



TERMS AND CONDITIONS OF SALE

1. GENERAL CONDITIONS/ PARTIES/CONTRACT ACCEPTANCE:

As used herein Buyer shall be defined to be the Purchaser described on the first page of this Agreement/Invoice. Seller shall be defined to mean Total Oilfield Equipment & Supply, LLC. Any written or oral purchase order received by Seller from Buyer shall be construed as a written acceptance of Seller's offer to sell and shall be billed in accordance with the terms and conditions of Sale set forth herein. Seller's acceptance of this order is expressly conditioned on Buyer's consent to the terms and conditions of Sale contained herein. The terms and conditions of Sale contained herein shall prevail over any conflicting or different terms in Buyer's oral or written purchase order unless Buyer notifies Seller in writing of its objections within ten (10) days of receipt of Seller's acknowledgment. Buyer's standard terms of purchase will not be considered a counter offer to Seller's terms and conditions of Sale. The failure of Seller to object to any provisions and conflict herewith, further contained on Buyer's purchase order or otherwise, shall not be construed as a waiver of the provisions hereof nor an acceptance thereof.

2. WARRANTY:

All goods of Seller's manufacture, remanufacture or repair are warranted against defects of material and workmanship for a period of twelve (12) months from date of invoice only so long as Buyer's use of the goods is in the manner in which originally specified by Buyer and in the environmental conditions originally specified by Buyer. All goods not manufactured, remanufactured or repaired by Seller are sold "as is" without warranty. If Seller receives a notice from Buyer for any alleged defect in or nonconformance of any product or repair within twelve (12) months from date of invoice and if in Seller's sole judgment the product or repair does not conform or is found to be defective in material or workmanship, then Buyer shall, at Seller's request, return the defective part or product FOB to Seller's facilities whereupon Seller at its option and expense shall repair or replace the defective good or repay to Buyer the full price paid by Buyer for such defective part, repair or product without interest. Seller's warranty liability, including defects caused by Seller's negligence, shall be limited to such repair, replacement or refund and shall not include claims for labor or expenses incurred by Buyer resulting from such defects, recovery under any tort or strict liability law or for damages resulting from delay, loss of use, or other direct, indirect, incidental or consequential damages of any kind. Seller will not be responsible for failure of any good which has been modified, altered or repaired by any one other than Seller or for failures due to Buyer's failure to comply with recommended maintenance procedures. THERE ARE NO OTHER GUARANTEES OR WARRANTIES PROVIDED HEREUNDER, EXPRESSED OR IMPLIED, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED AND EXCLUDED FROM THIS AGREEMENT.

3. QUOTATIONS/PRICES/TERMS OF PAYMENT:

All quotations are made for prompt acceptance and any terms quoted are subject to change without notice after thirty (30) days from the quotation unless otherwise noted on the quotation. Any quotation for any product or services is made subject to prior Sale. All prices quoted, shown or invoiced are in U.S. Dollars and are FOB Seller's point of shipment. Any cost for banking charges resulting from electronic funds transfers or similar such charges as a result of Buyer's choice of method of payment shall be borne and paid for by Buyer. All amounts due to Seller from Buyer are payable in Corpus Christi, Nueces County, Texas and shall be due net thirty (30) days from date of invoice, unless otherwise stated. Buyer agrees that any past due amount shall bear interest from due date until paid at the lesser amount of 18% per annum or the maximum non-usurious rate of interest permitted by applicable laws in effect, from time to time.

4. CANCELLATION AND RETURNS:

Purchase Orders once placed and accepted by Seller can be canceled only with Seller's written consent, and upon terms which will save Seller from loss. No goods may be returned for credit or adjustment without written permission from an authorized officer of Seller.

5. TAXES:

Buyer shall pay the cost of all taxes or charges imposed by law on the sale or production of the goods or services being purchased, unless the law specifically provides that Seller shall pay such charges, in the event of which, Buyer shall be obligated to reimburse Seller for such payment as part of the purchase price. Buyer shall pay the cost of all customs duties, insurance charges, consigner's fees, and other comparable charges imposed as a result of the Sale. Any consular fees required for legalizing invoices, stamping bills of lading or other documents required by the laws of any country or destination are not included in any quotation or selling price. All of such charges shall be borne and paid by Buyer. Seller assumes no liability whatsoever for making any arrangements on behalf of Buyer relating to such consular documents or declarations, nor assumes any liability for any fines or charges imposed due to errors or incorrect declarations, all of which costs and obligations are expressly assumed by, and are the obligation of, Buyer.

6. DELIVERY/SHIPPING:

Seller shall use every effort, as conditions permit, to make shipment as scheduled. However, Seller shall not be responsible for any loss or damage to Buyer resulting from deviations in the shipping schedule, whether due to Acts of God, orders bearing priority ratings established pursuant to law, differences with workmen, local labor shortages, shortages of product sources or failure of raw materials, supplies, fuel, power or transportation, breakdown of equipment or any other causes beyond Seller's reasonable control or any such other cause not expressly enumerated herein, which is out of Seller's reasonable control. Seller shall have such additional time as required to perform as may be reasonably necessary under the circumstances and shall have the right to apportion products among its customers in such a manner as Seller, in its sole discretion, may consider to be equitable. In no event shall Seller be liable for any consequential damages or labor costs resulting from failure or delay in shipment. If the product being provided to Buyer requires drawings, procedures, standards or other material for approval, shipping schedules will be calculated from the time such approvals are received by Seller. Any inspections or testing required may affect product production and/or delay shipment accordingly.

7. DELIVERY/ACCEPTANCE OF GOODS:

Delivery shall be in accordance with the requirements of the purchase order provided, and in the event that Buyer is unable to accept delivery upon completion of the goods being purchased, Buyer agrees that title shall pass to Buyer on the date of Seller's invoice and Buyer will make payments to Seller in accordance with the terms of payment herein. Seller shall retain custodial risk of loss until delivery is made in accordance with such requirements.

8. PATENT INFRINGEMENT:

Seller warrants that the use or sale of material or apparatus sold to Buyer hereunder will not infringe United States' patents of others covering such material or apparatus by itself, and hereby agrees to indemnify Buyer against judgment for damages for such infringement of any such patent, provided, that Buyer, shall upon receipt of any claim for infringement of any such patent or threat of suit for such infringement or upon the filing of any suit for infringement, whichever comes first, promptly notify Seller in writing and afford Seller full opportunity, at Seller's option and expense, to answer such claim or threat of suit, assume control of the defense of said suit, and settle or compromise same in any way Seller sees fit. Other than court awarded judgments as aforesaid, Seller shall not be liable for any delays, loss of use or for other direct, indirect, incidental or consequential damages incurred by reason of any such judgment. Seller does not warrant that such material or apparatus (a) will not infringe any such patent when not manufactured by or for Seller or when specially made in whole or in part to the Buyer's design specification and such infringement arises from the inclusion of such specified design or, (b) if used or sold in combination with other material or apparatus, or if used in the practice of a process. Seller shall not be liable for and does not indemnify Buyer for damages or losses of any nature whatsoever resulting from actual or alleged patent infringement arising pursuant to (a) or (b) above.

9. SELLER'S RIGHT TO MANUFACTURE:

Seller in its sole discretion shall have the right to manufacture the products provided hereunder as far in advance of its estimated shipping schedule as it deems appropriate. Seller expressly reserves the right to change or modify the design and construction of any product in due course of Seller's manufacturing procedure without incurring any obligation or liability to furnish or install such changes, modifications or improvements to products previously or subsequently sold.

10. ENGINEERING AND SERVICE:

Upon request Seller will provide engineering and/or technical information regarding its products and their uses and, if feasible, will provide personnel to assist Buyer in effecting field installation and/or field service. Any such information, service or assistance so provided, whether with or without charge, shall be advisory only. In that regard, neither Seller nor Buyer assumes any liability for the acts or omissions of the other party except as may be provided herein.

11. INSPECTIONS:

Unless otherwise agreed in writing, any final inspection or acceptance of any product being purchased must be made at Seller's location or point of shipment and shall be conclusive. Any such inspections shall be conducted during Seller's normal posted hours of operation and in such a manner as to not interfere with Seller's operations.

12. LIMITATION OF LIABILITY:

UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF ANTICIPATED PROFITS, LOSS OF USE OF EQUIPMENT OR OF ANY INSTALLATION, SYSTEM, OR FACILITY INTO WHICH THE GOODS PURCHASED BY BUYER HEREUNDER MAY BE LOCATED. SELLER'S TOTAL RESPONSIBILITY FOR ANY CLAIMS, DAMAGES, LOSSES OR LIABILITIES ARISING OUT OF OR RELATED TO SELLER'S PERFORMANCE OF THIS CONTRACT OR THE GOODS SOLD HEREUNDER SHALL NOT EXCEED THE PURCHASE PRICE OF SUCH GOODS.

13. INDEMNIFICATION:

In consideration of the purchase of the goods hereunder, Buyer assumes all risks inherent in the operation and use of such goods or equipment and releases Seller from any claim for bodily injury (including death) resulting therefrom or damage to Buyer's property resulting from or arising in connection with Buyer's use or possession of the goods purchased. Buyer further agrees to assume the entire liability for, defense of and to pay, indemnify and hold Seller harmless from any and all claims for damage to property or bodily injury (including death) resulting from the use, operation or possession of such goods or equipment, whether or not it be held or claimed that such damage or injury resulted, in whole or in part, from Seller's negligence, from the defective conditions of such goods being purchased, strict liability or otherwise.

14. WAIVER OF JURY TRIAL:

Buyer and Seller both waive a trial by jury of any and all issues arising in any action or proceeding between the parties hereto or their successors, under or connected with this sale, this agreement, or the goods being purchased under this agreement.

15. ENFORCEMENT:

Any action for breach of contract, or enforcement hereof, must be brought in the courts of the State of Texas in Nueces County, Texas.