any other person any confidential information belonging to the Buyer or any of the Buyer's associated companies (including, without limitation, specifications, formulae, manufacturing processes, know-how and any technical or economic information) or use such confidential information for any purpose except as expressly authorized in writing by the Buyer, during the Contract and for ten years thereafter.

**11. FORCE MAJEURE**

The Buyer reserves the right to defer the date of delivery or payment or to cancel the Contract or reduce the volume of the Goods ordered if it is prevented from or delayed in the carrying on its business (or any part thereof) due to circumstances beyond its reasonable control including, without limitation, acts of God, governmental actions, or national emergency, acts of terrorism, protests, riots, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other disputes (whether or not relating to either parties workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable material, or any factory shutdown.

**12. TERMINATION/CANCELLATION**

- a) The Buyer shall be entitled to cancel any Purchase Order without liability to the Seller in respect of all or part of the Goods and/or Services by giving notice to the Seller at any time prior to: 1) delivery; or 2) the Seller's acceptance of the Contract in writing, whichever is earlier.
- b) Without prejudice to any other rights and remedies of the Buyer under the Contract, the Buyer may terminate the Contract with immediate effect by giving written notice to the Seller if: (1) the Seller commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within fourteen (14) days of that party being notified in writing to do so; (2) the Seller takes action in connection with its entering administration, provisional liquidation, or any composition or arrangement with its creditors, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business; or (3) the Seller takes action in connection with the Seller being made bankrupt, entering any composition or arrangement with his creditors, having a receiver appointed to any of his assets, or ceasing to carry on business; or (4) the Seller's financial position deteriorates to such an extent that in the Buyer's opinion the Seller's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or (5) there is a change of control of the Seller (within the meaning of section 1124 of the Corporation Tax Act 2010).

**13. GENERAL**

- a) The Seller shall not assign or sub-let the Contract or any rights or obligations thereunder without the prior written consent of the Buyer. The Buyer may perform any of its obligations or exercise any right through any member of the CDS group.
- c) No waiver by either party of any breach of any of the terms of the Contract to be performed by the other party shall be construed as a waiver of any subsequent breach whether of the same or of any other term or condition hereof.
- d) The Seller, its employees, agents and sub-contractors shall abide by the Buyer's applicable site security and safety rules when on the Buyer's site.
- e) If any provision of the Contract is found by any body of competent jurisdiction to be wholly or partially illegal, invalid, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, unenforceability or unreasonableness be deemed severable and the remaining provisions on the Contract and the remainder of such provision shall continue with full force and effect.
- f) Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
- g) Subject to 12a) above, the parties subject to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.
- h) The construction, validity and performance of the contract shall be governed by the laws of England. The parties irrevocably submit for all purposes in connection with any Contract or these General Conditions to the exclusive jurisdiction of the English courts.

**14. COMPLIANCE WITH RELEVANT LAWS AND POLICIES**

- a) In performing its obligations under the Contract, the Seller shall: (1) comply with all applicable laws, statutes, regulations and codes from time to time in force; and (2) comply with the Mandatory Policies.
- b) Breach of clause 13 shall be deemed to be a material breach of the Contract allowing the Buyer to terminate the Contract immediately.
- c) Where the Buyer reasonably believes that the Seller is in breach of its obligations under clause 13a), the Seller, upon request by the Buyer shall make available such people, books, accounts, records and other documentation relevant to its business activities conducted in relation to this Contract for an audit to be performed by a recognised independent firm of accountants and/ or professional advisors (the "Auditor") designated by the Buyer in relation to the suspected breach. The Auditor shall provide to the Buyer only information obtained from such review that relates to the possible breach. The costs of such audit shall be borne by the Buyer save where the Auditor confirms that the Seller is in breach of its obligations under clause 13(a), in which case, the Seller shall bear all costs.

**15. REMEDIES**



Without prejudice to any other right or remedy which the Buyer may have, if any Goods or Services are not supplied or performed in accordance with, or the Seller fails to comply with, the Contract, the Buyer shall be entitled to any one or more of the following remedies at its discretion, whether or not any part of the Goods or Services have been accepted by the Buyer; (i) to rescind the Purchase Order; (ii) to reject the Goods (in whole or in part) and return them to the Seller at the risk and cost of the Seller on the basis that a full refund for the Goods so returned shall be paid immediately by the Seller; (iii) at Buyer's option, and within seven days of the Buyer's request, to give the Seller the opportunity at the Seller's expense, either to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Purchase Order are fulfilled; (iv) to refuse to accept any further deliveries of the Goods but without any liability to Seller; (v) to carry out at the Seller's expense any work necessary to make the Goods comply with the Contract; and (vi) to claim such damages as may be sustained in consequence of the Seller's breach or breaches of the Contract.